

Exhibit E

Commercial Dungeness Crab Fishery Rules

**Public Correspondence received as of
July 18, 2023**

From: Laurie Deus <lauriedeus@gmail.com>
Sent: Sunday, July 9, 2023 7:12 PM
To: ODFW Commission * ODFW
Subject: Concern for Whales

You don't often get email from lauriedeus@gmail.com. [Learn why this is important](#)

Dear Chair Wahl and Commissioners:

Whales and sea turtles are a critical component of a healthy and functional marine ecosystem. They also bring thousands of people to our coast to marvel at our incredible wildlife. But the threat of entanglement in fishing gear is impeding the recovery of the endangered and threatened whales and sea turtles that live in waters off Oregon.

Entanglement is a significant, life-threatening risk for marine life. Our state must do more to reduce this risk and ensure healthy whales and a healthy ocean ecosystem for the future. The proposed regulations have not been shown to reduce risk at all and are not protective enough for these vulnerable species.

We respectfully ask that you direct the Oregon Department of Fish and Wildlife to refine these regulations.

- **Temporary measures must be strengthened for the 2023/2024 season, including at least a 40% pot limit reduction and 28-fathom depth limit starting no later than April 15th.**
- **Additional analysis of higher pot limit reductions and seasonal management start dates, as well as adaptive management measures that are initiated by ecological signs such as increased marine life concentrations.**

- **Develop a plan to allow on-demand (“ropeless”) gear to be used, with authorization, in areas and at times otherwise closed to conventional Dungeness crab gear.**
- **A specific plan, with a timeline, for improved gear marking to identify all Oregon Dungeness crab gear, including lines and buoys along the full length of a line and with clearly visible markings on the surface buoys.**
- **Emergency measures in the event that a highly endangered species such as a North Pacific right whale or Southern Resident orca is observed entangled.**

Thank you for your consideration,

Laurie Deus



Sent from my iPhone

EMERSON Steven C * ODFW

From: S. Mulla, DVM <13marsupials@gmail.com>
Sent: Sunday, July 9, 2023 8:05 PM
To: ODFW Commission * ODFW
Subject: Reduce whale entanglement

You don't often get email from 13marsupials@gmail.com. [Learn why this is important](#)

Dear Chair Wahl and Commissioners:

Whales and sea turtles are a critical component of a healthy and functional marine ecosystem. They also bring thousands of people to our coast to marvel at our incredible wildlife. But the threat of entanglement in fishing gear is impeding the recovery of the endangered and threatened whales and sea turtles that live in waters off Oregon.

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- Emergency measures in the event that a highly endangered species such as a North Pacific right whale or Southern Resident orca is observed entangled.

Thank you for your consideration,

Shagufta Mulla

EMERSON Steven C * ODFW

From: THOMAS CAPEL <reefman64@comcast.net>
Sent: Monday, July 10, 2023 8:18 AM
To: ODFW Commission * ODFW
Subject: Entanglement

You don't often get email from reefman64@comcast.net. [Learn why this is important](#)

Dear Chair Wahl and Commissioners:

Whales and sea turtles are a critical component of a healthy and functional marine ecosystem. They also bring thousands of people to our coast to marvel at our incredible wildlife. But the threat of entanglement in fishing gear is impeding the recovery of the endangered and threatened whales and sea turtles that live in waters off Oregon.

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Thank you for your consideration,

Thomas J. Capel

EMERSON Steven C * ODFW

From: Lynda Capel <weaverwoman87@comcast.net>
Sent: Monday, July 10, 2023 6:39 AM
To: ODFW Commission * ODFW
Subject: Entanglement

You don't often get email from weaverwoman87@comcast.net. [Learn why this is important](#)

Dear Chair Wahl and Commissioners:

Whales and sea turtles are a critical component of a healthy and functional marine ecosystem. They also bring thousands of people to our coast to marvel at our incredible wildlife. But the threat of entanglement in fishing gear is impeding the recovery of the endangered and threatened whales and sea turtles that live in waters off Oregon.

Entanglement is a significant, life-threatening risk for marine life. Our state must do more to reduce this risk and ensure healthy whales and a healthy ocean ecosystem for the future. The proposed regulations have not been shown to reduce risk at all and are not protective enough for these vulnerable species.

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- **Emergency measures in the event that a highly endangered species such as a North Pacific right whale or Southern Resident orca is observed entangled.**

**Thank you for your consideration,
Lynda Capel**

EMERSON Steven C * ODFW

From: Mike Flaningam <mikeflanny@hotmail.com>
Sent: Monday, July 10, 2023 9:24 AM
To: ODFW Commission * ODFW
Subject: Protecting whales and turtles

You don't often get email from mikeflanny@hotmail.com. [Learn why this is important](#)

Dear Chair Wahl and Commissioners:

As you undoubtedly well know, whales and sea turtles are a critical component of a healthy and functional marine ecosystem, and the awe they inspire brings thousands of people to our coast to marvel at them and our incredible wildlife. I'll add that since I started working for a Native American tribe here in Oregon several years ago, I've learned to appreciate the Indigenous view of the world as all living creatures are as equally important as humans, and our survival is dependent upon all of nature being in balance. So I'm therefore very concerned about the threat of entanglement in fishing gear is impeding the recovery of the endangered and threatened whales and sea turtles that live in waters off Oregon.

As you also no doubt know, entanglement is a significant, life-threatening risk for marine life. Our state must do more to reduce this risk and ensure healthy whales and a healthy ocean ecosystem for the future. The proposed regulations have not been shown to reduce risk at all and are not protective enough for these vulnerable species.

We respectfully ask that you direct the Oregon Department of Fish and Wildlife to refine these regulations.

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Thank you for your consideration,

Dr. Mike Flaningam

Depoe Bay, OR

From: Mary & Steve Garrett <smgmkg@gmail.com>
Sent: Monday, July 10, 2023 9:16 AM
To: ODFW Commission * ODFW
Subject: Whale Entanglement

You don't often get email from smgmkg@gmail.com. [Learn why this is important](#)

Dear Chair Wahl and Commissioners:

Whales and sea turtles are a critical component of a healthy and functional marine ecosystem. They also bring thousands of people to our coast to marvel at our incredible wildlife. But the threat of entanglement in fishing gear is impeding the recovery of the endangered and threatened whales and sea turtles that live in waters off Oregon.

Entanglement is a significant, life-threatening risk for marine life. Our state must do more to reduce this risk and ensure healthy whales and a healthy ocean ecosystem for the future. The proposed regulations have not been shown to reduce risk at all and are not protective enough for these vulnerable species.

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- **Emergency measures in the event that a highly endangered species such as a North Pacific right whale or Southern Resident orca is observed entangled.**

Thank you for your consideration,

Steve Garrett

Bandon, OR

EMERSON Steven C * ODFW

From: Matt Hixson <matt@matthixson.com>
Sent: Monday, July 10, 2023 6:01 PM
To: ODFW Commission * ODFW
Subject: ropeless fishing on Oregon's coast
Attachments: OpenPGP_signature.dat

Categories: Fish

Hi, I recently read this article

<https://www.nrdc.org/bio/francine-kershaw/oregon-must-do-more-reduce-entanglements>

and was wondering if ODFW is considering ropeless fishing solutions as part of the mitigation strategy to reduce wildlife entanglements in fishing gear.

I am part of a team that has developed a ropeless fishing solution featuring a timer triggered liftbag which can be attached directly to crab pots. Instead of a line in the water reaching up to a surface buoy our solution sits on the seafloor with the crab pot and inflates a liftbag from compressed air at a set time. The fisher sets this time using a webapp using any modern smartphone. We are currently applying for a grant with NFWF for ropeless fishing solutions to be employed off the New England coast.

Please feel free to reach out if anyone would like to discuss this further.

Thanks for your time,

-Matt

--

Matt Hixson
Primal Northwest
<https://www.primalnw.com>
360-941-0121

EMERSON Steven C * ODFW

From: Robert Rutkowski <r_e_rutkowski@att.net>
Sent: Monday, July 10, 2023 10:17 AM
To: ANDREW Jennifer J * GOV; HUTCHINGS Laura * GOV; odfw.commission@state.or.us
Cc: Keith Abouchar
Subject: Oregon Must Do More to Reduce Entanglements, Proposed regulations to reduce the risk of entanglement of whales and sea turtles in the Oregon Dungeness crab fishery are insufficient

You don't often get email from r_e_rutkowski@att.net. [Learn why this is important](#)

Governor Tina Kotek
State Capitol Building
900 Court Street NE, 160
Salem, OR 97301
Phone: (503) 378-4582
jennifer.j.andrew@oregon.gov, laura.hutchings@oregon.gov

Curt Melcher, Director
Commission Members
Oregon Department Of Fish and Wildlife
4034 Fairview Industrial Drive SE
Salem, OR 97302
Main Phone (503) 947-6000 or (800) 720-ODFW [6339]
Email: odfw.commission@state.or.us

Re: Oregon Must Do More to Reduce Entanglements, Proposed regulations to reduce the risk of entanglement of whales and sea turtles in the Oregon Dungeness crab fishery are insufficient

Dear Director and Governor:

Entanglement in fishing gear is a major threat to threatened and endangered humpback whales, endangered blue whales, and endangered leatherback sea turtles that migrate and feed off the U.S. West Coast. There were 333 confirmed west coast whale entanglements between 2012 and 2022. Most entanglements are never observed so the actual number is likely far higher - researchers estimate as many as 10 times more off the West Coast. Most observed entanglements, where gear is known, occur in Dungeness crab fishing gear.

The Oregon Dungeness crab fishery contributes to the cumulative impacts that West Coast fisheries are having on threatened and endangered whales and sea turtles. In response, the Oregon Department of Fish and Wildlife (ODFW) is developing a Conservation Plan under the Endangered Species Act, and has proposed risk reduction measures that are available now for public review.

But the proposed risk reduction measures are not expected to reduce entanglement risk to the necessary levels. ODFW is proposing to make permanent the temporary risk reduction measures that were in place for the last three seasons (Winter 2020-Spring 2023). However, humpback whale entanglements showed no signs of decline during that period. One humpback whale was confirmed entangled in Oregon Dungeness crab gear in 2021 and two were confirmed in 2022. These entanglements indicate the temporary measures have been ineffective.

To immediately reduce risk in 2023/2024, Oregon should:

Further reduce the number of lines in the water by requiring a 40 percent pot limit reduction, rather than the

currently proposed 20 percent reduction. ODFW's own analysis indicates that a 30 percent reduction would confer 1.5 times the conservation benefit of current requirements.

Set the depth restriction of the fishery at 28 fathoms to align with the critical habitat boundary for humpback whales designated under the Endangered Species Act. The depth restriction proposed by ODFW is 40 fathoms.

Implement the risk reduction measures no later than April 15th to reflect the time period when concentrations of whales in Oregon waters are expected to increase. ODFW is proposing a May 1st effective start date even though peak exposure of whales to entanglement risk occurs in April.

Develop a concrete timeline for gear marking implementation.

Enable an emergency fishery closure to be designated if a North Pacific right whale or Southern Resident orca are confirmed entangled.

To design the most effective risk reduction measures for the 2024/2025 season and beyond, ODFW should continue to analyze higher pot limit reductions and alternative effective start dates of the seasonal regulations. The Department should also develop additional adaptive management measures and allow pop-up (a.k.a. "ropeless" or "on-demand") fishing systems in areas otherwise closed to fishing to protect whales.

Thank you for the opportunity to bring this NRDC post to your attention.

Yours sincerely,
Robert E. Rutkowski

cc:
Correspondence Team
Longworth House Office Building
Washington DC 20515
keith.abouchar@mail.house.gov

2527 Faxon Court
Topeka, Kansas 66605-2086
P/F: 1 785 379-9671
E-mail: r_e_rutkowski@att.net

EMERSON Steven C * ODFW

From: DeEtte Miller <deettemiller@gmail.com>
Sent: Tuesday, July 11, 2023 10:06 AM
To: ODFW Commission * ODFW
Subject: Re: Serious problem

You don't often get email from deettemiller@gmail.com. [Learn why this is important](#)

Dear Chair Wahl and Commissioners:

Please listen to your consciences 🙏 I'm sure you're aware when we lose a species, we lose an ecosystem. We'll kill our ocean, and ourselves. PLEASE PLEASE PLEASE REFINE THE REGULATIONS. Your unique role is critical for many inhabitants of our only Earth.

Whales and sea turtles are a critical component of a healthy and functional marine ecosystem. They also bring thousands of people to our coast to marvel at our incredible wildlife. But the threat of entanglement in fishing gear is impeding the recovery of the endangered and threatened whales and sea turtles that live in waters off Oregon.

Entanglement is a significant, life-threatening risk for marine life. Our state **MUST** do more to reduce this risk and ensure healthy whales and a healthy ocean ecosystem, or lose their future. The proposed regulations have not been shown to reduce risk at all and are not protective enough for these vulnerable species.

I respectfully ask that you direct the Oregon Department of Fish and Wildlife to refine these regulations.

- Temporary measures must be strengthened for the 2023/2024 season, including at least a 40% pot limit reduction and 28-fathom depth limit starting no later than April 15th.
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- **Emergency measures in the event that a highly endangered species such as a North Pacific right whale or Southern Resident orca is observed entangled.**

Thank you for your consideration,

DeEte David-Miller
Florence, OR

EMERSON Steven C * ODFW

From: Nancy Rhodes <banjogirl57@gmail.com>
Sent: Tuesday, July 11, 2023 7:52 AM
To: ODFW Commission * ODFW
Subject: Serious problem

You don't often get email from banjogirl57@gmail.com. [Learn why this is important](#)

Dear Chair Wahl and Commissioners:

Much of the following may look familiar - yes, I did some copying and pasting from a trusted source - but I didn't want to leave anything out. By now you may have received similar letters. I hope you don't roll your eyes and ignore it. I'm sure you're aware when we lose a species, we lose an ecosystem. We'll kill our ocean, and ourselves. PLEASE PLEASE PLEASE REFINE THE REGULATIONS.

Whales and sea turtles are a critical component of a healthy and functional marine ecosystem. They also bring thousands of people to our coast to marvel at our incredible wildlife. But the threat of entanglement in fishing gear is impeding the recovery of the endangered and threatened whales and sea turtles that live in waters off Oregon.

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- Emergency measures in the event that a highly endangered species such as a North Pacific right whale or Southern Resident orca is observed entangled.

Thank you for your consideration,

Nancy Rhodes

Whale lover and Author

Florence OR

415 497-4083

EMERSON Steven C * ODFW

From: Katie Russell <katie@oregonshores.org>
Sent: Wednesday, July 12, 2023 4:57 PM
To: ODFW Commission * ODFW
Subject: Action for whales and turtles

You don't often get email from katie@oregonshores.org. [Learn why this is important](#)

Dear Chair Wahl and Commissioners:

Whales and sea turtles are a critical component of a healthy and functional marine ecosystem. They also bring thousands of people to our coast to marvel at our incredible wildlife. But the threat of entanglement in fishing gear is impeding the recovery of the endangered and threatened whales and sea turtles that live in waters off Oregon.

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Emergency measures in the event that a highly endangered species such as a North Pacific right whale or Southern Resident orca is observed entangled.

Thank you for your consideration,

Katie Russell

EMERSON Steven C * ODFW

From: Dan Silver <dsilverla@me.com>
Sent: Thursday, July 13, 2023 1:40 PM
To: ODFW Commission * ODFW
Subject: Whale entanglement in Dungeness crab fishery

You don't often get email from dsilverla@me.com. [Learn why this is important](#)

Honorable Commissioners:

There is a desperate need to strengthen current measures, which are not working. Please act resolutely.

Thank you

Dan Silver
222 S Figueroa St 1611
Los Angeles CA 90012

EMERSON Steven C * ODFW

From: chris shank <chris.shank@icloud.com>
Sent: Friday, July 14, 2023 2:47 PM
To: ODFW Commission * ODFW
Subject: Whale Entanglement

You don't often get email from chris.shank@icloud.com. [Learn why this is important](#)

Dear Chair Wahl and Commissioners:

Whales and sea turtles are a critical component of a healthy and functional marine ecosystem. They also bring thousands of people to our coast to marvel at our incredible wildlife. But the threat of entanglement in fishing gear is impeding the recovery of the endangered and threatened whales and sea turtles that live in waters off Oregon.

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Thank you for your consideration,

**Chris Shank
Dallas, OR**



July 17, 2023

Ms. Mary Wahl, Chair
Oregon Fish and Wildlife Commission
4034 Fairview Industrial Drive SE
Salem, Oregon 97302

RE: Reducing Entanglement Risk in the Oregon Dungeness Crab Fishery

Dear Chair Wahl and Commission members,

Entanglement in fishing gear is one of the primary threats impeding the recovery of threatened and endangered humpback whales, endangered blue whales, and endangered leatherback sea turtles. Current management is failing to sufficiently reduce entanglements, with record numbers of entanglements reported on the West Coast starting in 2013.¹ Given that current levels of whale entanglements in the Oregon Dungeness crab fishery have not been reduced, and cumulative takes off the West Coast are exceeding conservation thresholds,² more must be done to reduce entanglement risk in the Oregon commercial Dungeness crab fishery.

As conservation organizations dedicated to a healthy marine ecosystem and the protection of marine wildlife, we urge the Commission to adopt a stronger set of risk reduction measures that fully meet the requirements of the Endangered Species Act (ESA) and Marine Mammal Protection Act and promote the recovery of these imperiled species. Specifically, we request the Commission:

1. Implement mandatory late-season risk reduction measures starting no later than April 15 through the end of the crabbing season;
2. prohibit commercial crabbing deeper than 28 fathoms during the late season;
3. implement a 40% late season pot limit reduction;
4. establish procedures for an emergency closure if a North Pacific right whale or Southern Resident orca are confirmed entangled;
5. set a concrete deadline for new line-marking requirements;

¹ NMFS (2022). West Coast Whale Entanglement Summary, Available: <https://www.fisheries.noaa.gov/resource/document/2022-west-coast-whale-entanglement-summary>

² NOAA Fisheries (2023) Draft U.S. Pacific Marine Mammal Stock Assessments: 2022 Available: https://www.fisheries.noaa.gov/s3/2023-01/Draft%202022%20Pacific%20SARs_final.pdf "Total commercial fishery mortality and serious injury (8.8/yr) is greater than the calculated PBR (2.6) for this stock, thus, it is not approaching zero mortality and serious injury rate."

6. require a regular review of the regulations to assess effectiveness with updated whale and sea turtle distribution and habitat use data; and
7. allow pop-up gear in areas otherwise closed for the purpose of reducing entanglement risk.

Each entanglement of a humpback whale, blue whale or leatherback sea turtle in Oregon commercial Dungeness crab gear constitutes a “take” under the ESA and is unlawful in the absence of an incidental take permit from the National Marine Fisheries Service. The ESA conditions the issuance of an incidental take permit on the development of, and commitment to, implementing a conservation plan that minimizes and mitigates the impacts of any incidental take of endangered and threatened species to the maximum extent practicable.³ Activities authorized under the incidental take permit must not jeopardize the continued existence of any species, meaning those activities may “not appreciably reduce the likelihood of the survival and recovery of [any endangered or threatened] species in the wild.”⁴

Oregon Fish and Wildlife staff propose maintaining the risk reduction measures currently in place which are otherwise set to expire at the end of this year. These measures include a 20% pot limit reduction, 40-fathom depth restriction, and a late-season tag requirement, which are implemented on May 1 through the end of the crabbing season (August 14). Observed entanglements, however, in commercial Oregon Dungeness crab gear have not declined under these measures. Plus, most entanglements go undetected or unreported, and many more entanglements occur in unidentified gear, meaning the number of true entanglements in the Oregon fishery are likely much higher than those observed.⁵

After careful consideration of the risk to endangered species, the performance of current risk reduction measures, and the importance of Oregon Dungeness crab fishery, we recommend the Commission take the below listed actions. We also request that the Commission direct department staff analyze a broader range of risk reduction measures for consideration as part of an adaptive management approach. The temporary measures currently in place and proposed for extension were developed with limited information on whale and sea turtle distribution and habitat use; knowledge on the presence of these vulnerable species off the Oregon coast has increased, and continued data collection will support more detailed models. By proposing to extend these regulations, ODFW is not using the best available scientific data.

1. Implement the ‘late-season’ risk reduction measures starting no later than April 15 through the end of the crabbing season.

New science shows that humpback whales are present in higher concentrations starting in April. Implementing risk reduction measures starting in May is too late. Derville et al. 2023 found that the “seasonality of Dungeness crab fishing and rorqual whale migration coincides with a peak of exposure around the month of April” coinciding with the upwelling season and humpback whale migration.⁶ And

³ 16 U.S.C. § 1539(a)(2)(A)(ii), (B)(ii).

⁴ 16 U.S.C. § 1539(a)(2)(B)(iv); *Nat'l Wildlife Fed'n v. Nat'l Marine Fisheries Serv.*, 524 F.3d 917, 933 (9th Cir. 2008) (jeopardy analysis requires NMFS to consider impacts to recovery of species as well as impacts to survival).

⁵ Calambokidis et al. 2020. Insights into entanglements from whale population monitoring. Available: https://www.opc.ca.gov/webmaster/media_library/2020/10/M.1-S.2_Calambokidis_Marine-Life.pdf

⁶ Derville, S., TV Buell, KC Corbett, C Hayslip and LG Torres (2023). Exposure of whales to entanglement risk in Dungeness crab fishing gear in Oregon, USA, reveals distinctive spatio-temporal and climate patters. *Biological Conservation* 281 <https://doi.org/10.1016/j.biocon.2023.109989>

just this year, a large group of 30 to 50 humpback whales was observed near the Columbia River mouth in April, and inside 40 fathoms.⁷

2. Prohibit commercial crabbing deeper than 28 fathoms during the late season in accordance with the nearshore extent of critical habitat for threatened and endangered humpback whales.

The 40-fathom depth restriction is too far offshore and does not align with the best available scientific information on humpback whale habitat or observed humpback whale takes. The available data show that roughly half of confirmed humpback whale entanglements off Oregon since 2014, where gear set depth is known, were in gear set at depths less than 40 fathoms.⁸ Revising the depth limit to 28 fathoms is more consistent with the Department's original 30 fathom depth restriction recommendation made in 2020, matches the inshore depth range of designated humpback whale critical habitat,⁹ and excludes the area where past entanglements occurred in the 30 to 40 fathom range.

3. Implement a late season 40 percent pot limit reduction.

Combined with the above risk reduction measures, implementing a 40% pot limit reduction would significantly reduce the vertical lines in the water causing entanglements. ODFW's own analysis indicates that a 30% late season pot limit reduction would confer 1.5 times the conservation benefit of the current 20% pot limit reduction.¹⁰ A 40% pot limit reduction would likely more than double the conservation benefit to whales. And given that current risk reduction measures did not reduce entanglements, there is no basis for ODFW retaining a 20% pot limit reduction when its own analysis indicates higher levels of pot reduction would confer greater conservation benefit. What's more, a higher pot limit reduction will not only benefit ESA-listed humpbacks, but also gray whales that feed off the Oregon coast in summer months.

4. Establish an adaptive management approach responsive to real-time observed elevated risk and observed entanglements, including actions to protect North Pacific right whales and Southern Resident orcas.

We recommend that the Department develop mechanisms to allow for emergency management measures in response to observed periods of elevated entanglement risk, like what is already being implemented with California's Risk Assessment and Mitigation Program.¹¹ It is critical to be able to respond quickly to the best available science and changing oceanographic conditions.

⁷ ODFW (May 2, 2023). Crab Fleet Advisory. Available:

https://www.dfw.state.or.us/MRP/shellfish/commercial/crab/whale_entanglement.asp

⁸ ODFW Oregon Entanglement Advisory Committee (March 16, 2023) presentation slides, at 9. Available:

https://www.dfw.state.or.us/MRP/shellfish/commercial/crab/whale_entanglement.asp

⁹ NOAA 2020. Biological Report for the Designation of Critical Habitat for the Central America, Mexico, and Western North Pacific Distinct Population Segments of Humpback Whales (*Megaptera novaeangliae*). Available: https://media.fisheries.noaa.gov/2021-04/Biological%20Report_HWCH_081420_updated_508.pdf?null= (the 50-meter isobath (27.3 fathoms) is used as the inshore boundary of critical habitat off Oregon).

¹⁰ ODFW (August 6, 2020). Relative conservation benefits for whales under various pot reduction scenarios. Presentation to OFWC Available:

https://www.dfw.state.or.us/agency/commission/minutes/20/08_Aug/Reducing%20Risk%20of%20Whale%20Entanglements%20in%20Oregon%20Dungeness%20Crab%20Fishery%208.7.2020.pdf at slide 19

¹¹ See: <https://wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries>

Importantly we recommend that such an adaptive approach include triggers for management actions, up to a complete temporary fishery closure to conventional fishing, if a North Pacific right whale or Southern Resident orca are confirmed entangled in Oregon Dungeness crab fishing gear. North Pacific right whales and Southern Resident orcas are both highly endangered and known to inhabit ocean waters off the Oregon coast. While there have been no confirmed takes of a right whale or Southern Resident orca in commercial Dungeness crab fishing gear, entanglement in fishing gear and vessel strikes and disturbance are considered serious threats to these small populations.

5. Set a concrete deadline for new line-marking requirements.

Unidentified whale and sea turtle entanglements continue to be a significant problem and we support efforts to improve line marking to reduce the many entanglements that are in unknown gear. Not being able to confirm the gear and fishery associated with a whale or sea turtle entanglement creates uncertainty for Oregon fisheries and for management. It is just as important to know when an entanglement involves Oregon Dungeness crab gear as it is to know when it is not Oregon crab gear. We understand ODFW is not proposing any line marking requirements at this time as originally planned to better coordinate gear marking requirements with Washington and California. However, we recommend that the Commission request additional information from the Department on its plans to develop line marking requirements and set a concrete deadline for implementation.

6. Regularly review regulations after enactment.

Additional data collection and the refinement of species distribution models for whales and sea turtles is underway and new information is expected to be available in the next few years. Setting regular reviews to incorporate the most current information on distribution and habitat use is important to assess the effectiveness of management actions and develop potential amendments. Sensitivity analyses on a range of options with updated species information is important to refine management measures and achieve the highest risk reduction while maintaining a robust and sustainable fishery.

7. Encourage ODFW to work with the crabbing industry to develop and use pop-up gear with incentives.

Ultimately, the most effective way to meet ODFW’s goal of an economically robust Dungeness crab fishery coexisting with healthy populations of marine life is to remove conventional vertical lines in the ocean that cause entanglements to occur. “Ropeless” fishing gear, also called “pop-up” or “on-demand” gear, keeps all lines and buoys with the crab pot on the ocean floor without leaving the long rope connected to a surface buoy in the water column for the duration of the soak time, as is done with conventional gear. More testing and development of this new technology is essential to advance commercial-scale use of pop-up gear and meet the needs of fisheries and managers. We urge ODFW to work with the crabbing industry to test different pop-up gear technologies and authorize this gear with incentives for its use like exemptions from late season pot limit reductions and area closures when deploying pop-up technology.

Sincerely,

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