

PUBLIC HEARING FOR THE DRAFT
PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT
FOR THE MARINE MAMMAL HEALTH AND STRANDING RESPONSE
PROGRAM

THE MEETING BEING TAKEN ON
April 3, 2007 at 3:30 p.m.

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BE IT REMEMBERED THAT, pursuant to the
Washington Rules of Civil Procedure, this meeting was taken
before Sheralyn R. McCormick, a Certified Shorthand
Reporter, #3048, and a Notary Public for the State of
Washington, on April 3, 2007, commencing at the hour of
3:30 p.m. the meeting being reported at 7600 Sandpoint Way,
Building 9, Seattle, Washington.

1 MS. SARAH HOWLETT: Thank you everybody for
2 coming to our public hearing on the programmatic
3 environmental impact statement for the Marine Mammal
4 Health and Stranding Response Program. The purpose of
5 today's meeting is to present an overview of the
6 information contained in the draft PEIS, to provide the
7 public with an opportunity to comment on the draft PEIS,
8 and to discuss the next steps that NMFS will be taking
9 in revising and finalizing the PEIS. This is our second
10 public hearing, we had one yesterday in San Francisco
11 and we will also have one on Friday in Silver Spring and
12 next week in Boston and in St. Petersburg.

13 I'm just going to give a little bit of a
14 background on the National Environmental Policy Act or
15 NEPA process. And I'm Sarah Howlett, but you all know
16 that. So NEPA requires NMFS to analyze the potential
17 environmental impacts of a proposed federal agency
18 action, a major federal agency action, and this just
19 means that NMFS needs to consider the environmental
20 consequences during their decision-making process to
21 reduce, prevent or eliminate environmental damage. NMFS
22 must also provide opportunity for public involvement in
23 the process which today is one of them and the scoping
24 process also allows for public comment and it's
25 important to note that NEPA does not dictate the

1 decision that's made by NMFS, but it helps to inform the
2 decision-making process.

3 Why are we preparing a PEIS? It is NOAA
4 policy to prepare a PEIS for any agency action that
5 maybe the subject of significant public controversy,
6 have uncertain environmental affects, establish a
7 precedent or decision and principle about future
8 proposals, result in cumulatively significant impacts or
9 have adverse affects on threatened and endangered
10 species or their habitats.

11 And actually just to differentiate between a
12 PEIS and an EIS, an EIS is focused mostly on one project
13 or area where a PEIS is a more comprehensive document
14 that considers the impacts of a number of related
15 projects or programs. And the PEIS, as you'll see if
16 you read it, analyzes a broad scope of actions and has
17 more of general environmental consequences rather than
18 specific consequences.

19 This is just a NEPA flowchart. The notice
20 of intent while we started our scoping period was out in
21 December 28th, 2005. After that we conducted our
22 environmental analysis and we have the draft PEIS which
23 is out now and so currently we are in the public comment
24 and hearing stage which will last for 45 days. After
25 that we will issue our final PEIS, have another public

1 review for 30 days and then issue the Record of Decision
2 also known at the ROD. So going off of that, the public
3 comments on the draft are due by April 30th and once we
4 receive the comments we will review them and merge them
5 in the document and we will respond to comments and
6 finalize the PEIS. We hope to issue the final PEIS by
7 the end of June, hopefully, with a 30-day public review
8 period which will we accept comments on but NMFS does
9 not have to respond to these comments or incorporate
10 them into the document. And we will publish the ROD
11 June, Summer 2007, and the ROD is just a document that
12 cites NMFS's decisions on the alternatives that it's
13 chosen and why it's chosen them and the timeline for
14 implementing any of those actions.

15 And just a little background of the content
16 of the EIS document itself, Section 1 is the purpose and
17 need for the proposed action; Section 2 are the
18 alternatives, there's a large suite of alternatives and
19 we do have listed out in each suite of alternatives our
20 preferred alternative which Sarah will talk to you about
21 next; Section 3 is the effected environment which are
22 the environmental resources that we feel our actions may
23 effect, that's includes biological resources, water and
24 sediment quality, socioeconomics, public health and
25 safety and cultural resources; Section 4 are the

1 environmental consequences that our actions may have on
2 those resources laid out in Section 3; Section 5 are the
3 mitigation measures that we would implement to basically
4 mitigate or eliminate any of the impacts to the affected
5 environment; and then Section 6 are the cumulative
6 impacts which consider our actions with past, present
7 and future actions that maybe occurring in the same area
8 as our actions. With that, I will give it to Sarah to
9 talk about the proposed actions of the preferred
10 alternatives.

11 MS. LYNNE BARRE: Question before you do
12 that.

13 MS. SARAH WILKIN: Okay, a question.

14 MS. LYNNE BARRE: In your NEPA process are
15 you guys also thinking about doing a Section 7
16 consultation on endangered species impacts, is that part
17 of this or connected to this process?

18 MS. SARAH HOWLETT: Yes, it is. So we have
19 started Section 7 on the EIS and permit together as one
20 and then Section 7 for fish and wildlife species is
21 going to be done at a regional level. We have to
22 actually work out with the top level how we're going to
23 filter it down and how it's going to work out.

24 MS. LYNNE BARRE: So you already started
25 that process?

1 MS. SARAH HOWLETT: Yes.

2 LYNNE BARRE: Okay.

3 MS. SARAH WILKIN: We've requested
4 consultation both from the NMFS, ESA, and fish and
5 wildlife.

6 MR. BRENT NORBERG: Wouldn't the Section 7
7 consultation be done on the selected alternative as
8 opposed to the EIS, the suite of alternatives?

9 MS. SARAH HOWLETT: Yeah.

10 MS. SARAH WILKIN: Yeah.

11 MR. BRENT NORBERG: Okay.

12 MS. SARAH WILKIN: That's basically how it's
13 working.

14 MS. LYNNE BARRE: Thanks.

15 MS. SARAH WILKIN: Okay. So the proposed
16 action for our document is kind of four-fold and it
17 involves the issuance of the policies and best practices
18 in a handbook, the issuance of the permit to our program
19 that covers ESA-listed species as well as some research
20 activities under the MMPA, to continuing to issue
21 Stranding Agreements or renew currently existing
22 Stranding Agreements on a case-by-case basis and the
23 continuation of other day-to-day operations including
24 the operations and the functioning of the network,
25 Stranding network and disentanglement network, and then

1 also the things that NMFS does interacting with the
2 network like release determinations and rehabilitation
3 questions, et cetera.

4 So I'm just going to go through the
5 preferred alternatives. We divided kind of the
6 activities of the national program up into some
7 different specific areas and have a preferred
8 alternative in each area. So in Stranding Agreements
9 and response the preferred Alternative A4 says that the
10 new Stranding Agreement template will be used nationwide
11 for the next time that a Stranding Agreement is either
12 issued or renewed and that language, that text, is
13 included as part of the handbook so you can look at it.
14 There are areas in that that are kind of reserved for
15 regions to use or modify and then there are parts of it
16 that are required and will be national.

17 Second, the final Stranding Agreement
18 evaluation criteria will be implemented for the next
19 time again the Stranding Agreements are renewed or
20 issued, so these are the criteria NMFS will use to
21 evaluate an application for a Stranding Agreement and
22 that the current activities of the Stranding network
23 will generally continue and we have the ability to add
24 new or adaptive activities if necessary, if things come
25 up, if technology is developed or whatever. If those

1 activities don't fall directly under the scope of this
2 document, we have the chance to do a supplemental
3 document to it but the current day-to-day activities we
4 envision will be encompassed within this document.

5 So the second area is carcass disposal.
6 Preferred Alternative B3 just has the recommendation to
7 transport chemically euthanized carcasses off-site for
8 disposal and disposing of them by either incineration,
9 landfill, or another method. Basically not leaving the
10 chemical euthanasia compound in the environment to kind
11 of try and minimize that impact, but that animals that
12 die naturally or are euthanized by a means other than
13 chemically can be exposed by whatever means is feasible
14 and allowed.

15 Rehabilitation activities: Preferred
16 Alternative C3. Again, the current day-to-day
17 functioning of the network would essentially continue
18 and NMFS has the ability to designate new facilities
19 and also modify activities at existing facilities as
20 necessary. And the final rehabilitation facility
21 standards would be implemented and be enforced to what's
22 listed in that document as the minimum standard and we
23 anticipate doing that at the inspected program and each
24 facility would be inspected to ensure that they're in
25 line with the minimum standards and we phase that in

1 over approximately the next three years, although that's
2 a timeline that can be something you guys comment on,
3 and so envisioning that by the end of three years
4 everybody would be in compliance with at least the
5 minimum standard.

6 MR. BRENT NORBERG: Is it foreseen to move
7 the program towards higher standards following the
8 phase-in period?

9 MS. SARAH WILKIN: Possibly.

10 MR. BRENT NORBERG: Or are those just placed
11 there as goals within the network?

12 MS. SARAH WILKIN: I think right now they're
13 there as goals for facilities to see how they can
14 develop if they have resources to kind of move in a
15 direction. If they're going to do a renovation they can
16 move towards those recommended criteria. I think
17 possibly at some point down the line we might raise the
18 bar a little bit from the minimum, but that's definitely
19 not part of this section and I think it's in the future.

20 All right. So release of rehabilitated
21 animals: Preferred Alternative D3. Again current
22 release activities would continue and we would have the
23 ability to modify them if needed and we would use the
24 final release criteria that have been developed
25 effective immediately, so NMFS would be using those

1 criteria in making their release determinations.

2 Disentanglement in Alternative E3 is to
3 continue the current activities of the disentanglement
4 network and again with the ability to adapt, add new
5 participants and modify activities and technologies if
6 necessary. Disentanglement of small cetaceans and
7 pinnipeds would continue to be authorized under the
8 Stranding Agreements. The ESA/MMPA permit would
9 authorize disentanglement activities for ESA-listed
10 species which otherwise can't be responded to.

11 The East Coast network would essentially
12 continue as it operates right now and the West Coast
13 network, where it exists, would be modified to
14 coordinate structure and training along the lines of
15 East Coast network, and this has already begun with some
16 training courses that were offered here. And then
17 disentanglement guidelines and training prerequisites
18 would expected to be implemented nationwide but on a
19 phased-in timeline.

20 And then the biomonitoring and research
21 activities, the preferred Alternative F3, says that our
22 program will apply for and be issued a new ESA/MMPA
23 permit to include current and future biomonitoring
24 research activities. The current permit that the
25 program has will expire at the end of June. We have

1 already actually applied for a new permit. If it can't
2 be issued prior to the expiration date, then we're
3 looking at taking some kind of steps to ensure that
4 there's no gap in coverage, so either extending or
5 amending the current permit.

6 One thing to briefly talk about and point
7 out because I think this is kind of key element for the
8 public, a/k/a the network, to really look at in this
9 document is the mitigation or Section 5. The purpose of
10 mitigation is to avoid, minimize or eliminate negative
11 impacts from the proposed action, so every place in the
12 document where we foresaw that something that the
13 network does would have a negative impact on the
14 environment we attempted to come up with a mitigation
15 measure that would help us avoid, minimize or eliminate
16 that impact.

17 So these are some of the examples that I
18 just pulled out. Where the stranding is in a sensitive
19 or protected habitat, like a national park or a seashore
20 or some kind of state park, that the Stranding network
21 will coordinate with the responsible authorities just to
22 make sure that whatever activities they are doing,
23 including the response, carcass disposal, if necessary,
24 would be in line with the authorities over that habitat.
25 Another mitigation measure is that qualified personnel

1 will be used in a response for capture and restraint.
2 We said that experienced veterinarians will be used
3 where possible, but were not as long as people are
4 trained and qualified, that that will be the mitigation
5 measure.

6 The use of the standards and protocols, the
7 whole policy document that we've come up with, is
8 basically a big mitigation measure that as long as
9 things are done according to those standards we will
10 avoid, minimize or eliminate our impacts. So again,
11 from the network's perspective look at that because
12 that's some of the things that we're making as
13 conditions that the network will have to abide by.

14 And that's the end of our presentation for
15 you. So now we've come to oral comment time. If anyone
16 has an oral statement that they wish to make for the
17 record, that would be great.

18 MS. STEPHANIE NORMAN: Nice job.

19 MR. BRENT NORBERG: I was just going to
20 check and see if any other participants awaiting.

21 (Whereupon, there was a brief pause in the
22 proceedings.)

23 MS. SYLVIA BRUNNER: You mentioned in part
24 of these that we're supposed to remove carcasses where
25 possible. How does that affect Alaskan Stranding

1 network on account of we have not much to move things
2 with and a lot of this stuff is remote, really remote.

3 MS. SARAH WILKIN: So the preferred
4 alternative that we've come up with is that you would
5 transport the carcasses off site when they were
6 chemically euthanized.

7 MS. SYLVIA BRUNNER: And otherwise?

8 MS. SARAH WILKIN: Otherwise leave them
9 there as long as it's allowed, so as long as it's not in
10 a protected national park or something where they have
11 an issue with it.

12 MS. SYLVIA BRUNNER: Okay. So you're not
13 expecting us to bury things on beaches and stuff at all?

14 MS. SARAH WILKIN: It's whatever methods of
15 carcass disposal are feasible. So if you can't, if it's
16 not feasible, then we're not expecting it.

17 MS. SYLVIA BRUNNER: Okay. Those were my
18 main concerns.

19 MS. LYNNE BARRE: I'll mention our carcass
20 disposal comment as well which is that property owners
21 are -- that nothing in the EIS or mitigation -- there's
22 some language in there that implies that property owners
23 are not authorized or not allowed to dispose of
24 something on their own property or handle that and I'm
25 not sure that's consistent with what's in the MMPA and

1 the ESA or the intent of the ESA and MMPA. So the
2 comment we've already supplied as far as the language in
3 the EIS.

4 MR. BRENT NORBERG: And specifically in
5 Washington state there is a considerable amount of
6 shoreline that is privately owned and it's not practical
7 or wanted on the part of the public in some instances to
8 have us interfere in their ability to clean dead
9 carcasses from their beach.

10 MS. SARAH WILKIN: Is that a case though
11 where the Stranding network isn't involved?

12 MR. BRENT NORBERG: Potentially not.

13 MS. LYNNE BARRE: Sometimes not.

14 MS. SARAH WILKIN: Then that's out of the
15 scope of the EIS.

16 MS. LYNNE BARRE: But there's language in
17 the EIS that implies that landowners aren't able to
18 conduct disposal on their own property.

19 MR. BRENT NORBERG: And that would be
20 contrary to our policy. Our policy would say if the
21 landowner has a disposal option at hand, that our
22 network would coordinate with the landowner not to
23 interfere with that disposal.

24 MS. LYNNE BARRE: And we'd still collect the
25 Level A information.

1 MR. BRENT NORBERG: And we'd still collect
2 the date.

3 MS. SARAH WILKIN: Maybe just revisit how
4 that's phrased because I don't think that was our
5 intent.

6 MS. LYNNE BARRE: I think it's better than
7 it was, so you may have addressed it already. I have to
8 look at it again specifically.

9 MR. BRENT NORBERG: I know there was some
10 discussion between regions about how to view that
11 particular issue.

12 MS. LYNNE BARRE: It was one of the
13 alternatives that said if the Stranding network isn't
14 participating in carcass disposal than no other carcass
15 disposal was allowed or authorized and I'm not sure
16 that's consistent with our policy.

17 MS. SYLVIA BRUNNER: Did you go over
18 Stranding Agreements at all? You've got some new
19 renewal periods for -- some different renewal periods
20 that you're proposing and in one part of this thing I
21 read that it was for the dead and collecting stuff it
22 was five years and in another part I read it was for six
23 years. Is it five or six?

24 MS. SARAH WILKIN: I think that's changed.
25 I think it's five now is what we're envisioning. I

1 think both numbers have kind of been tossed around.

2 MS. SYLVIA BRUNNER: Okay.

3 MS. SARAH WILKIN: So it's five if you're
4 only responding to dead animals and three if you're
5 responding to live animals or rehab.

6 MS. LYNNE BARRE: In the parts where you
7 have effective immediately, is that at the time the ROD
8 is signed?

9 MS. SARAH WILKIN: Of the ROD.

10 MS. LYNNE BARRE: Okay.

11 MR. BRENT NORBERG: I have a question about
12 a comment you just made. If you're responding to live
13 animals or rehab it's three, in our region we've
14 separated rehab from live animal triage and response.
15 Would the three year --

16 MS. SARAH WILKIN: Actually, I'm not sure.

17 MR. BRENT NORBERG: -- limit apply?

18 MS. LYNNE BARRE: Because they're still
19 separate articles in the Stranding Agreement.

20 MR. BRENT NORBERG: They are separate
21 articles, yeah.

22 MS. LYNNE BARRE: I think it's three, but I
23 don't remember.

24 MR. BRENT NORBERG: That's probably
25 something we should jot down if we need to look at it.

1 MS. SARAH WILKIN: All right. I guess that
2 can conclude our formal comment period.

3 (Whereupon, the meeting was concluded at
4 3:55 p.m.)

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