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June 29, 2020

Director Charles Bonham
California Department of Fish and Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090

Re: Draft Risk Assessment and Mitigation Program Regulations dated May 15, 2020

Dear Director Bonham,

On behalf of the below organizations and their members and supporters in California, we support the Department's proposed May 15, 2020, regulations insofar as they will implement new protections, management measures, monitoring, and data collection to further protect whales and sea turtles off the California coast.

Our organizations request amendments to the draft risk assessment and mitigation program regulations, specifically, the provisions allowing alternative gear that would protect whales and

sea turtles from entanglement in commercial Dungeness crab fishing gear. We highlight the following as critical pieces needed to avoid entanglements:

1. Please specify that in order to be authorized as an allowable alternative gear, the gear cannot include lines that could entangle whales and sea turtles (i.e., must not use vertical lines), except during active retrieval of gear.
2. We support the inclusion of transparent criteria for alternative gear that, when met, requires the Director to approve use of the gear. The proposed regulatory language is vague and does not ensure that gear meeting certain objective criteria will be approved. Specific language to improve this section is suggested below.
3. Please allow the use of authorized alternative gear at any time during the Dungeness crab fishing season (November 15 to July 15), particularly during November and December season delays due to entanglement risk, when the ability to fish with alternative gear could offer substantial economic benefits.

California commercial Dungeness crab fishing gear has entangled and continues to entangle too many whales and sea turtles. New methods of fishing without lines – pop-up or ropeless gear – will allow whale- and turtle-safe fishing rather than closures, and they show promise that the fishery can avoid endangered species interactions. We urge you to support these innovative approaches.

We acknowledge the fishery’s significant economic challenges in recent years, including domoic acid, trade barriers and COVID-19, and we are particularly sympathetic to the unfortunate gear loss in the recent fire at Fisherman’s Wharf in San Francisco. Alternative gear cannot solve all these problems but can increase the predictability of the season by ensuring compliance with federal laws. Authorizing alternative gear without vertical lines should be one tool that the state supports to improve the fishery’s resilience in these challenging times.

WE SUPPORT THIS POPUP REGULATION:

(e) Management Actions:

(5) Alternative Gear: For the duration of any management action, including a fleet advisory, the Director may require the use of Alternative Gear authorized pursuant to subsection (h) within any fishing zone subject to the management action.

. . . .

(h) Alternative Gear Authorization:

(1) The department shall authorize Alternative Gear types for use at any time during the Fishing Season to take Dungeness crab for commercial purposes as allowed pursuant to this section upon written request.

(2) If Alternative Gear meets all of the following criteria, the department shall authorize it.

(A) The alternative gear eliminates all vertical line and surface buoys when the fishing vessel is not present. The gear must surface on demand when the fishing vessel arrives to retrieve the gear.

(B) The gear must be used with software that enables Department law enforcement and other fishing vessels within ¼ mile of the gear to identify the location of the gear at all times when it is deployed.

(C) Department law enforcement must be able to retrieve and redeploy the gear.

(D) Gear must include a back-up release capability so it will surface in the event of acoustic equipment failure and must include a gear recovery plan if the gear does not pop up.

(E) Gear must demonstrate a minimum of 15 consecutive successful deployments in California Dungeness crab fishing grounds without failure.

Sincerely,

Uko Gorter, President
American Cetacean Society
uko@acsonline.org

Susan Millward, Director, Marine Animal
Program
Animal Welfare Institute
susan@awionline.org

Catherine Kilduff, Senior Attorney
Center for Biological Diversity
ckilduff@biologicaldiversity.org

David Kaplan, President
Cetacean Society International
DavidGKaplan@gmail.com

Connie Hanson, Director
Christians Caring for Creation
cccpnch@aol.com

Richard James
Coastodian
richard@coastodian.org

Erica Fuller, Senior Attorney
Conservation Law Foundation
efuller@clf.org

Andrew Johnson, California Representative
Defenders of Wildlife
ajohnson@defenders.org

Captain Kate Spencer, Owner
Fast Raft Ocean Safaris on Monterey Bay
kate@fastraft.com

Hannah Bernard, Executive Director & Co-
Founder
Hawaii Wildlife Fund
bernardhannah@icloud.com

Keisha Sedlacek, Director of Regulatory
Affairs
Humane Society Legislative Fund
ksedlacek@hslf.org

Sharon Young, Senior Strategist, Marine
Issues
Humane Society of the United States
syong@hsus.org

Mark J. Palmer, Associate Director
**International Marine Mammal Project of
Earth Island Institute**
markjpalmer@earthisland.org

Lance Morgan, President
Marine Conservation Institute
lance.morgan@marine-conservation.org

Jillian Drury, Executive Director
Marine Mammal Alliance Nantucket
jillianmaedrury@gmail.com

Deb Castellana, Director of Strategic
Partnerships
Mission Blue
dcastellana@mission-blue.org

Dillon Hanson-Ahumada, RAY Marine
Conservation Diversity Fellow
**Natural Resources Defense Council
(NRDC)**
dhanson-ahumada@nrdc.org

Marian Sedio, Secretary
North County Climate Change Alliance
Marian_Sedio@yahoo.com

William Rossiter, Vice President
NY4WHALES
williamrossiter@optimum.net

Michael Stocker, Director
Ocean Conservation Research
mstocker@OCR.org

Kurt Lieber, President and Founder
Ocean Defenders Alliance
kurt@oceandefenders.org

Geoff Shester, California Campaign
Director & Senior Scientist
Oceana
gshester@oceana.org

Courtney Vail, Director of Strategic
Campaigns
Oceanic Preservation Society
courtney@opsociety.org

Peter Chang, Chief Executive Officers
Pacific Marine Mammal Center
pchang@pacificmmc.org

Cole Burchiel, Field Investigator and
Science Associate
San Francisco Baykeeper
cole@baykeeper.org

Thomas Armbruster
SandyHook SeaLife Foundation (SSF)
shslfoundation@gmail.com

Katherine O'Dea, Executive Director
Save Our Shores
katherine@saveourshores.org

Steve Shimek, Executive Director
The Otter Project
exec@otterproject.org

Dr. Carl Safina, President
The Safina Center
admin@safinacenter.org

Annalisa Tuel, Policy & Advocacy Manager
Turtle Island Restoration Network
atuel@seaturtles.org

Alicia Cordero, First Nations Program
Officer

Wishtoyo Chumash Foundation
aliciacordero@wishtoyo.org

Dr. Barrie Gilbert
Yellowstone2UintaConnection
barrie.gilbert36@gmail.com