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RE: Stakeholder Comments for St Lawrence Snow Crab Trap Fishery and Scotian Shelf Snow Crab Trap Fishery Re-Certifications PCDRs

As an active stakeholder in many Atlantic Canadian MSC certifications, the Ecology Action Centre is engaging for the first time in the snow crab re-assessment as a result of our concerns regarding North Atlantic right whales and the interactions of these whales with the snow crab fishery.

We are writing to bring information to the assessment that has not been considered or presented in the scoring of the Southern Gulf of St Lawrence or Scotian Shelf crab fisheries. It appears that information concerning crab fishery gear entanglements with North Atlantic right whales (*Eubalaena glacialis*) are omitted from scoring of ETP species. There is also considerable research and information on increasing risk snow crab gear entanglements pose to the right whale populations that is not considered.

The North Atlantic right whale has been listed as endangered under Schedule 1, Part 2 of Canada's *Species at Risk Act*¹ (SARA) since 2005. Over the last two to three years there has been growing concern that the population is again declining and there have been a series of entanglements and deaths as the whales are shifting their behaviour to adapt to shifting prey and ocean

¹ http://www.registrelep-sararegistry.gc.ca/species/speciesDetails_e.cfm?sid=780



conditions. Each fishery gear encounter is very concerning for this small population of approximately 500 individuals.²

There have now been four right whale entanglements with snow crab fishing gear confirmed in the last three seasons:

1. July 18, 2015, an adult right whale was found entangled in snow crab pot gear east of Ingonish, Cape Breton Island. Disentangled, although based on a description of the injuries, it may not have survived.

2. In 2016, two right whales were found entangled in snow crab gear and, based on the markings on the gear, these were traced back to gear deployed in June in Area 12 (see slide 3; https://www.greateratlantic.fisheries.noaa.gov/protected/whaletrp/docs/2017%20April%20Meeting%20Docs/morin_presentation.pdf).

One of these whales was found dead on Sable Island and the other was disentangled in the Bay of Fundy however, because of the severity of his injuries, he may not have survived.

3. In June 2017, six dead right whales have been discovered in the Gulf of St. Lawrence, one of which was found anchored in snow crab gear in area 12 (June 21, 2017).³

- 4.

In addition, two Western North Atlantic humpback whales (*Megaptera novaeangliae*) have been observed entangled in snow crab gear in June 2017 in the Baie des Chaleurs and the Baie des Gaspes. These are also listed under the Schedule 3 of SARA as Special Concern.⁴

There is no harm allowed to right whales in Canada under SARA and there has been no permit to harm granted to snow crab fisheries for fishing activities.

² Pettis, H. M., and Hamilton, P. K. (2015). *North Atlantic Right Whale Consortium 2015 Annual Report Card. Report to the North Atlantic Right Whale Consortium, November 2015*. Available online at: <http://www.narwc.org/pdf/2015%20Report%20Card.pdf>

³ Entanglement data from Cabot Centre for Ocean Life at the New England Aquarium

⁴ http://www.registrelep-sararegistry.gc.ca/species/speciesDetails_e.cfm?sid=160





Permits to harm have only been granted in cases of finding a whale entangled for purposes of release.

ETP PI 2.3.1

The effects of fishing gear entanglement have been estimated by NOAA at 4.65 deaths per year⁵ for North Atlantic right whales. The recent entanglements by the snow crab fisheries in the Gulf of St Lawrence and Scotian Shelf now show the fishery may account for a significant number of those average interactions.

The recent snow crab gear entanglements have resulted in three deaths and it is unclear whether the released whales survived or sustained significant sub-mortality impact. With a population estimated at 322 individuals, each of these is a serious case that hinders recovery of this whale.

Canada's Species at Risk Recovery Plan Progress Report notes that the area used by right whales has shifted since 2012 and there will likely be a continued increase interaction with fisheries, such as snow crab, in the Gulf of St Lawrence.

According to Guidance SA 3.10.2.1 The team shall interpret the requirement for the UoA to be 'within national or international limits as:

For SG 60 where it is likely that the UoA meets the requirements, there is some evidence that requirement for protection and rebuilding are being achieved.

In relation to this guidance, there are a number of concerns here to be addressed under PI 2.3.1.

First, it is not likely that the fishery is within national requirements and limits based on the recent series of entanglements.

Second, the 2016 Fisheries and Oceans Canada *Report on the Progress of Recovery Strategy Implementation for the North Atlantic Right Whale (Eubalaena glacialis) in Canadian Waters for the Period 2009-2014*,⁶ indicates

⁵ <http://www.nmfs.noaa.gov/pr/sars/draft.htm>), p22

⁶ http://www.registrelepsararegistry.gc.ca/virtual_sara/files/5yr%2DNARW%2Dv00%2D2016Oct03%2DEng%2E.pdf



that progress on the objective of reducing fishing entanglements is not yet being achieved.

The following excerpts are from the report related to Objective 2 of the Recovery Plan for right whales: Reduce mortality and injury as a result of fishing gear interactions (e.g. entanglement and entrapment). This objective has the following evaluation indicators

3. Rate of interactions in Canadian waters declines
4. Regular analysis of gear/Right Whale risk and mitigation measures is conducted
5. Increased involvement in mitigation efforts by fisheries associated with higher risk gear
6. Possible disentanglement efforts are conducted

The following activities are included in the North Atlantic Right Whale Recovery Strategy's schedule of studies:

1. Evaluate prey distribution in Roseway Basin, Grand Manan Basin and surrounding areas to refine critical habitat boundaries.
2. Evaluate Right Whale use of areas outside of the Scotia-Fundy region (e.g. Gaspé area in the Gulf of St. Lawrence).
3. Determine migratory routes of Right Whales into and out of Canadian waters during their annual migration and evaluate potential as critical habitat.

The overall progress reported states:

"Limited efforts have also been made to reduce the incidence and severity of entanglements, but these events remain a major cause of injury and mortality."



“Of the threats identified in the Recovery Strategy, the two most important are vessel strikes and entanglement in fishing gear. Their importance is reflected in the balance of activities that have been undertaken in Canada from 2009 to 2014. While progress has been made to address those threats, work to reduce them should continue, coupled with improved effectiveness of emergency response. The measured rate of injury and mortality in the Right Whale Population from human activities has not decreased despite measures undertaken in Canada and the U.S. van der Hoop et al. (2013) and Pace et al. (2014).”⁷

The progress of the objective to reduce fishing gear entanglement is ‘not met’. The report discusses this and outlines next steps for research and mitigation on needed, including for all fishery interactions.

The snow crab fisheries are not yet explicitly included in the action plan. This needs to be addressed with both the Gulf of St Lawrence and Scotian Shelf snow crab fisheries since the North Atlantic right whale's pattern of habitat use has shifted quite dramatically, according to the recent SARA response reports and will likely be interacting with these fisheries more in the coming years.

Given, the new information on right whale entanglements and habitat use patterns, it is not clear the Gulf of St Lawrence or the Scotian Shelf snow crab fisheries meet the 60 scoring for 2.3.1

Cumulative Impacts:

North Atlantic right whale entanglements are also documented in MSC certified lobster UoAs in the same areas. According to Standard Version 2.0 since the national legislation has a limit of harm to right whales, the cumulative impact of all these UoAs now needs to be undertaken.

ETP PI 2.3.2

⁷http://www.registrelepsararegistry.gc.ca/virtual_sara/files/5yr%2DNARW%2Dv00%2D2016Oct03%2DEng%2E.pdf, p2 and p44



There are no management strategies presented for North Atlantic right whales in the scoring of this indicator.

There are a number of mitigation measures that need to be considered by this fishery under the new guidance for the Standard P2 Volume 2.0. Our colleagues at the New England Aquarium, North Atlantic right whale experts who work closely with fisheries to mitigate entanglement, have submitted to you a list of recommended mitigation measures that should be considered.

It is not necessary to wait for the official SARA Recovery Plan for North Atlantic right whales to be updated. The fisheries can make their own action plans with researchers that fits into the national Recovery Plan and can pursue research and mitigation measure work independently.

The current mitigation measures for ETP species mentioned in the PCDR are not specific, measurable, nor can they be considered comprehensive strategies. Again, the North Atlantic right whale entanglements are not noted 2.3.2d or e scoring rationale.

ETP PI 2.3.3

Again, the right whale entanglements are not considered here. The SARA logbooks are only capturing interactions during fishing and, therefore, does not capture all the information necessary to indicate risk of these fisheries to right whales. It does not reflect the information on right whale interaction with gear from the fishery that has been lost and found on entangled right whales.

This information must be reflected in this scoring.

There is adequate research information available to estimate right whale mortality related to these fisheries and that there is currently an increased risk of mortality from these fisheries as the right whales observed habitat and use areas are now shifting.



The current opinion of science and recent analyses indicate the population growth rate is declining and two out of the three population assessment methods demonstrate a decline in North Atlantic right whale abundance.⁸

We submit that with the information on North Atlantic right whales, the actions needed under the SARA Recovery Plan and Critical Habitat Designation, as well as the crab fishing gear threats should be reviewed and referenced in the scoring for Pls 2.3.1, 2.3.2, 2.3.3. Without this the current scoring is incorrect. With this updated information, the fishery may not pass these indicators and, at a minimum, needs conditions of certification that lead to implementation of mitigation measures as soon as possible.

Sincerely,

Shannon Arnold
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Ecology Action Centre

⁸ Kraus, S.K., R.D. Kenney, C.A. Mayo, W.A. McLellan, M.j. Moore, and D.P. Nowacek. 2016. Recent Scientific Publications Cast Doubt on North Atlantic Right Whale Future. *Frontiers in Marine Science*. 3:137. doi: 10.3389/fmars.2016.00137