

NATIONAL MARINE FISHERIES SERVICE

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ENVIRONMENTAL IMPACT STATEMENT (EIS)
ON NORTHERN RIGHT WHALE RESEARCH
IN THE ATLANTIC AND PACIFIC OCEANS

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PUBLIC SCOPING MEETING

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THURSDAY,
JANUARY 19, 2006

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The meeting was convened at 1:30 p.m. in the Auditorium of Silver Spring Metro Center, Building IV, Science Center, 1301 East-West Highway, Silver Spring, Maryland, Lewis Michaelson, moderating.

PRESENT:

LEWIS MICHAELSON	Moderator
CARRIE HUBARD	NMFS
STEPHEN L. LEATHERY	NMFS

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MODERATOR MICHAELSON: Good afternoon.

Thank you very much for coming out today and joining us for this scoping meeting.

As I'm sure you are all aware, if you made this much effort to find this building, this is the Scoping Management Environmental Impact Statement on the Northern Right Whale Research in the Atlantic and Pacific Oceans.

My name is Lewis Michaelson, and I was asked by the National Oceanic and Atmospheric Administration to be the Moderator for all three of the scoping meetings that are being held.

The purpose is to allow for early public notification of a proposed Federal action. This is an opportunity for the public and agencies to let an agency know, prior to preparing the draft document, what kinds of issues they think are most important that they looked at, so that the study can be focused in the best way possible.

It also provides the National Marine Fisheries Service here the opportunity to present the proposed action, so that it's clear what it is or is not being proposed, and the scope of the EIS will be formed in some way by the input that they

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1 receive.

2 As you may know, this is the third
3 meeting that we are holding. The first was held in
4 New Bedford, Massachusetts. Importantly, these
5 locations were chosen to try and go to the research
6 areas and talk to them as much as possible, and get
7 them involved, so the one in New Bedford was held
8 concurrently with the North Atlantic Right Whale
9 Consortium meeting, and the one we held last month
10 in San Diego coincided with the Sixteenth Biannual
11 Conference on the Biology of Marine Mammals. So,
12 we were able to get a very good representation and
13 turnout of those people who are involved in that
14 research, and they provided us a lot of good input
15 along the way.

16 And, of course, this is our third and
17 final meeting here in Silver Spring, Maryland.

18 The agenda for today is, we are going
19 to be providing you information on the scoping
20 process, and some background on the NEPA process,
21 under which this is being conducted. For those of
22 you who may or may not be intimately familiar about
23 when we say right whale research, what do we really
24 mean, it actually covers a fairly broad spectrum of
25 activities. We want to give you an overview of
26 that, and then review again the proposed action

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1 alternatives.

2 When we are done with the
3 presentations, then that will be your opportunity
4 if you'd like to speak to provide public comment.

5 I have one speaker sign a card and hand
6 it to me so far. If anyone else wants to, or
7 becomes inspired, Deborah up there will give you
8 one of these, you can fill it out, we would like to
9 have everyone who is here that wants to speak to
10 take advantage of that.

11 And, of course, what we are looking for
12 are comments on research needs and techniques on
13 the action and alternatives and environmental
14 considerations to be addressed.

15 We've got everything in one room here.
16 Hopefully, some of you were able to come earlier
17 and take advantage of, after you worked through the
18 registration area, the staffed exhibit area, and
19 get some of maybe your individual questions
20 answered. We'll have the formal presentation, and
21 then we'll have an oral comment period.

22 Again, if you want to speak, sign in at
23 the table. You can also turn in written comments,
24 and written comments and oral comments are given
25 equal consideration in the NEPA process, so it
26 doesn't matter whether you do it in one form or the

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1 other. And, of course, the advantage of a written
2 comment is you can take more time if you want, or
3 compose a lengthier response that you might want to
4 have.

5 I should also mention that seated to my
6 right is a court reporter, who will be taking a
7 verbatim transcript of everything that is said
8 here, and as a part of that this meeting is being
9 audio taped.

10 With that, I'd like to turn it over to
11 Stephen Leathery for our first presentation.

12 MR. LEATHERY: Hi, my name is Steve
13 Leathery, and as it shows on the screen I'm in
14 charge of the Permitting Division in the Office of
15 Protected Research, and I want to thank you all for
16 coming today.

17 I'm going to give a little bit of an
18 overview of NEPA and talk about this a little, and
19 then I'm going to turn it over to Carrie Hubbard,
20 who will give some more detail.

21 So, on the screen is the statutory
22 language from the National Environmental Policy
23 Act, and this was Congress' intent for how Federal
24 agencies should operate in a more transparent
25 manner, NEPA's Sunshine law, and it requires the
26 government to disclose a range of alternatives and

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1 the impacts of a preferred action, and some
2 reasonable alternatives.

3 Again, it requires an analysis of the
4 environmental consequences of an agency action
5 before taking that action, and provides an
6 opportunity for the public to be involved and to
7 comment and influence that process.

8 These are the components of an EIS,
9 proposed action and alternatives, the environment,
10 potential environmental consequences of the action
11 and alternatives, mitigations, and then
12 consideration of public input.

13 This is the full range of factors that
14 are typically considered in an EIS. In the case of
15 this right whale research EIS, the most important
16 issues are the protected species issues, the ESA
17 species and marine mammals, and also near the end
18 of the list the cumulative impacts, and we are
19 required by NEPA to consider cumulative impacts.

20 This is the different phases. We are
21 currently in the scoping phase. After the scoping
22 phase we'll develop and publish a draft EIS, and
23 that will fully consider comments that were made
24 during the scoping phase. After that, there will
25 be an opportunity for public comment and public
26 hearings. We'll issue a final EIS that will include

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1 a formal response to the comments that were made on
2 the draft, so that people will see how the agency
3 responded to comments that were made. Then after
4 it's completed, there's a record of decision, and
5 then the action can occur 30 days after the
6 conclusion of the EIS. And then, each phase
7 includes opportunities for public involvement and
8 input.

9 Here is our tentative schedule. We are
10 now finishing up scoping, and then we'll develop
11 the EIS in the coming months through '06,
12 basically, then get a draft out, and then there
13 will be a comment period. Hopefully, we'll get the
14 draft out towards the end of November, and then
15 there will be a December/January for comments, and
16 then work on finalizing the document and completing
17 it in, hopefully, August of 2007.

18 And, at this point I'm going to turn
19 the presentation over to Carrie Hubbard.

20 MS. HUBARD: Thanks, Steve.

21 So, this part of the presentation is
22 going to talk a little bit about the current state
23 of right whale research, as well as the proposed
24 action and the alternatives.

25 Just some background information.

26 There are currently 13 active permits for both

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1 North Atlantic and North Pacific right whales.
2 That includes research, as well as straining and
3 disentanglement activities.

4 These permits extend until 2006 to
5 2010, depending upon when they were issued, and
6 just to note that these permits authorize over 70
7 researchers, both PIs and the co-investigators, to
8 conduct research on right whales, both the Atlantic
9 numbering somewhere around 300-350, and the Pacific
10 which is, essentially, unknown.

11 Then the categories of right whale
12 research that's currently permitted, approach and
13 observation, both by vessel and by different aerial
14 surfers, sampling, such as tissue sampling,
15 ultrasound, tagging, population monitoring, there
16 are some acoustic playback experiments, as well as
17 straining and disentanglement activities.

18 The recovery plan for Northern right
19 whales has certain categories of research that it
20 has deemed as important towards the recovery, and
21 these are detection, again that is finding the
22 animals, knowing where they are, containment,
23 straining/entanglement response, contaminant
24 levels, overall reproduction and health, habitat
25 use patterns of the whales, and monitoring status.
26 So, these are the phases in the recovery plan that

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1 were identified because of their --

2 A little bit about action and
3 alternatives. The study areas include the Atlantic
4 Ocean, which ranges from the summering grounds of
5 the North Atlantic in New England, the calving
6 grounds, and migratory corridors in between, as
7 well as unknown locations where right whales might
8 occur.

9 The EIS will also cover the Pacific
10 Ocean. There is one area off of Alaska which is a
11 potential summering ground, and then the other
12 areas where the whales --

13 The purpose of the EIS is to provide
14 exemptions on MMPA and ESA against the prohibition
15 on "takes" through issuing permits assigned to the
16 research, and those MMPA and ESA prohibit "takes"
17 using permitting methods to exempt from that
18 prohibition.

19 And, the need for the EIS is that NMFS
20 needs to facilitate the research activities that
21 are going to help to recover the whales.

22 So, our proposed action is to issue
23 permits to qualified individuals and institutions
24 to conduct research activities determined critical
25 or essential to NMFS' conservation and recovery of
26 right whales (or minimum take level), that that

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1 NMFS activity are deemed critical to recovery and
2 conservation of species of the permit.

3 An alternative to that, we have
4 something that is the maximum allowable take level,
5 meaning that taking the current body of research,
6 adding proposed future research, continuing to
7 increase the takes and competitive action needs
8 until the jeopardy threshold is reached.

9 A No Action Alternative would be to
10 allow the current research to continue under
11 existing permits. We wouldn't replace any new
12 permits, therefore, by 2010 all of the permits
13 would have expired and all research would end. We
14 wouldn't grant any amendments or any changes within
15 the permit. So, this is our No Action Alternative.

16 Another alternative that we looked at
17 is that they may not be carried forward into the
18 future is a permit moratorium, where we cease and
19 desist all research and all permits.

20 Another possibility is to suspend
21 intrusive research, so only allow researchers to
22 conduct aerial surveys, don't actually touch the
23 whale, no biopsy or tagging.

24 Another possibility is the status quo
25 alternative, which means that you continue the
26 current permit, and when they end they can renew

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1 for another five years with no changes and no new
2 activity to occur.

3 So again, recognize that all of these
4 alternatives, although they are possible, they may
5 not meet the purpose of the proposed action, and
6 they wouldn't allow NMFS to receive that
7 information that would be critical to the survival
8 of the species.

9 Some of the major environmental issues
10 that are going to be addressed in this EIS are,
11 recognizing the information needs that NMFS has for
12 the conservation and recovery of right whales. We
13 are also going to be looking at the different types
14 of research activities to be permitted, any types
15 of different mitigation measures that can be used
16 during the research, and the EIS will also look at
17 the cumulative impacts of these research activities
18 on right whales in the environment.

19 Some advantages of this EIS, the first
20 is that it will have a full disclosure of the
21 potential effects related to research. They will
22 all be discussed in the EIS.

23 Also, the EIS will do a comprehensive
24 evaluation of cumulative effects, so it will look
25 at all the effects over time of these different
26 activities.

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1 Through the EIS process, we will help
2 develop mitigation measures and best management
3 practices towards research on right whales, and the
4 EIS should help reduce the need to do an
5 environmental impact, and instead of looking at
6 each permit that comes in separately, we are going
7 to try and understand and look at all of those in
8 one bundle.

9 Some specific information that you the
10 public or you that are researchers, interested
11 parties, can provide, and this is what we are
12 asking for, are there types of research that should
13 be done on right whales, are there certain critical
14 needs that have not been identified under the
15 recovery plan, what are the needs, what are the
16 most appropriate methods to do the methodology and
17 changes and new technology on the forefront that we
18 should be looking at.

19 We are going to look at the level of
20 research efforts that should be done on right
21 whales, and, for instance, we'll be looking at, how
22 much of this activity is enough, is there -- can
23 there be too much, should NMFS set limits on these
24 activities?

25 Also, we want to look at, should there
26 be different standards or more restrictions for

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1 research on certain age/sex/reproductive classes or
2 history stages, and if so, what are those classes
3 and stages, and what should the limitations be.

4 We also want to look at coordination of
5 research. With both the Atlantic and Pacific, we
6 are talking about small -- animals, and we want to
7 look at the most appropriate mechanisms to make
8 sure that research is coordinated.

9 Should NMFS consider limiting permits,
10 and if so, how should that be done, should NMFS
11 require that researchers working under different
12 permits use similar methods, should they have to
13 use the same methods, and what are the most
14 appropriate methods for these, such as biopsy
15 sampling, that everyone should be following,
16 standardization.

17 Receive some information on the
18 qualifications of researchers, how much prior
19 experience should the permitted applicant or
20 investigator have on specific methods before
21 receiving a permit.

22 We also really want to get some
23 feedback on the effects of research, anyone having
24 relevant information about what the effects of
25 research might be, any recommendations you could
26 give us that would be great, and they are also

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1 seeking recommendations for study designs,
2 essentially, doing research about research, to look
3 at how to detect or predict what the effects of
4 research are on the right whale.

5 And, now I'll turn it over to Lewis for
6 the oral comments.

7 MODERATOR MICHAELSON: I still only have
8 one speaker card, so what I'm going to do is move
9 this microphone over and make sure it is on, and
10 given that we have plenty of time and one of you we
11 are not going to be really picky about the three
12 minute rule here, so if you've got a little more to
13 say that would be fine.

14 If you'd just state your name for the
15 record, please.

16 MS. GANNETT: Sure.

17 Hi, my name is Jennifer Gannett, and I
18 am representing The Humane Society of the United
19 States. We will be providing more in-depth written
20 comments, but I want to briefly highlight our
21 concerns.

22 The HSUS agrees that an EIS for
23 research on right whales is warranted. We are,
24 however, concerned that the preferred alternative,
25 which would grant permits to conduct research
26 "determined critical or essential to NMFS'

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1 conservation and recovery of right whales" is only
2 reasonable if specific questions area addressed in
3 the EIS that the agency has not asked in its
4 scoping questions. In particular, how will NMFS
5 identify and prioritize which questions are
6 critical? The nebulous language could result in
7 applicants themselves identifying which needs are
8 critical and this could be a conflict of interest.
9 Prioritized needs should be identified by NMFS
10 prior to granting permits, and not done ad hoc.

11 For both Atlantic and Pacific right
12 whales, the cost and vast extent of the species'
13 range will limit aerial survey effort and thus
14 avoid duplication of effort. It is the on-water
15 activities that are of greatest concern with regard
16 to impacts on animals.

17 The HSUS believes that, for North
18 Atlantic right whales, the greatest priority should
19 be given to research that has direct and immediate
20 application to reducing the proximal threats to the
21 stock; that is, ship strikes and entanglement in
22 commercial fishing gear. All other research such
23 as genetic studies and toxin analysis are valid but
24 should be given a lower priority. In addition,
25 NMFS should give priority to aerial surveys and
26 limited valid telemetry studies to allow better

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1 understanding of habitat use.

2 NMFS should evaluate the feasibility of
3 consolidating and reducing the number of permits to
4 allow for greater accountability and coordination
5 of research and to reduce potential for adverse
6 impacts. Coordination should include a requirement
7 that researchers engaged in tagging or biopsy
8 studies work closely with others who can identify
9 animals in the field and thus assure that
10 appropriate animals are being sampled. This will
11 minimize impacts and avoid duplication of effort.
12 The EIS should also evaluate the most effective
13 means of monitoring physiological impacts from
14 invasive tagging.

15 There should be different priorities
16 for research on North Pacific right whales than for
17 North Atlantic right whales. This stock is even
18 more critically endangered and risk-benefit
19 analyses in the EIS should take this into account.
20 Research should focus on evaluating the current
21 distribution relative to the historical range of
22 the stock. Studies to date have been limited in
23 time and area, and additional effort is needed but
24 should be structured so as not to stress this
25 fragile stock. As with Atlantic right whales,
26 maintaining a catalog to aid in identifying

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1 individual animals is vital.

2 Because it appears important to both
3 increase and broaden the scope of survey efforts
4 and telemetry studies while minimizing impacts, the
5 NMFS should evaluate the pros and cons of granting
6 a single permit and using that permit to coordinate
7 all research activities on Pacific right whales.

8 Thank you for the opportunity to
9 present comments. We'll be submitting written
10 comments.

11 Thank you.

12 MODERATOR MICHAELSON: Thank you very
13 much.

14 Is there anyone else who would like to
15 take advantage of the microphone? I know it's not
16 a very popular activity in American society, public
17 speaking.

18 All right. What we've done at the two
19 previous meetings, and I think we can do here
20 again, is when we've finished this portion is we
21 just have had an informal question and answer
22 session so we can get all of your questions
23 answered.

24 So, do you have any closing comments
25 for us, Carrie, before we close out? You are fine.

26 So, thank you for coming, and we will

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1 now adjourn.

2 Thank you.

3 (Whereupon, the above-entitled matter
4 was concluded at 2:26 p.m.)

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