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7<sup>th</sup> September 2020

**REQUEST FOR IMMEDIATE MORATORIUM ON THE USE OF NON-MOVABLE FISHERY DEVICES INCLUDING BUT NOT LIMITED TO CRAYFISH TRAPS, DUE TO MULTIPLE FATAL ENTANGLEMENTS OF WHALES IN 2020**

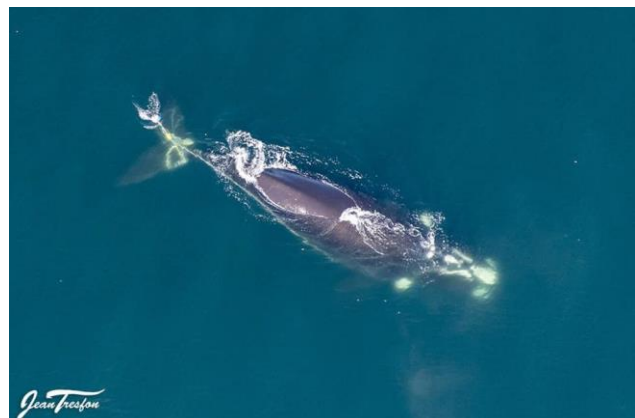
Honourable Minister Creecy,

We hereby submit a formal request for an immediate moratorium on the use of non-movable fishing devices, which include, but not limited to, crayfish traps. The EMS Foundation is extremely concerned by the documented accounts of whale fatalities in South Africa waters, which are a result of these devices. In 2020 there have been four reported incidents of whale fatalities in the Western Cape alone. Moreover, of concern is that it is known that the majority of entanglements which result in fatalities are unreported<sup>1</sup>. We refer in particular to:

1. Two serious entanglements which were documented in February 2020 (therefore within a period of three months):



**2 February 2020** - Humpback Whale entanglement in



**26 February 2020** – A Southern Right Whale was

<sup>1</sup> Cassoff RM, Moore KM, McLellan WA, Barco SG, Rotstein DS, Moore MJ (2011) Lethal entanglement in baleen whales. Dis Aquat Org 96



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Rock Lobster fishing gear, spotted in Hout Bay. The NRSI tried to locate it but weather conditions made it impossible. The fate of the whale is unknown.

pictured by conservationist photographer Jean Tresfon. The mammal had wounds and its movements seriously compromised by lobster fishing gear. NRSI tried to disentangle the cetacean but the operation was unsuccessful and the whale disappeared.

2. Two Bryde's Whale fatalities were recorded respectively in August and September 2020, therefore within a period of three months:



**10 of August 2020** - A Bryde's Whale washed ashore in Kommetjie with visible wounds which suggest the cetaceans might have died for its severe injuries after managing to disentangle itself.



**3 September 2020** - A Bryde's Whale died due to entanglement. It washed ashore in Pringle Bay

Please find attached copies of our previous correspondence relating to this issue, sent to your Office in 2019 from the Wildlife Animal Protection Forum South Africa (WAPFSA), of which we are a member. In these letters we highlighted the fact that octopus traps are not the only devices causing entanglements; we specified that other fatalities have been recorded and have been linked to crayfish and rock lobster line traps. We wrote: "It is our understanding that both octopus and crayfish catch devices, as well as other line non-movable systems, are a huge threat to marine life and simply should not be permitted in or near protected areas and along all known whale reproductive routes."

In your first response dated 10 September 2019, also annexed, you confirmed that "the Department has taken note of other impacts of other fisheries on cetaceans. The Fisheries Branch [...] will engage with other fisheries that have impacts on the cetaceans in order to equally review their fishing operations to minimise impacts on

the eco-system. The lesson learned from the octopus fishery should easily be transferred to other fisheries that incorporates ropes in their operations, in order to minimise possible entanglements of cetaceans in fishing gear in general.”

On the 8<sup>th</sup> of November 2019 you then lifted the temporary suspension of exploratory octopus fishing in False Bay, on specific conditions:

*“The Working Group further recommended that within three months should there be two or more entanglements of the southern right whale or the humpback whale, the fishery should be halted or terminated. Again, should there be at least one entanglement of the Bryde’s Whale the fishery should be terminated or halted. Should there be at least one mortality of any of these whales, the fishery will be terminated. The above mentioned conditions will be introduced incrementally in other areas of octopus fishery. The department is looking at introducing mitigation measures on other fishing gear that has resulted in whales entanglements and/or mortalities.”*

The above conditions were then extended into season 2020/2021 and confirmed into the Octopus Fishery Permit Conditions and Protocol, annexed, at points 8.3.1 and 8.3.2, signed by acting Chief Director of Fisheries Research and Development, Dr Kim Prochazka, on the 2<sup>nd</sup> of April 2020:

1. *In the event of a whale entanglement, fishing operations in the area must be temporarily suspended or halted.*
2. *In any fishing area, permits may be suspended, amended or terminated with immediate effect, if:*
  - a. *More than two entanglements of Southern Right Whale or Humpback Whale occur within three months of one another, or entanglements of two or more individuals of these whales that result in mortality.*
  - b. *More than one entanglement of a Bryde’s Whale occurs within three months of one another or one entanglement of a Bryde’s Whale which results in mortality of that whale.*

Taking all the above in consideration, we believe that following the applications of such conditions, the fisheries which make use of non-movable gear must be suspended with immediate effect due to the multiple incidents recorded in 2020.

DEFF’s Oceans and Coast provided us with a recent cetacean research, the IWC Scientific Progress Report 2019, attached. Table 2, below, indicates very alarming data about yearly entanglements:

Table 2. Summary of 2019 entanglement records in South Africa

<b>Common Name</b>	<b>Species Name</b>	<b>Total Records</b>
<b>Southern right whale</b>	<i>Eubalaena australis</i>	4
<b>Bryde’s whale</b>	<i>Balaenoptera edeni</i>	4

<b>Humpback whale</b>	<i>Megaptera novaeangliae</i>	16
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The same study indicates, in table 1 below, that many other whales die for unspecified reasons, often due to wounds or diseases (which also can be the result of entanglements and the resulting stress<sup>2</sup>)

Table 1. Summary of 2019 stranding events in South Africa

<b>Common Name</b>	<b>Species Name</b>	<b>Total Records</b>
<b>Bryde's whale</b>	<i>Inshore/Offshore</i>	9
<b>Cuvier's beaked whale</b>	<i>Ziphius cavirostris</i>	1
<b>Dwarf Minke whale</b>	<i>Balaenoptera acutorostrata</i>	1
<b>Dwarf sperm whale</b>	<i>Kogia sima</i>	3
<b>Gray's beaked whale</b>	<i>Mesoplodon grayi</i>	3
<b>Humpback whale</b>	<i>Megaptera novaeangliae</i>	31
<b>Pygmy sperm whale</b>	<i>Kogia breviceps</i>	7
<b>Short-finned pilot whale</b>	<i>Globicephala macrorhynchus</i>	1
<b>Southern right whale</b>	<i>Eubalaena australis</i>	2

Bryde's whale population numbers are considered vulnerable therefore the amount of fatalities is unacceptable.

DEFF's Oceans and Coasts also provided us, following a PAIA application, with the record of fatal or non-fatal entanglements of the following species, in the last 5 years (2015-19), as follows:

Humpback whales	43
Bryde's whales	14

The Department population estimate for the Bryde's whale refers to a 2010 study<sup>3</sup>, indicating also that "the major threats to the survival of this species has not been properly assessed":

Available estimate:

Closed population = 125
Open population= 196

<sup>2</sup> Robbins J (2009) Scar-based inference into Gulf of Maine humpback whale entanglement: 2003– 2006. Report to National Marine Fisheries Service, Northeast Fisheries Science Center, Woods Hole, MA. NOAA.

<sup>3</sup> Penry GS. 2010. The Biology of South African Bryde's Whales. Ph.D. Thesis. University of St. Andrews, Scotland

We find the above population estimate very concerning and far below the 1000 exemplars estimated elsewhere. If these are the numbers available and the reason of decline is unknown, and not even assessed, the fishing process responsible for documented fatalities should be suspended immediately.

Entangled whales typically disappear without a carcass being found<sup>4</sup> therefore the precautionary principle should apply. The disappearance of cetaceans observed bearing fishing gear should be taken in account as well as the sub-lethal effects of severe wounding and the reduced reproduction and increased susceptibility to disease.

Internationally, it is reflected that various mitigation strategies are not significantly reducing the number of entanglements. Entanglements are indiscriminate, can affect vulnerable species and are drastically reduced only after suspending all non-movable line trapping permits for six months<sup>5</sup>

More worryingly, it is recognised by the *Nearshore Crayfishers Association* that this sector has a heavy wear and tear on equipment. We attach a copy to their letter to the Department. If non-movable gears are a threat while perfectly active and functioning, we need to consider the impact of legal and illegal line-traps and fishing lines systems that are lost at sea and continue to catch, entangle, drown, injure and kill marine life. Usually manufactured from metal and plastic, it is estimated that ghost gears will continue killing marine life for up to 500 years.

**This week, more than 250 cetacean experts from over 40 countries** took the unprecedented step of sending global leaders an [open statement](#) addressing the “real and imminent extinction risk to whales, dolphins and porpoises. Whales in particular are crucial in mitigating anthropogenic climate change and play a key role in keeping carbon out of the atmosphere. The South African government is a signatory of the United Nations Agenda 2030 Sustainable Development and should take its deadline seriously, including “Climate Action” - number 13 - and “Life below the Water” - number 14. Furthermore, in the recent UN “11 years left Report” it is highlighted:

a.	33% of marine fish stocks in 2015 have been harvested at unsustainable levels
b.	more than 55% of the ocean area is covered by industrial fishing
c.	there will be a significant (25%) decline in ocean species in the next few decades
d.	90% of global fish catch is done by big scale fisheries
e.	33% of the world’s reported fish catch is illegal, unreported or unregulated

<sup>4</sup> Johnson AJ, Salvador G, Kenney JF, Robbins J, Kraus SD, Landry S (2005) Fishing gear involved in entanglements of right and humpback whales. *Mar Mamm Sci* 21: 635–645

<sup>5</sup> Knowlton (2005) A review of gear modifications and fishing practices aimed at reducing the level and frequency of entanglements with right and humpback whales in the western North Atlantic. Report to National Marine Fisheries Service, Northeast Region, Gloucester Point, MA. NOAA



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Entanglements of large whales in fishing gear have emerged as one of the urgent conservation issues of our time. Fishing gear mortalities for several species classified as endangered or vulnerable, probably exceed all other causes of mortality combined.

We therefore request an immediate moratorium on the octopus and crayfish fisheries as well as other line non-movable systems with immediate removal of the devices, near all protected areas and along all whale breeding routes.

We hope you will consider our request and look forward to your reply.

Yours sincerely,

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Annexure I: WAPFSA Letter dated 11-07-19  
Annexure II: WAPFSA Letter dated 23-09-19  
Annexure III: Your reply dated 10-09-19  
Annexure IV: Octopus Fishery Permit Conditions dated 02-04-20  
Annexure V: Cetacean Report 2019  
Annexure VI: Nearshore Crayfishers Associations Letter



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