

# Marine Mammal Health and Stranding Response Program Environmental Impact Statement

Scoping Report  
March 2006



*Photo by NMFS NWR*



*Photo by Lyme Barre, NMFS*



*Photo by Provincetown Center for Coastal Studies*



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Office of Protected Resources  
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**ACRONYMS**

<b>CFR</b>	Code of Federal Regulations
<b>EIS</b>	Environmental Impact Statement
<b>ESA</b>	Endangered Species Act
<b>MMHSRP</b>	Marine Mammal Health and Stranding Response Program
<b>MMPA</b>	Marine Mammal Protection Act
<b>NEPA</b>	National Environmental Policy Act
<b>NMFS</b>	National Marine Fisheries Service
<b>NOI</b>	Notice of Intent
<b>NOAA</b>	National Oceanic and Atmospheric Administration
<b>OSP</b>	Optimal Sustainable Population
<b>SA</b>	Stranding Agreement
<b>UME</b>	Unusual Mortality Event

**SCOPING REPORT FOR THE  
MARINE MAMMAL HEALTH AND STRANDING RESPONSE PROGRAM  
ENVIRONMENTAL IMPACT STATEMENT**

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## **1. Introduction**

The National Marine Fisheries Service (NMFS) published a Notice of Intent (NOI) in the Federal Register on December 28, 2005 (Appendix A). The NOI announced NMFS' decision to prepare an Environmental Impact Statement (EIS) on the activities of the Marine Mammal Health and Stranding Response Program (MMHSRP) and conduct public scoping meetings. The EIS is being prepared in accordance with the National Environmental Policy Act (NEPA). The NOI began the official scoping process for the EIS. This document summarizes the scoping process and the comments received during the process.

### **1.1 EIS Background Information**

NMFS coordinates and operates the MMHSRP for response to stranded marine mammals and research on marine mammal health, pursuant to Title IV of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1421). Marine mammal stranding response is primarily conducted by a network of volunteer organizations across the country that are government officials under the authority of §109(h) or other groups that have entered into a Stranding Agreement or Letter of Agreement (SA or LOA) with NMFS pursuant to §112(c) of the MMPA. The MMHSRP operates at the national and regional level to coordinate and facilitate these responses.

To provide further guidance to marine mammal stranding network members and to nationally standardize the guidelines and protocols of participants in the stranding network, NMFS has developed several policy documents that are collectively named the *Policies and Best Practices for Marine Mammal Stranding Response, Rehabilitation and Release*. These documents are currently issued on an interim basis, and the MMHSRP is proposing to issue them in final after the NEPA analysis is concluded.

Some activities of the MMHSRP are conducted under a permit issued under the MMPA and Section 10(a)(1)(A) of the Endangered Species Act (ESA) by the Permits, Conservation, and Education Division of the NMFS Office of Protected Resources. The permit covers stranding and emergency response activities (including disentanglement) for endangered marine mammal species, health assessment studies, and a variety of other research projects.

The current MMPA/ESA permit expires on June 30, 2007. A NEPA analysis of the activities covered under the permit must be completed prior to the issuance of a new permit. A NEPA analysis must

also be completed to issue the final version of the *Policies and Best Practices for Marine Mammal Stranding Response, Rehabilitation and Release* manual.

## **1.2 Purpose of Scoping**

NEPA defines scoping as an “early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action” (40 CFR 1501.7). NMFS is required by NEPA to include scoping as part of the EIS process. The scoping meetings provided NMFS the opportunity to inform the public regarding the MMHSRP’s EIS and to obtain public input on the range of issues to be covered in the EIS. Comments were also collected via e-mail, postal mail and fax during the scoping process.

## **2. Scoping Meetings Summary**

### **2.1 Public Notices**

Announcements for the dates and locations of scoping meetings were sent to 253 entities, including federal and state government agencies, Alaska natives, Native American tribes, and non-governmental organizations. In addition, a total of 160 packets with the scoping meeting information and additional background documentation were sent to marine mammal stranding network members, marine mammal disentanglement network members, and MMPA/ESA research permit co-investigators.

Meeting announcements were sent to the email list for the Northeast, Southeast, and Southwest Regional stranding networks. An announcement was also sent to the MARMAM list-serve, an edited e-mail discussion list focusing on marine mammal research and conservation. The scoping meeting schedule was also available on the MMHSRP website at <http://www.nmfs.noaa.gov/pr/health/eis.htm>.

### **2.2 Newspaper Announcements of Public Notice**

Public notices announcing the scoping meetings were published in a newspaper in each of the meeting locations. The notices were published one week before the meeting date. Each notice included the date, time, and location of the meeting, and where additional information on the EIS could be obtained. The newspapers and dates the announcements were published are listed below:

- Santa Barbara News-Press: January 17, 2006
- The San Francisco Examiner: January 18, 2006

- The Honolulu Advertiser: January 20, 2006
- The Seattle Times: January 23, 2006
- Anchorage Daily News: January 25, 2006
- St. Petersburg Times: January 31, 2006
- The Boston Globe: February 6, 2006
- The Washington Post: February 10, 2006

### **2.3 Information Repositories**

Information on the MMHSRP and the EIS was available at a public library in each of the scoping meeting locations. Information was also available on the MMHSRP website. Information included the interim draft of the Best Practices and Policies Manual; the NOI; and handouts summarizing the MMHSRP, the EIS Process, and the Proposed Action and Alternatives.

### **2.4 Public Scoping Meetings**

Eight public scoping meetings were held in January and February of 2006. Meeting locations were chosen in each of the six NMFS regions: Alaska, Northeast, Northwest, Southeast, Southwest (two meetings), and the Pacific Islands. A meeting was also held at the National Oceanic and Atmospheric Administration (NOAA) Headquarters in Silver Spring, Maryland. Table 1 lists the meeting locations, date, time, number of attendees, and the number of oral comments received. The number of attendees is an approximation, as not all attendees signed in at the meeting. The number of attendees also includes the NMFS regional stranding coordinators, when applicable.

At the entrance to each meeting, attendees were encouraged to sign the registration sheet. Attendees could sign up to present oral comments or to be placed on the EIS mailing list. Written comment forms, the NOI, and handouts with information on the EIS and MMHSRP were also available at the entrance (see Appendix B).

The meetings consisted of a poster session, a formal presentation by NMFS personnel, an oral comment period, and an informal question and answer session. The poster session allowed the public to ask NMFS personnel questions before the meeting. The formal presentation provided the audience with information on NEPA, the EIS process, the MMHSRP, and the alternatives under consideration. The oral comment period provided attendees the opportunity to make a formal statement. The informal question and answer period allowed attendees to ask questions about information provided

in the presentation. Each meeting was captured by a court reporter for an accurate public record (the informal question and answer session was not recorded). Official transcripts from each meeting are in Appendix C. Written comments were also accepted at the meeting. Attendees were informed that NMFS would accept written comments until February 28, 2006.

**Table 1. Public Scoping Meeting Information**

<b>Location</b>	<b>Date/Time</b>	<b>Number of Attendees</b>	<b>Number of Oral Comments</b>
<b>Santa Barbara, CA</b> Santa Barbara Natural History Museum	January 24, 2006 7:00-10:00 pm	6	1
<b>San Francisco, CA</b> Bay Conservation and Development Commission	January 25, 2006 2:00-5:00 pm	12	2
<b>Honolulu, HI</b> Hawaiian Islands Humpback Whale National Marine Sanctuary	January 27, 2006 3:00-6:00 pm	7	0
<b>Seattle, WA</b> NMFS Northwest Regional Office	January 30, 2006 2:00-5:00 pm	15	2
<b>Anchorage, AK</b> USFWS Building	February 1, 2006 2:00-5:00 pm	12	0
<b>St. Petersburg, FL</b> NMFS Southeast Regional Office	February 7, 2006 5:00-8:00 pm	20	1
<b>Boston, MA</b> New England Aquarium	February 13, 2006 5:00-8:00 pm	25	5
<b>Silver Spring, MD</b> Silver Spring Metro Center, Building 4, Science Center	February 17, 2006 2:00-5:00 pm	17	2

### **3. Scoping Comments**

During the scoping period (December 28, 2005 to February 28, 2006) 35 comments were collected regarding the EIS during public meetings and through e-mail, fax, and mail (Appendix D). Comments addressed two specific areas: the EIS and the interim Policies and Best Practices documents.

#### **3.1 EIS Comments**

The following is a summary of the types of comments received on the EIS during the scoping process:

##### *Alternatives*

General

- Support for the MMHSRP's Proposed Actions.
- The No Action, Status Quo, and the activity curtailed immediately alternatives are not reasonable alternatives.
- All stranded marine mammals should be treated equally.
- Information gained from one species may be applied to another species.
- Some prioritizing process is needed, due to limited funding.
- Priority for response (in Alaska) should be based upon factors such as knowledge of the species and if the species is involved in a fishery interaction or human consumption.
- The mandate of the MMPA to protect and conserve marine mammals does not discriminate or distinguish among species.
- Support for the current level of effort under the MMHSRP activities.
- Status quo alternative does not give enough flexibility to conduct research on stranded animals.

Response Alternatives

- Support for the alternative to revise and implement stranding agreement (SA) criteria.
- There should not be different standards of stranding response for different species or regions, regardless of status.
- Standards and levels of responses should be the same regardless of species with the exception that endangered and threatened should receive priority in the face of conflicts of space or commitment.
- For initial animal response, the "Response to some animals required, others optional" alternative is preferred, but suggest re-wording the alternative and a different required/optional breakdown under the alternative.

Carcass Disposal/Euthanasia Alternatives

- Support for the alternative of transporting chemically euthanized animals off-site (other animals are left, buried, or transported as feasible).
- Need to be treated as two separate activities, as disposal of non-euthanized carcasses is also an issue.
- None of the proposed alternatives are optimal, but removal of chemically euthanized animals is the best.



- Unclear whether the “All animals buried on site” and “All animals transported off-site for disposal” alternatives refer to all carcasses or only those that have been chemically euthanized. Stranding members cannot be responsible for either burial or off-site transport of all marine mammal carcasses (without further funding).
- Euthanasia guidelines are needed for large animals and endangered animals.

*Rehabilitation Alternatives*

- We do not agree with any of the alternatives as written.
- Rehabilitation should be a part of any effective environmental program for the protection and conservation of marine mammals.
- Support for the alternative to modify and implement the rehabilitation facility guidelines.
- Rehabilitation efforts for different populations and/or species might be prioritized based on their status. Resources for rehabilitation should be weighted towards species that are known to be below the optimal sustainable population (OSP) or towards species for which there is insufficient data to accurately assess the population size. Species at or above the OSP should receive lower priority, allowing stranding network members to choose, based on availability, whether or not they rehabilitate these animals.
- Unwise to stop requiring rehabilitation of more common species as emerging diseases, harmful algal blooms, and other unusual events are more likely to be detected in these species.

*Release of Rehabilitated Animals Alternatives*

- Support for the alternative to modify and implement the release criteria.
- Agree with “All animals released” alternative if release criteria are adopted as is or with minimal changes. However, there may be exceptions when a rehabilitated animal is not authorized for release to ensure protection of the environment.

*Disentanglement Alternatives*

- Support for the alternative to implement the disentanglement guidelines and training requirements for network participants.

*Biomonitoring and Research Activities Alternatives*

- Support for the alternative to issue a new permit with current and new (foreseeable) projects.

***MMHSRP Activities***

- Support for the current activities under the MMHSRP.
- Support for the John H. Prescott Marine Mammal Rescue Assistance Grant Program.
- More collaboration is needed between researchers and those working with stranded animals.
- Database of stranding response personnel and their experience would be valuable.
- MMHSRP should focus on the protection of wild populations and not on the recovery of single live animals that strand.
- Suggest the establishment of a central MMHSRP diagnostic laboratory and sample bank to alleviate costs to individual centers and provide central data bank for research.
- Recommend establishing two disentanglement training facilities (one in Provincetown, Massachusetts and one on the West Coast) that are accredited to teach the protocols of the disentanglement network.
- Support for a National Disentanglement Coordinator.
- Need for more trained disentanglement responders with proper gear.
- Photo documentation of all strandings should be encouraged and guidelines should be established for photo and video documentation to facilitate future analysis.
- Responders collecting Level A stranding data should be properly trained in the collection of the data, the importance of the data, and how it will be used by investigators.
- Level A data forms should incorporate morphological data. May be appropriate to have different forms for cetaceans and pinnipeds.
- Training for response to unusual mortality events (UMEs) needs to be offered to all network participants. Network participants should be kept apprised of UMEs in their region and nationwide.

***Biological Resources***

- The potential for unintended effects from release of rehabilitated animals that can impact wild populations should be considered.
- Personnel should be trained in animal transport mechanisms to reduce possible animal injuries.
- Toxicity of chemically euthanized carcasses left on beaches may impact scavengers.

***Coastal Zone Management***

- Personnel need to know the rules/policies for responding on private land, Federal land, etc.
- A consistency determination must be made for federal activities affecting Virginia's coastal resources or uses.

***Human Health and Safety***

- Personnel should be trained in physical environment they will be working in and informed about the risk of injuries.
- Euthanasia solution can be dangerous to personnel. Need to find less toxic solution to use.
- Without the MMHSRP, the general public would likely take matters into their own hands in regards to stranded animals. Human health and safety would be at a grave risk without the MMHSRP.

***Public Outreach and Education***

- Public education about stranded animals is not well supported in present national priorities. This would help reduce the interaction between humans and stranded animals.
- Funding should be available to stranding network participants to have an educational program.

***Treaty Rights***

- The Makah Tribe has the right to stranded animals within their reservation boundaries and their Usual and Accustomed areas.
- Scientific practices and tribal cultural activities on stranded animals can occur at the same time.

**3.2 Interim Policies and Best Practices Comments**

The following is a summary of the types of comments received on the interim Policies and Best Practices documents during the scoping process:

***General***

- Support for national standards and guidelines for the MMHSRP.
- Support for issuance of policies and best practices if they are flexible to account for species differences and the pressures and conflicts unique to each region.

- Policies and practices only address release.
- Suggest establishing public viewing guidelines that protect animals and visitors.
- The premier criteria for standards should be the health and welfare of wild populations.
- Policies seem redundant to requirements instituted by the US Department of Agriculture for display of marine mammals and Institutional Animal Care and Use Committees requirements. These references could be directly cited to stress where NMFS policies may differ or compliment the requirements.
- It is unclear how the documents work together and the legal status of the documents is unclear.
- How will NMFS enforce these policies?
- Documents must be available to stranding network participants prior to signing SAs.
- If stranding network participants will be held to strict reporting time frames, NMFS' should agree to do the same.
- Needs to be a balance so that participating in the stranding program is not overly burdensome to institutions. The guidelines being reviewed as part of the EIS process fail to achieve a good balance.

***Interim SA Template***

- Agree with conditions described in the template.
- Concern with Section C, Participant Responsibilities that states that the Participants shall bear any and all expenses they incur from activities under the SA. Alaska stranding network participants have been provided funding from the NMFS regional office. This practice should continue and Alaska should not be aligned with logistics available in other regions.
- If the SA is terminated, is there a length of time before the entity can reapply?

***Interim Minimum Eligibility Criteria for an SA***

- It is important to recognize the different roles required for response, rehabilitation, and release activities.
- Consideration of requiring letters of recommendation for new and renewing SA applicants.
- The proposed qualifications should be implemented as written.
- There should be an appeals procedure for those entities denied an SA.

***Interim Rehabilitation Facility Standards***

- Rehabilitation Facility Standards should be minimum standards.
- Providing a designated quarantine building is not feasible.
- Cost of administering bimonthly diagnostic tests on animals is financially prohibitive and staff is not available to administer tests.
- Standards are standards, the minimal should be removed.

***Interim Standards for the Release of Rehabilitated Marine Mammals***

- Standards do not address immediate release from the beach, or relocation and release without entering a rehabilitation facility.
- More emphasis should be placed on post-release monitoring.
- Standards are acceptable as written.

***Interim Disentanglement Guidelines***

- Support for national disentanglement protocols with respect to safety, documentation, reporting, and operations. Some protocols would need to be flexible to tailor them to specific circumstances and variable conditions.
- National standards for the disentanglement network should require that participation and advancement at all levels is founded on experience and training.
- Standards are acceptable as written.
- The Provincetown Center for Coastal Studies gear and techniques are not necessarily applicable in all regions.
- Clarify why NMFS is liable for injuries or fatalities during disentanglement.
- Needs to be a process in place for organizational growth and training opportunities need to be offered on a regular basis.
- Divers should be seriously considered in the official protocol for the disentanglement network. The protocol should limit diving to disentangle a whale only to those personnel who are trained and certified divers.

## **4. Conclusion**

NMFS has completed the formal public scoping process for the MMHSRP EIS. The agency will consider the comments received, individually and cumulatively, and will address those comments in the EIS, to the extent required. Comments received on the interim Policies and Best Practices documents will be reviewed and considered during the revision process. Scoping is an iterative

process and NMFS will continue to consider all relevant input received throughout the development of the EIS.

**APPENDIX A**

**FEDERAL REGISTER NOTICE OF INTENT**

**DECEMBER 28, 2005**





scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).<sup>5</sup> This steel is similar to American Iron and Steel Institute (AISI) grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo."<sup>6</sup> The second excluded stainless steel strip in coils is similar to AISI 420-J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is "GIN5"<sup>7</sup> steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6."<sup>8</sup>

#### Rescission of Review

The applicable regulation, 19 CFR 351.213(d)(1), states that if a party that requested an administrative review withdraws the request within 90 days of the publication of the notice of the initiation of the requested review, the Secretary will rescind the review. It further states that the Secretary may extend this time limit if the Secretary finds it reasonable to do so. As noted above, three of the five petitioners that requested this review timely withdrew their request for review. On December 1, 2005, the Department informed counsel to petitioners that the instant review cannot be rescinded unless all five petitioners withdraw their request. See Memorandum to the File from Richard O. Weible, Office Director, Regarding

<sup>5</sup> This list of uses is illustrative and provided for descriptive purposes only.

<sup>6</sup> "GIN4 Mo" is the proprietary grade of Hitachi Metals America, Ltd.

<sup>7</sup> "GIN5" is the proprietary grade of Hitachi Metals America, Ltd.

<sup>8</sup> "GIN6" is the proprietary grade of Hitachi Metals America, Ltd.

"Phone Conversation with David Hartquist," dated December 6, 2005. By December 6, 2005, one week after the 90-day deadline, all five petitioners (Allegheny Ludlum Corporation, North American Stainless, United Auto Workers Local 3303, Zanesville Armco Independent Organization, Inc., and the United Steelworkers), withdrew their request for review.

The Department finds it reasonable to extend the time limit by which a party may withdraw its request for review in the instant proceeding. The Department has not yet devoted considerable time and resources to this review, all five petitioners have withdrawn their request, and no other party requested the review. Therefore, we are rescinding this review of the antidumping duty order on SSSS in coils from Italy covering the period July 1, 2004, through June 30, 2005. The Department will issue appropriate assessment instructions directly to U.S. Customs and Border Protection within 15 days of publication of this notice.

#### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's assumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

#### Notification of Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return on destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversation to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This notice is issued and published in accordance with sections 751 and 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: December 21, 2005.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E5-7984 Filed 12-27-05; 8:45 am]

BILLING CODE 3510-05-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 120805B]

#### Notice of Intent to Conduct Public Scoping Meetings and Prepare an Environmental Impact Statement on the Activities of the National Marine Mammal Health and Stranding Response Program

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of Intent to prepare environmental impact statement; request for comments.

**SUMMARY:** The National Marine Fisheries Service (NMFS) announces its intent to prepare an Environmental Impact Statement (EIS) to analyze the environmental impacts of the national administration of the Marine Mammal Health and Stranding Response Program (MMHSRP).

Publication of this notice begins the official scoping process that will help identify alternatives and determine the scope of environmental issues to be addressed in the EIS. This notice requests public participation in the scoping process, provides information on how to participate, and identifies a set of preliminary alternatives to serve as a starting point for discussions.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** for specific dates, times, and locations of public scoping meetings for this issue.

**FOR FURTHER INFORMATION CONTACT:** All comments, written statements and questions regarding the scoping process, NEPA process, and preparation of the EIS must be postmarked by February 28, 2006, and should be mailed to: P. Michael Payne, Chief, Marine Mammal and Sea Turtle Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Room 13635, Silver Spring, MD 20910-3226, Fax: 301-427-2584 ATTN: MMHSRP EIS or e-mail at [mmhsrpeis.comments@noaa.gov](mailto:mmhsrpeis.comments@noaa.gov) with the subject line MMHSRP EIS.

**SUPPLEMENTARY INFORMATION:**

## Background

NMFS proposes to continue to coordinate and operate the National Marine Mammal Health and Stranding Response Program (MMHSRP) for response to stranded marine mammals and research into questions related to marine mammal health, including causes and trends in marine mammal health and the causes of strandings, pursuant to Title IV of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1421). Title IV of the MMPA established the MMHSRP under NMFS. The mandated goals and purposes for the program are to: (1) facilitate the collection and dissemination of reference data on the health of marine mammals and health trends of marine mammal populations in the wild; (2) correlate the health of marine mammals and marine mammal populations, in the wild, with available data on physical, chemical, and biological environmental parameters; and (3) coordinate effective responses to unusual mortality events by establishing a process in the Department of Commerce in accordance with section 404.

To meet the goals of the MMPA, the MMHSRP carries out several important activities, including the National Marine Mammal Stranding Network, the John H. Prescott Marine Mammal Rescue Assistance Grant Program, the Marine Mammal Disentanglement Program, the Marine Mammal Unusual Mortality Event and Emergency Response Program, the Marine Mammal Biomonitoring Program, the Marine Mammal Tissue and Serum Bank Program, the Marine Mammal Analytical Quality Assurance Program, the MMHSRP Information Management Program, and the facilitation of several regional health assessment programs on wild marine mammals.

A marine mammal is defined as "stranded" under the MMPA if it is dead and on the beach or shore or floating in waters under US jurisdiction, or alive and on the beach and unable to return to the water, in need of medical assistance, or out of its natural habitat and unable to return to its natural habitat without assistance. NMFS is currently developing and plans to issue national protocols that will help standardize the stranding network across the country while maintaining regional flexibility. These protocols are proposed to be issued in one consolidated manual, titled *Policies and Best Practices for Marine Mammal Stranding Response, Rehabilitation and Release* (Policies and Practices). This document is currently released on an interim basis, and will be available on

our website after January 9, 2006, at: <http://www.nmfs.noaa.gov/pr/health/> for reference and review. The future development of these policies may involve issuance of regulations, but none are currently proposed.

Individuals, groups and organizations throughout the country have been responding to stranded marine mammals for decades. After the passage of Title IV, NMFS codified the roles and responsibilities of participant organizations in the National Marine Mammal Stranding Network through a Letter of Agreement (LOA) or Stranding Agreement (SA), issued under MMPA section 112(c). By issuing SAs, NMFS allows stranding network response organizations, acting as 'agents' of the government, an exemption to the prohibition on "takes" of marine mammals established under the MMPA. Federal, state and local government officials already have an exemption to the take prohibition under section 109(h) of the MMPA, which allows the taking of marine mammals (not listed as threatened or endangered) during the course of official duties, provided such taking is for the protection or welfare of the mammal, for public health, or for the nonlethal removal of nuisance animals. SAs (as conceived) extend the same exemption to organizations and individuals that are outside of the government.

Stranding Agreements are issued by NMFS Regional Administrators, and in the past a high level of variability has occurred between regions. A standardized national template for the format of the SA has been developed, including sections that may be customized by each region in order to maintain flexibility. This SA template has been subject to public comment on several occasions after publication on NMFS' public website and distribution to interested parties (most recently on Nov. 8, 2004). NMFS has also developed a list of minimum criteria for organizations wishing to obtain a SA and participate in the stranding network, and these have also been distributed for public comment. These criteria differ based on the level of involvement of the participant (response only; response and transport; rehabilitation, etc.). Substantive comments received on these documents have been either incorporated or responded to, if the authors chose not to incorporate them. The LOA Template and Minimum Eligibility Criteria are the first two elements of the "Policies and Practices" manual.

While the MMPA provides an exception to the take prohibition for the health and welfare of stranded marine

mammals, no similar exemption is contained in the Endangered Species Act (ESA). Not all, but many, species of marine mammals are listed as threatened or endangered under the ESA, and are therefore protected by both laws. Therefore, the MMHSRP has obtained a permit from the Permits, Conservation and Education Division of the NMFS Office of Protected Resources, issued under the MMPA and section 10(a)(1)(A) of the ESA, to provide the necessary exemption to the take prohibition where the stranded animal in question is listed under the ESA, or when response to a stranded animal would or could incidentally harass a listed species. The permit covers stranding and emergency response activities, including for example, disentanglement, hazing, close approaches, and humane euthanasia. Captures of wild (presumably healthy) animals are also permitted to conduct health assessment studies, where such activities are part of an investigation into a morbidity or mortality issue in the wild population, but this is a rare occurrence (not routine procedure). Stranding network responders are listed as co-investigators under this permit. The permit also authorizes a variety of research projects utilizing stranded animals, tissue samples, and marine mammal parts for investigations into die-offs and other questions regarding marine mammal health and stranding. The current permit issued to the MMHSRP will expire on June 30, 2007, and a NEPA analysis of the activities covered under the permit must be completed prior to the issuance of a new permit. This EIS will serve as the NEPA analysis of these permitted activities.

Marine mammals that are undergoing rehabilitation, and the facilities that are conducting rehabilitation activities, are not subject to inspection or review by the Animal and Plant Health Inspection Service (APHIS) under the United States Department of Agriculture, provided that they are not also a public display facility (separate from their rehabilitation activities) or a research facility. These facilities are therefore not subject to APHIS minimum requirements for facilities, husbandry, or veterinary standards. NMFS has developed minimum standards for marine mammal rehabilitation facilities that will be required of all facilities operating under a SA with NMFS, and the interim rehabilitation facility standards document is the third element of the Policies and Practices manual.

Section 402 (a) of the MMPA charges NMFS with providing "guidance for determining at what point a rehabilitated marine mammal is

releasable to the wild." Interim standards for release of rehabilitated marine mammals have been developed by NMFS and the US Fish and Wildlife Service in consultation with marine mammal experts through review and public comments, including publication in the **Federal Register** on April 8, 1998 (63 FR 17156). Three panels of experts were also assembled in 2001 to provide individual recommendations, which have been incorporated into the current interim document. These guidelines provide an evaluative process for the veterinarians and animal husbandry staff at rehabilitation facilities to use in determining if a stranded marine mammal is suitable for release to the wild, and under what conditions such a release should occur. The interim standards are provided in the Policies and Practices manual.

### **Purpose and Scope of the Action**

NMFS will prepare an EIS to evaluate the cumulative impacts of the activities of the MMHSRP, including the issuance of a final Policies and Procedures manual and a new MMPA/ESA permit for the program. This EIS will assess the likely environmental effects of marine mammal health and stranding response under a range of alternatives characterized by different methods, mitigation measures, and level of response. In addition, the EIS will identify potentially significant direct, indirect, and cumulative impacts on geology and soils, air quality, water quality, other fish and wildlife species and their habitat, vegetation, socioeconomics and tourism, treaty rights and Federal trust responsibilities, environmental justice, cultural resources, noise, aesthetics, transportation, public services, and human health and safety, and other environmental issues that could occur with the implementation of the proposed action. For all potentially significant impacts, the EIS will identify avoidance, minimization and mitigation measures to reduce these impacts, where feasible, to a level below significance.

Major environmental concerns that will be addressed in the EIS include: NMFS' information needs for the conservation of marine mammals; the types and levels of stranding response and rehabilitation activities, including level of effort; and the cumulative impacts of MMHSRP activities on marine mammals and the environment. Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to the MMHSRP and its activities are identified. NMFS is therefore seeking

public comments especially in the following areas:

(1) *Types of activities.* What sort of activities in response to stranded marine mammals or outbreaks of disease in marine mammals should be conducted on a national level? Are there critical research needs that may be met by stranding investigations, rehabilitation, biomonitoring, disentanglement, and other health-related research activities? If so, are these needs currently being met? If there are additional needs, what are they, how are they likely to benefit the marine mammal species, and how should they best be met?

(2) *Level of response effort.* For example, should there be different standards or levels of effort for different species or groups of species (i.e. pinnipeds vs. cetaceans; threatened or endangered species vs. increasing populations, etc.)? How should NMFS set these standards or limits?

(3) *Organization and qualifications.* How should the national stranding network be organized at the local, state, regional, eco-system, and national levels? How should health assessment research be coordinated or organized nationally? What should the minimum qualifications of an individual or organization be prior to becoming an SA holder or researcher (utilizing samples from stranded animals) to ensure that animals are treated successfully, humanely, and with the minimum of adverse impacts?

(4) *Effects of activities.* NMFS will be assessing possible effects of the activities conducted by, for, and under the authorization of the MMHSRP using all appropriate available information. Anyone having relevant information they believe NMFS should consider in its analysis should provide a complete citation or reference for retrieving the information. We seek public input on the scope of the required NEPA analysis, including the range of reasonable alternatives; associated impacts of any alternatives on the human environment, including geology and soils, air quality, water quality, other fish and wildlife species and their habitat, vegetation, socioeconomics and tourism, treaty rights and Federal trust responsibilities, environmental justice, cultural resources, noise, aesthetics, transportation, public services, and human health and safety, and suitable mitigation measures. We ask that comments be as specific as possible.

### **Alternatives**

NMFS has identified several preliminary alternatives for public comment during the scoping period and encourage information on additional

alternatives to consider. Alternative 1, the Proposed Action Alternative, would result in the publication of the Practices and Protocols Handbook and the establishment of required minimum standards for the national marine mammal stranding and disentanglement networks. The MMHSRP permit would also be issued under this alternative to permit response activities for endangered species, disentanglement activities, biomonitoring projects, other research projects conducted by or in cooperation with the program, and import and export of tissue and other diagnostic or research samples.

Alternative 2, the No Action Alternative, would continue the activities of the national stranding and disentanglement networks without issuance of the Policies and Practices. No new or renewal Stranding Agreements would be issued or extended, and the MMHSRP would not apply for or receive a new permit. As Stranding Agreements with organizations expired, the network would cease to function. The No Action Alternative is required to be included for consideration by CEQ regulations.

Alternative 3 is considered the Status Quo alternative and would allow for the continuation of the stranding and disentanglement networks currently in place in the country, and the Policies and Practices documents would not be issued. However, under the Status Quo alternative, Stranding Agreements could be renewed or extended (though not modified), such that the current level of response would continue. No new SAs would be issued to facilities that are not currently part of the national stranding network. This would preclude adaptive changes in the stranding network as organizations change priorities and wish to leave the network, or as new facilities are created and wish to become involved. The MMHSRP permit could be renewed or reissued as written, with no modifications. There could be no adaptive changes to the research protocols as new issues were raised or advances made in technology.

Other alternatives considered by NMFS may be eliminated from detailed study because they would limit or prohibit activities necessary for the conservation of the species by NMFS. The other alternatives that have been considered but may be eliminated from further study are: (1) An alternative that allows for biomonitoring activities only (tissue sampling and study of animals caught during targeted health assessment projects, subsistence hunts, and as incidental bycatch in fishery activities only); (2) an alternative that allows for a stranding response only (no

rehabilitation activities; response to live animals would be limited to euthanasia or release; no disentanglement or health assessment activities; ); (3) an alternative that allows for response and rehabilitation for cetaceans only; and (4) an alternative that allows for response and rehabilitation for ESA-listed marine mammals only. The elimination of any of these activities would impede data collection regarding strandings and the health of marine mammals that is necessary for NMFS conservation and recovery efforts for many species.

In addition to the alternatives listed above, NMFS will also utilize the scoping process to identify other alternatives for consideration. It should be noted that although several of the listed alternatives would not allow for the mandated activities listed in the MMPA, under 40 CFR 1506.2(d), reasonable alternatives cannot be excluded strictly because they are inconsistent with Federal or state laws, but must still be evaluated in the EIS.

For additional information about the MMHSRP, the national stranding network, and related information, please visit our website at <http://www.nmfs.noaa.gov/pr/health/>.

#### Public Involvement and Scoping Meetings Agenda

Public scoping meetings will be held at the following dates, times, and locations:

1. Tuesday, January 24, 2006, 7 – 10 p.m., Santa Barbara Natural History Museum, 2559 Puesta del Sol, Santa Barbara, CA;
2. Wednesday, January 25, 2006, 2 – 5 p.m.; Bay Conservation and Development Commission, 50 California Street, Suite 2600, San Francisco, CA;
3. Friday, January 27, 2006, 3 – 6 p.m., Hawaiian Islands Humpback Whale National Marine Sanctuary O'ahu Office, 6600 Kalaniana'ole Highway, Honolulu, HI;
4. Monday, January 30, 2006, 2 – 5 p.m., NMFS Northwest Regional Office, Building 9, 7600 Sand Point Way NE, Seattle, WA;
5. Wednesday, February 1, 2006, 2 – 5 p.m., U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK;
6. Tuesday, February 7, 2006, 5 – 8 p.m., NMFS Southeast Regional Office, 263 13th Avenue, South, St. Petersburg, FL;
7. Monday, February 13, 2006, 5 – 8 p.m., New England Aquarium, Conference Center, Central Wharf, Boston, MA;
8. Friday, February 17, 2006, 2 – 5 p.m., Silver Spring Metro Center, Building 4, Science Center, 1301 East-West Highway, Silver Spring, MD.

Comments will be accepted at these meetings as well as during the scoping period, and can be mailed to NMFS by February 28, 2006 (see **FOR FURTHER INFORMATION CONTACT**).

We will consider all comments received during the comment period. All hardcopy submissions must be unbound, on paper no larger than 8 1/2 by 11 inches (216 by 279 mm), and suitable for copying and electronic scanning. We request that you include in your comments:

- (1) Your name and address;
- (2) Whether or not you would like to receive a copy of the Draft EIS (please specify electronic or paper format of the Draft EIS); and
- (3) Any background documents to support your comments as you feel necessary.

All comments and material received, including names and addresses, will become part of the administrative record and may be released to the public.

#### Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Sarah Howlett or Sarah Wilkin, 301–713–2322 (voice) or 301–427–2522 (fax), at least 5 days before the scheduled meeting date.

#### P. Michael Payne,

Chief, Marine Mammal and Sea Turtle Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E5–7990 Filed 12–27–05; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 122005C]

#### Notice of Intent to Prepare an Environmental Impact Statement on Impacts of Research on Steller Sea Lions and Northern Fur Seals Throughout Their Range in the United States

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of Intent to prepare environmental impact statement.

**SUMMARY:** The National Marine Fisheries Service (NMFS) announces its intent to prepare an Environmental Impact Statement (EIS) to analyze the environmental impacts of administering grants and issuing permits associated

with research on endangered and threatened Steller sea lions (*Eumetopias jubatus*) and depleted northern fur seals (*Callorhinus ursinus*). Publication of this notice begins the official scoping process that will help identify alternatives and determine the scope of environmental issues to be addressed in the EIS. This notice requests public participation in the scoping process and provides information on how to participate.

The purpose of conducting research on threatened and endangered Steller sea lions is to promote the recovery of the species' populations such that the protections of the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*) are no longer needed. Consistent with the purpose of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*), the purpose of conducting research on northern fur seals is to contribute to the basic knowledge of marine mammal biology or ecology and to identify, evaluate, or resolve conservation problems for this depleted species.

Research on Steller sea lions and northern fur seals considered in this EIS is funded and permitted by NMFS, which are both federal actions requiring National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) compliance. The need for these actions is to facilitate research to: (1) Prevent harm and avoid jeopardy or disadvantage to the species; (2) promote recovery; (3) identify factors limiting the population; (4) identify reasonable actions to minimize impacts of human-induced activities; (5) implement conservation and management measures; and (6) make data and results available in a timely manner for management of the species. As part of this action, NMFS is developing measures that will improve efficiency and avoid unnecessary redundancy in Steller sea lion and northern fur seal research, utilize best management practices, facilitate adaptive management, and standardize research protocols.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** for specific dates, times, and locations of public scoping meetings for this issue.

**FOR FURTHER INFORMATION CONTACT:** Written statements and questions regarding the scoping process must be postmarked by February 13, 2006, and should be mailed to: Steve Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910–3226,

**APPENDIX B**

**INFORMATIONAL FACT SHEETS FROM**

**PUBLIC SCOPING MEETINGS**



# • NEPA/EIS FACT SHEET •

The Environmental Impact Statement (EIS) will be prepared in accordance with the National Environmental Policy Act (NEPA) of 1969.

*What is NEPA?*

The purposes of NEPA are to:

- Encourage harmony between man and the environment;
- Promote efforts to prevent or eliminate environmental damage; and
- Enrich man's understanding of important ecological systems and natural resources.

NEPA requires that the National Marine Fisheries Service (NMFS):

- Consider the potential consequences of its decisions (major federal actions) on the human environment before deciding to proceed; and
- Provide opportunities for public involvement, which include: participating in scoping, reviewing the Draft and Final EIS, and attending public meetings.

**NEPA does not dictate the decision to be made by NMFS, but informs the decision-making process.**

*What is an EIS?*

An EIS evaluates the actions that a federal agency plans to undertake with respect to the potential impacts of these actions on the human environment. The purpose of this EIS is to objectively analyze and evaluate the potential impacts on environmental resources from activities conducted under the Marine Mammal Health and Stranding Response Program (MMHSRP).

The EIS will include descriptions of the:

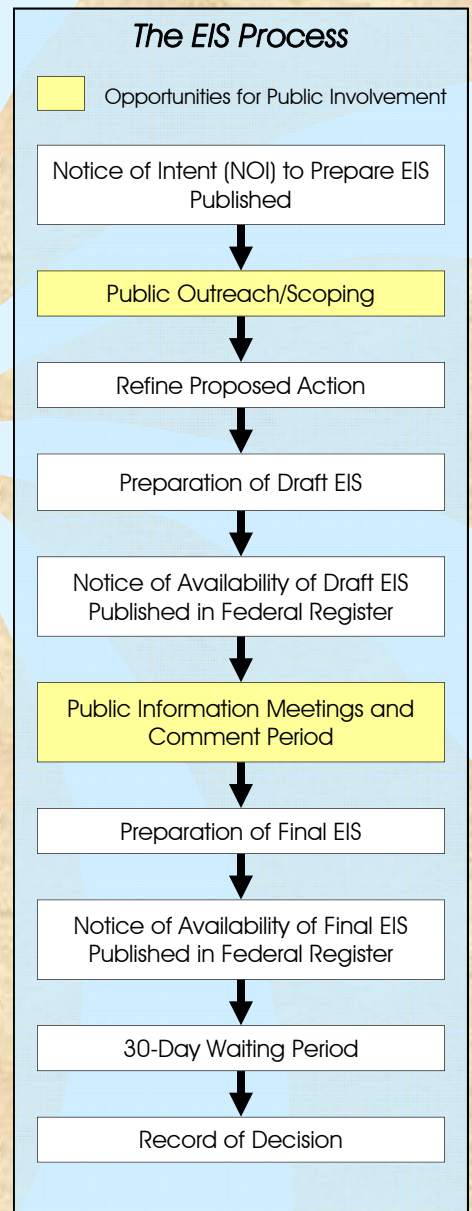
- Proposed Action
- Purpose and need for the Proposed Action
- Alternatives to the Proposed Action
- Affected environment
- Environmental consequences of the Proposed Action and alternatives
- Required mitigation or recommended best management practices (BMPs)

**What environmental resources are normally considered during an EIS?**

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|--|---|
| <ul style="list-style-type: none"> <li>• Fish and Wildlife                             <ul style="list-style-type: none"> <li>– Protected Species                                     <ul style="list-style-type: none"> <li>&gt; Threatened and Endangered Species</li> <li>&gt; Marine Mammals</li> <li>&gt; Migratory Birds</li> </ul> </li> <li>– Non-protected Species</li> </ul> </li> <li>• Protected and Sensitive Habitats                             <ul style="list-style-type: none"> <li>– National Marine Sanctuaries</li> <li>– Essential Fish Habitat</li> <li>– Designated Critical Habitat</li> <li>– Vegetation</li> </ul> </li> <li>• Coastal Zone Management</li> <li>• Geology and Soils</li> </ul> | <ul style="list-style-type: none"> <li>• Air Quality</li> <li>• Water Quality</li> <li>• Noise</li> <li>• Aesthetics</li> <li>• Human Health and Safety</li> <li>• Socioeconomics and Tourism</li> <li>• Public Services</li> <li>• Cultural Resources</li> <li>• Environmental Justice</li> <li>• Treaty Rights</li> <li>• Federal Trust Responsibilities</li> <li>• Cumulative Impacts</li> </ul> |
|--|---|



*Photo by NOAA Fisheries*



*Photo by Provincetown Center for Coastal Studies*



# PUBLIC INPUT

**NMFS needs your participation in scoping for the EIS.**

*What is Scoping?*

Scoping is defined as an "early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action." NEPA requires that NMFS include scoping as part of the EIS process. For our scoping, we have chosen a combination of public meetings around the country and repositories of the information - both virtual (on our website) and real (in a library in each city where a scoping meeting is held).



Photo by NMFS NWR

Your involvement and input are essential to the EIS process. Many opportunities exist to be involved in the EIS on the activities of the National Marine Mammal Health and Stranding Response Program (MMHSRP):

- Participate in a scoping meeting
- Identify specific issues
- Submit comments
- Sign up for the mailing list
- Review and comment on the Draft EIS
- Participate in a public hearing
- Review the Final EIS

**NMFS is seeking public comments on all issues relating to the MMHSRP, including the following specific questions:**

- What sort of activities should be conducted on a local, regional and national level in response to stranded, entangled, sick, injured, and other marine mammals in distress?
- Are there critical research or management needs that may be met by stranding investigations, rehabilitation, disentanglement or health-related research and biomonitoring - activities? Are these needs currently being met? If not, what are they, how are they likely to benefit the marine mammal species, and what should be done to meet them?
- Should there be different standards or levels of MMHSRP effort for different species or groups of species (i.e. pinnipeds vs. cetaceans; threatened or endangered species vs. increasing populations, etc.)? If so, how should NMFS set these standards or priorities?
- Is the current organization of the national stranding and health assessment networks at the local, state, regional, ecosystem, and national levels adequate to meet the necessary management and research needs for conservation? If not, what changes should be implemented to make the organization more effective?
- What should be the minimum qualifications of an individual or organization prior to becoming a Stranding Agreement holder to ensure that animals are treated appropriately, humanely, and with the minimum of adverse impacts?
- Are public and animal health and safety needs adequately addressed in the current organization and operations of the MMHSRP?
- Are there any other relevant issues or data NMFS should consider in its analysis of activities conducted by, for, and under the authorization of the MMHSRP? If so, please provide if or a reference for it.



Photo by Lynne Barre, NMFS NWR

## Information Repository Sites:

Santa Barbara Public Library 40 East Anapamu Street Santa Barbara, CA 93101	San Francisco Public Library 100 Larkin Street San Francisco, CA 94102
Hawaii State Library 478 South King Street Honolulu, HI 96813	Seattle Public Library 1000 4th Avenue Seattle, WA 98104
Z.J. Lousac Public Library 3600 Denali Street Anchorage, AK 99503	St. Petersburg Public Library 3745 9th Avenue North St. Petersburg, FL 33713
Boston Public Library 700 Boylston Street Boston, MA 02116	NOAA Central Library 1315 East-West Highway 2nd Floor, SSMC3 Silver Spring, MD 20910

## Contacts:

Sarah Howlett or Sarah Wilkin  
Marine Mammal and Sea Turtle Division  
Office of Protected Resources  
NMFS 1315 East-West Highway  
Silver Spring, MD 20910-3226  
Phone: 301-713-2322

**Address your comments by  
February 28, 2006 to:**

P. Michael Payne, Chief  
Marine Mammal and Sea Turtle Division  
NMFS 1315 East-West Highway  
Silver Spring, MD 20910-3226  
mmhsrpeis.comments@noaa.gov  
Fax: 301-427-2584

## For More Information:

<http://www.nmfs.noaa.gov/pr/health/els.htm>

## Scoping Meeting Dates and Locations:

PLACE	DATE
<b>Santa Barbara, CA</b> Natural History Museum 2559 Puesta del Sol	Tuesday January 24, 2006 7:00 to 10:00 pm
<b>San Francisco, CA</b> Bay Conservation and Development Commission 50 California Street, Suite 2600	Wednesday January 25, 2006 2:00 to 5:00 pm
<b>Honolulu, HI</b> Hawaiian Islands Humpback Whale National Marine Sanctuary O'ahu Office 6600 Kalaniana'ole Highway	Friday January 27, 2006 3:00 to 6:00 pm
<b>Seattle, WA</b> NMFS Northwest Regional Office Building 9 7600 Sand Point Way NE	Monday January 30, 2006 2:00 to 5:00 pm
<b>Anchorage, AK</b> U.S. Fish and Wildlife Service 1011 East Tudor Road	Wednesday February 1, 2006 2:00 to 5:00 pm
<b>St. Petersburg, FL</b> NMFS Southeast Regional Office 263 13th Avenue, South	Tuesday February 7, 2006 5:00 to 8:00 pm
<b>Boston, MA</b> New England Aquarium Conference Center Central Wharf	Monday February 13, 2006 5:00 to 8:00 pm
<b>Silver Spring, MD</b> Silver Spring Metro Center, Building 4, Science Center 1301 East-West Highway	Friday February 17, 2006 2:00 to 5:00 pm





# MARINE MAMMAL HEALTH AND STRANDING RESPONSE PROGRAM

## ***National Marine Mammal Stranding Network***

The National Marine Mammal Stranding Network consists of volunteer stranding networks in all coastal states. These networks are authorized through Stranding Agreements with the National Marine Fisheries Service (NMFS) regional offices. Network member organizations respond to live and dead stranded marine mammals on the beach, take biological samples, transport animals, rehabilitate sick or injured marine mammals and potentially release them back to the wild. NMFS oversees, coordinates, and authorizes stranding network activities through one national and six regional stranding coordinators. NMFS also provides training to network members.

## ***Marine Mammal Disentanglement Network***



*Photo courtesy Provincetown Center for Coastal Studies*

The Disentanglement Network is a partnership between NMFS, the Provincetown Center for Coastal Studies, the U.S. Coast Guard, State agencies, National Marine Sanctuaries, and other entities. The Network is responsible for monitoring and documenting whales that have become entangled in gear as well as conducting rescue operations. The network established protocols for all aspects of response, including animal care and assessment, vessel and aircraft support, and media and public information. Multiple levels of training are required for animal welfare and human safety.

## ***John H. Prescott Marine Mammal Rescue Assistance Grant Program***

The Prescott Grant Program provides grants to eligible stranding network participants and researchers for:

- Recovery and treatment of stranded marine mammals;
- Data collection from living or dead stranded marine mammals; and
- Facility upgrades, operation costs, and staffing needs directly related to the recovery and treatment of stranded marine mammals and collection of data from living or dead stranded marine mammals.

Since the inception of the program in 2001, over \$16,000,000 has been disbursed in 187 grant awards. There is an annual competitive program as well as funding made available throughout the year for emergency response.

## ***Marine Mammal Unusual Mortality Event and Emergency Response Program***

The Working Group on Marine Mammal Unusual Mortality Events made up of federal and non-federal experts from a variety of biological and biomedical disciplines, including federal agency representatives, and two international participants from Canada and Mexico. The Working Group advises NMFS with regards to marine mammal Unusual Mortality Events (UMEs). The Program coordinates emergency response, investigations into causes of mortality and morbidity, evaluates the environmental factors associated with UMEs, provides training and resources as possible, and oversees the Marine Mammal Unusual Mortality Event Fund.



## ***MMHSRP Information Management Program***

The MMHSRP Information Management Program is responsible for the development and maintenance of a variety of databases, websites and other tools for disseminating information within the program, Network, and to the public. A major recent accomplishment was the rollout of a web-accessible national Level A database for reporting and sharing near-real time stranding data to all regions. The Marine Mammal Tissue Bank inventory will become web-accessible to the public in 2006. Data access policies are being developed to codify protocols for data accuracy, quality assurance, and public access to stranding network data.

## ***Marine Mammal Health Biomonitoring, Research, Development and Banking Programs***



*Photo courtesy NIST*

The MMHSRP coordinates national biomonitoring, research and banking efforts to analyze the health and contaminant trends of wild marine mammal populations. The program collects information to determine anthropogenic impacts on marine mammals, marine food chains, and marine ecosystems. In addition, the program uses information to analyze the contribution of environmental parameters to wild marine mammal health trends. Finally, the program operates the National Marine Mammal Tissue Bank, a joint effort with the National Institute of Standards and Technology, as a long-term repository of samples for future retrospective evaluations.



# PROPOSED ACTION & ALTERNATIVES

## Proposed Action

- Policies and Best Practices for Marine Mammal Stranding Response, Rehabilitation and Release (Policies and Practices) Manual would be issued, establishing required minimum standards for the national marine mammal stranding and disentanglement networks.
- MMHSRP permit would be issued to permit response activities for endangered species, entanglement activities, biomonitoring projects, and import and export of marine mammal tissue samples.
- Stranding Agreements (formerly LOAs) would continue to be issued or renewed on a case-by-case basis as necessary.



Photo courtesy Gulfworld Marine Park

## Purpose and Need

**Purpose:** NMFS proposes to continue to coordinate and operate the National Marine Mammal Health and Stranding Response Program (MMHSRP) for response to stranded marine mammals and research into questions related to marine mammal health, including causes and trends in marine mammal health and the causes of strandings, pursuant to Title IV of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1421).

**Need:** To operate the MMHSRP effectively and efficiently, making the best use of available limited resources; to collect the necessary data on marine mammal health and health trends to meet information needs for appropriate conservation and management; and to ensure that human and animal health and safety is always a high priority.

## Alternatives

### No Action Alternative:

- Allow continuation of stranding and disentanglement networks currently in place.
- Stranding Agreements (SAs) would not be renewed and new SAs would not be issued.
- Policies and Practices Manual would not be issued.
- MMHSRP would not apply for or receive a new permit.
- As SAs with organizations expired, the national stranding network would cease to function.

### Status Quo Alternative:

- Allow continuation of stranding and disentanglement networks currently in place.
- SAs could be renewed or extended, but not modified (current level of response would continue).
- Policies and Practices Manual would not be issued.
- No new Stranding Agreements would be issued to facilities not currently part of the national stranding network.
- MMHSRP permit could be renewed or reissued with no modifications.

## Alternatives Considered That May Be Eliminated From Further Study



Photo courtesy The Marine Mammal Center

### Biomonitoring Activities Only:

- Tissue sampling and the study of the health of animals caught during targeted health assessment projects, as incidental bycatch in fishery activities, and during subsistence hunting only

### Stranding Response Only:

- No rehabilitation activities— response to live animals would be limited to euthanasia or release.
- No disentanglement or health assessment activities.

### Response and Rehabilitation for Cetaceans Only

- No stranding response, rehabilitation, disentanglement, or health assessment activities would be conducted for pinnipeds (seals and sea lions).

### Response and Rehabilitation for Threatened and Endangered Marine Mammals Only

- No stranding response, rehabilitation, disentanglement, or health assessment activities would be conducted for marine mammals not listed as threatened or endangered under the Endangered Species Act.



**APPENDIX C**

**PUBLIC SCOPING MEETING TRANSCRIPTS**

**JANUARY 24- FEBRUARY 17, 2006**



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PUBLIC HEARING  
ENVIRONMENTAL IMPACT STATEMENT  
IN ACCORDANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
2559 PUERTA DEL SOL  
SANTA BARBARA, CALIFORNIA  
7:27 P.M.

REPORTED BY:  
JOAN L. PARKER, C. S. R. 12912

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PRESENT:  
NATIONAL MARINE FISHERIES SERVICE  
BY: SARAH HOWLETT  
SARAH WILKIN  
Marine Mammal and Sea Turtle Division  
Office of Protected Resources  
1315 East-West Highway  
Silver Springs, Maryland 20910-3226  
(301) 713-2322

ALSO PRESENT:  
Donna West-Lunt  
Meg Jones  
Cynthia Reyes  
Emily Wiy  
Michelle Berman

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SANTA BARBARA, CALIFORNIA; TUESDAY, JANUARY 24, 2006  
7:27 P.M.

PUBLIC SCOPING MEETING

24-JAN-1

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MS. HOWLETT: I'd like to welcome everybody to our scoping meeting for the Environmental Impact Statement on Marine Mammal Health and Stranding Response Program. My name is Sarah Howlett and I am a biologist in the program. And I'd like to introduce Sarah Wilkin who is also a biologist.

The purpose of our scoping meeting tonight is to allow for the early public notification of a proposed Federal Act or actions, and this will provide us the opportunity to send the public -- to the public the proposed action and to get some information from you on the scope for the EIS, so the range of issues surrounding the proposed action. And this will help us identify some of the significant environmental issues and perhaps assist us with environmental issues that are deemed not significant.

So we have eight scoping meetings planned, five are on the West Coast. So these are just a list of the locations and we also have three on the East Coast

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that will be occurring in February. So the agenda for tonight is to provide information on the scoping process, a little bit of background on the National Environmental Act Process, and overview of the MMHSRP, review of the proposed action and alternatives and an opportunity for the public to comment on anything that they have seen here tonight.

The layout for the meeting, as you already passed through, the registration area and the staffed exhibit area, our formal presentation and then oral comments period. And, as always, comments will be accepted tonight.

So if you want to comment tonight, sign up at the registration table. Written comments can be turned in tonight as well as. And just to let you know, a transcript of tonight's proceedings will be captured by our court reporter.

So I'm going to talk about the NEPA process. The purposes of NEPA, it's the national policy for the protection of the environment, and its basic purposes are to encourage harmony between man and the environment, promote the efforts to prevent or eliminate damage to the environment and enrich man's understanding of important ecological systems and natural resources.

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NEPA requires the federal agency to analyze human environmental impacts of any of the proposed federal actions. So this is considering the environmental consequences during decision making to reduce, prevent and eliminate environmental damage.

And also NEPA requires public involvement in this process. And it's important that NEPA does not exceed the decision to be made by NMFS, but informs in the decision-making process.

So why is NEPA investing or preparing an EIS?

There are a list of factors that have to be considered in returning if a no action would require an EIS. And these are the ones that we have chosen that relate to our proposed action. So the, you know,

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16 federal action can be subject to public controversy  
17 based on potential environmental consequences, it may  
18 have uncertain environmental impacts or risks, it may  
19 establish a precedence or decision in principle about  
20 future proposals and may result in cumulatively  
21 significant impacts and may have adverse effects upon  
22 threatened species and their habitats.

23 The benefits of an EIS allows for  
24 programmatic management analysis of the Marine Mammal  
25 Health and Stranding Response Program, it will eliminate

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1 the need to conduct individual NEPA analyses of MMHSRP  
2 activities and allows for an assessment of cumulative  
3 impacts of the programs and its activities.

4 Why are we doing an EIS now?

5 The current permit for the Marine Mammal  
6 Protection Act and Endangered Species Act will expire on  
7 June 30, 2007, and the NEPA analysis must be conducted  
8 of the activities in order to be issued a new permit as  
9 well and it is needed to finalize the interim standards  
10 provided in the Policies and Practices manual we'll  
11 discuss a little bit later.

12 The components of an EIS: The purpose and  
13 need, which is just a brief statement explaining overall  
14 direction of the environmental analysis process; the  
15 proposed action and alternatives of the affected  
16 environment, which are the resources that could be  
17 impacted by the proposed action or alternatives; the  
18 potential environmental consequences or impacts and the  
19 mitigations for these impacts. And it's important to  
20 note that the impacts can be beneficial as well as  
21 adverse. And, of course, consideration of public input  
22 and comments.

23 So these are lists of the environmental  
24 resources typically considered in the EIS, and the ones  
25 we feel, so far, are most important for our area are the

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1 protected species which are threatened and endangered  
2 species and mammals; water quality, health and human  
3 safety and cumulative impacts.

4 The EIS process, the notice of intent was  
5 published in the Federal Register on December 28th and  
6 that started the formal scoping process which we are in  
7 now, and the scoping process will run through the end of  
8 February.

9 And once the scoping process is over, we'll  
10 gather all the comments that we've received and that'll  
11 go in a similar report that will be in the draft EIS.  
12 And that will be published. There's a 45-day comment  
13 period and then there will be public hearings following  
14 it too, once again, getting input from the public.

15 Then the final EIS will be published and  
16 30 days after the final EIS, the Record of Decision, the  
17 ROD will be issued. And the ROD is just a public  
18 document that's signed by the agency decision maker that  
19 makes the decision, the alternatives to be considered,  
20 the factors considered in the decisions and any  
21 mitigation that may be implemented.

22 So public input opportunities. Tonight,  
23 obviously, you are participating in a scoping meeting to  
24 identify the specific issues and submit any of your

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25 comments. You can sign up on our mailing list to get

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1 the draft EIS and any other information that we may send  
2 out.

3 You can review and comment on the draft EIS,  
4 participate in a public hearing and also review the  
5 final EIS. That's the tentative EIS schedule.

6 As I said, we'll finish scoping at the end  
7 of February. The draft EIS is set to be completed  
8 September of 2006, with the comment period and public  
9 hearings from September until November. And hopefully  
10 the final EIS will be complete by May 2007 and Record of  
11 Decision June of 2007.

12 And now I will pass it over to Sarah Wilkin.  
13 MS. WILKIN: Okay. So Sarah's done a  
14 fabulous job of giving you a generic overview of what  
15 goes on from that and I'm here to tell you how it  
16 specifically applies to our program and our actions.

17 So the Marine Mammal Health and Stranding  
18 Response Program, or MMHSRP, was established under Title  
19 IV which is an amendment to the Marine Mammal Protection  
20 Act and the mandated goals and purposes, and these are  
21 actually in the law, is to facilitate the collection and  
22 dissemination of reference data on the health and health  
23 trends of marine mammals and marine mammal populations  
24 in the wild; to correlate the health of marine mammals  
25 to physical, chemical and biological environmental

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1 parameters; and third, to coordinate effective responses  
2 to unusual mortality events.

3 So the components of the MMHSRP or how it's  
4 currently taken form is there are many different  
5 programs that all integrate and work together. The  
6 Marine Mammal Stranding Network is probably the one you  
7 all recognize and are familiar with, also the Marine  
8 Mammal Disentanglement Network, the John H. Prescott  
9 Marine Mammal Rescue Assistance Grant Program provides  
10 financial assistance to stranding members, so it kind of  
11 falls with the stranding network; the Marine Mammal  
12 Unusual Mortality Event Emergency Response program also  
13 typically activates with members of the stranding  
14 network and also with outside experts, and the MMHSRP  
15 Information Management Program is primarily concerned  
16 with managing the data that's from the stranding network  
17 and from the UME Program for other aspects of their  
18 program and there's Marine Mammal Health Biomonitoring  
19 Research, Development and Banking Programs.

20 Sarah mentioned our permit. We have a  
21 permit issued to the program which Dr. Terry Rollis who  
22 is the head of our program who is the principal  
23 investigator.

24 The permit issued under the Marine Mammal  
25 Protection Act and the Endangered Species Act

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1 provides for a couple things. The main one is it  
2 actually covers the response by the stranding network to  
3 endangered species.

4 So while the MMPA gives us the authority to  
5 go out and respond or enter into agreements for other  
6 groups to respond to non-endangered mammals, the ESA

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7 doesn't have any kind of similar allowance; so,  
8 therefore, we need a permit to actually be able to  
9 respond.

10 It also allows for disentanglement of  
11 endangered animals, specifically, and then it provides  
12 health research programs including health assessment of  
13 captures and monitoring biopsy programs, those sorts of  
14 things.

15 So this is just a general overview of the  
16 Stranding Network. This graph shows the U.S. Strandings  
17 for which Level A was pulled out from 2001 to 2004, with  
18 cetaceans and pinnipeds. We can see there's been a  
19 slight increase in trends of pinnipeds and sort of a  
20 constant for cetaceans.

21 And here in the Southwest Region these are  
22 sort of the different -- this is pinnipeds, first of  
23 all, in the different categories: stranded dead  
24 animals, live stranded animals and then live stranded  
25 animals that are rehabilitated and then later released

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1 is the third column or group of bars.

2 And I'm showing these up here so you can  
3 kind of maybe start to think about some of the scope of  
4 some of the impacts that we're talking about, which I'll  
5 be getting to in just a minute.

6 The second part, other than the pinniped  
7 stranding, is the cetacean stranding, there are fewer  
8 incidents. As you can see from the scale it has  
9 drastically changed, but there are still responses to  
10 typically over a hundred dead cetaceans and about 20  
11 live cetaceans. In the last four years only one animal  
12 we've had was rehabbed and released prior to 2005.

13 So the purpose and need for our EIS here,  
14 the purpose is that we want to continue to respond to  
15 marine mammals in distress which includes those that are  
16 stranded, entangled and out of habitats and, then, also  
17 to answer research and management questions related to  
18 marine mammal health.

19 We believe the purpose and need is to  
20 operate MMHSRP effectively and efficiently, so that we  
21 can make the best use of our available but limited  
22 resources -- and we agree there's never enough things  
23 such as money, time and people to go around, so we want  
24 to make the best use of what we have.

25 Secondly, to collect the necessary data on

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1 marine mammal health and health trends to meet  
2 information needs for -- so that we as, an agency, can  
3 provide appropriate conservation and management.

4 And, then, finally to insure that human and  
5 animal health and safety is also a high priority.

6 So the proposed action for this EIS is  
7 actually a combination of several proposed actions.  
8 First is the issuance of the policies and best practices  
9 or what we're calling "The Manual" which incorporates  
10 several different documents that are currently released  
11 in their interim form and those are available on our Web  
12 site; the second is the application and issuance MMHSRP  
13 ESA/MMPA permits when the current one expires.

14 But in the proposed action, the Stranding  
15 Agreement, which is what we're now calling Letters of

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16 Agreement, would continue to be issued or renewed on a  
17 case-by-case basis, so that would happen using the  
18 policies and practices, so using the new template, using  
19 the new criteria; and then other day-to-day operations  
20 would continue: response, rehabilitation, release,  
21 determinations, etc.

22 Sarah mentioned, you know, one of the best  
23 ways to do the EIS is to take the broad, problematic  
24 look at it. One of the things that has been brought up  
25 is that basically every action that we do, so every LOA

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1 issuance or renewal, every release determination, every  
2 kind of guidance, could be subject to an individual  
3 in-depth analysis is a problematic look at response.

4 So the first set of alternatives we're going  
5 to be giving you are the ones presented in the FR  
6 Notice. We have since taken a second look and we have a  
7 new proposed action alternative and that will be the  
8 next thing we get into.

9 So the "Action Alternative," which is kind  
10 of our proposed and preferred alternative and listed in  
11 the FR Notice will include the issuance of the policies,  
12 the issuance of the permit, the stranding agreements  
13 continuing to be issued and the disentanglement network  
14 would continue to work under the MMHSRP.

15 The "No Action Alternative" -- NEPA requires  
16 that we consider a no action alternative, which is to  
17 say, What would happen if the Government does nothing,  
18 or stops doing what we're doing?

19 So, therefore, the Policies and Practices  
20 Manual would not be issued, but it would also mean that  
21 we would have to stop issuing new or renewal stranding  
22 agreements. So as an agreement expired, we would not  
23 issue a new one. So with no new permits, that would  
24 mean that we couldn't respond to endangered species  
25 anymore.

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1 There would be no extension of the contracts  
2 that we have with our disentanglement partners and  
3 biomonitoring and research activities would end along  
4 with the permit.

5 So, therefore, as some of these things  
6 expire the network as we know it today would essentially  
7 cease to function. There won't be any stranding  
8 response anymore.

9 This conflicts with some of the statutory  
10 mandates that we have under Title IV. Although those  
11 mandates are just to collect this data and it doesn't  
12 actually tell us how we have to, so it doesn't say we  
13 have to have a national stranding network organized as  
14 it is, but we still need some mechanism of getting that  
15 data.

16 NEPA does give us guidance that we have to  
17 consider alternatives even if they do conflict with a  
18 law that's already on the books.

19 And then the third alternative is what we  
20 call the "Status Quo Alternative," which is what happens  
21 if we keep on doing exactly what we're doing right now  
22 and we don't change it.

23 And so in this one, still the Policies and  
24 Practices would not be issued, the current stranding

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25 agreements would be continued to be renewed as they're

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1 currently issue.

2 The MMHSRP, the permit, would be renewed,  
3 kind of renewed as it is today without anything added.  
4 So that means the current disentanglement partners would  
5 continue, the current stranding agreement holders would  
6 continue. We could continue to consider new  
7 applications on a case-by-case basis.

8 But, basically, status quo means leaving the  
9 network exactly as it is today, and it may preclude us  
10 from making adaptive changes in the future.

11 And then some alternatives that we thought  
12 about, but that might be eliminated, including only  
13 doing research and not doing stranding response, only  
14 doing stranding response and not doing rehabilitation  
15 and research, only responding to cetaceans or only  
16 responding to endangered or threatened species.

17 So here is our proposal or our new way of  
18 thinking about this for the scoping meeting and that is  
19 to set this up with alternatives depending on what  
20 activities we're talking about.

21 So we would have far more alternatives,  
22 but they would be kind of organized within the basic  
23 activities. And, then, under each activity you'll be  
24 choosing one alternative, one preferred alternative and  
25 as we come out the EIS process, one that we'll

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1 implement.

2 So these are the the six areas we've  
3 identified -- and the main reason that we pulled these  
4 out of kind of everything that we do, these are the six  
5 areas where we can see potential  
6 environmental -- impacts on the environment: So  
7 stranding response, which is, kind of, on the beach and  
8 including transport; carcass disposal or euthanasia of  
9 live animals; rehabilitation; the release of  
10 rehabilitated animals back into the environment,  
11 disentanglement activities and, then, biomonitoring and  
12 research activities.

13 Okay. So now we have a lot of work. The  
14 alternatives by activity for stranding response  
15 only -- so, again, under each of these alternatives or  
16 under each of these activities there are the "No Action  
17 Alternative" and "Status Quo Alternative," so what  
18 happens if we do nothing or what happens if we keep  
19 doing exactly what we're doing.

20 Another alternative would be to just stop  
21 all response today, so we wouldn't wait for stranding  
22 agreements to expire, just put out a moratorium.

23 Other options could be in partitioning which  
24 animals get responded to. And there's two ways to do  
25 this: One is that response is required to some part of

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1 the animal and optional the rest of the marine mammal or  
2 is authorized response to some portion of animals and  
3 then not authorized, or essentially prohibited, to the  
4 other portion.

5 So -- and we've come up with just a couple  
6 different ways that we could divide this response and

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7 decide who do we respond to or who we authorize response  
8 to and who do we not, you know, like having cetaceans be  
9 a required responses and pinnipeds essentially be  
10 optional. If you have the facilities and resources  
11 where you can respond to a cetacean, then you can; but  
12 if not -- or pinnipeds if you can -- but if not, you  
13 don't have to.

14 Another would be that we have everything  
15 listed under the ESA be required and everything that's  
16 not listed be optional.

17 Species below OSP, which is the optimal  
18 sustainable population -- and that's a function of our  
19 report -- is another way that we can kind of divide it  
20 up by responding to at OSP or above, you don't have to  
21 respond, to everything that's below it, you do.

22 And you'll see these again and again because  
23 it comes back, these source of alternatives come back  
24 under everything we talked about. It's essentially  
25 saying we are going to do the action to some animals and

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1 not to others and how we decide which animals we do it  
2 to is actually a question we put to you, the first ones  
3 there I talked to.

4 The last three alternatives kind of go back  
5 to these policies and procedures that we're talking  
6 about implementing which is: How do we decide who gets  
7 the stranding agreement or who gets a new one or who  
8 gets a renewed one?

9 So one would be that stranding agreements  
10 are issued to anyone, any applicant basically, once the  
11 materials are reviewed; the second would be implement  
12 the criteria, which is the minimum criteria, minimum  
13 requirements for becoming a stranding member, so  
14 therefore only those meeting the minimum criteria would  
15 get the stranding agreement; and the third -- so that  
16 would be implementing exactly as proposed or as was  
17 given to you on the Web site -- and the last one, we  
18 revise it somehow as a result of the -- this EIS process  
19 and then implement the revised version.

20 Okay. Carcass disposal and euthanasia.  
21 Again, no action alternative, which is that we don't  
22 respond to animals but leave them on the beach and  
23 they're disposed of by Mother Nature.

24 The second is status quo, as current, so  
25 however you dispose of carcasses now, you would dispose

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1 the carcasses the same way; however you're euthanizing  
2 animals now, you would euthanize them the same way.

3 And then for the disposal, the first would  
4 be that all dead animals would be buried or that all  
5 animals would be transported off-site and then somehow  
6 dealt with another way.

7 For euthanasia we could have -- basically  
8 prohibit animals from being chemically euthanized so  
9 they could be euthanized another way or that animals  
10 that are chemically euthanized would be transported  
11 off-site, whereas others could be left buried or  
12 transported as feasible.

13 So that's sort of a beach response scenario  
14 where you would be -- if you chemically euthanize the  
15 animal you would remove it from the beach, not putting

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16 the euthanasia back into the environment.  
17 Okay. And rehabilitation. Again, we have  
18 the no action alternative so that agreements continue,  
19 but once they expire they're over and then animals would  
20 no longer be rehabilitated.  
21 The status quo, things continue as they are.  
22 The immediate cessation of rehabilitation,  
23 so from the date of the ROD forward all animals would be  
24 left on the beach or euthanized or translocated.  
25 Again, we have this breakdown where some

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1 animals would be rehabbed and other animals would not be  
2 rehabbed; or the rehabilitation of some would be  
3 required, for others would be optional or the  
4 rehabilitation of some would be authorized and others  
5 prohibited not authorized, and to deal with the  
6 products.  
7 And then the Rehabilitation Facility  
8 Guidelines either implemented as proposed or modified  
9 and then implemented.  
10 Release, again, the no action. So once the  
11 stranding agreements were expired, since there's no more  
12 rehabilitation, there will be no release.  
13 The status quo current stranding agreements  
14 are renewed and current rehab, current release  
15 activities kind of continue.  
16 All mammals are released, so if an animal is  
17 not a release candidate, then it is not rehabilitated.  
18 And again we get into the partitioning where  
19 some are required, others optional: some authorized,  
20 some not authorized, and release criteria implemented as  
21 proposed or modified and implemented.  
22 Disentanglement, again, no action and status  
23 quo. Disentanglement of some animals would be  
24 authorized versus not: cetaceans/pinnipeds, ESA-listed  
25 non-listed, however we break it up.

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1 And then the implementation of  
2 disentanglement guidelines. These are currently  
3 implemented primarily in the Northeast and Southeast  
4 regions, so kind of East Coast. If we choose to move  
5 forward with them, we could be implementing them  
6 nationwide and they have training prerequisites before  
7 you can be a participant in the disentanglement network,  
8 and the modification of disentanglement guidelines and  
9 implementing them.  
10 So alternatives by biomonitoring, so, again,  
11 no action, permits are allowed to expire and all our  
12 current biomonitoring projects would end.  
13 Status quo, renew the permit so we would be  
14 continuing the actions that we're currently doing but we  
15 don't add anything new.  
16 No health assessment captures is one area of  
17 our biomonitoring that would stop, so then the  
18 biomonitoring would continue on tissues that are  
19 collected from strandings from bipod animals and from  
20 animals killed in subsistence hunting only, so no more  
21 health assessment captures.  
22 And no tissue banking. Part of the  
23 biomonitoring project is actually a tissue bank. So if  
24 we cease that activity, tissues would be used in

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25 immediate or diagnostic analyses and that prohibits us

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1 from doing retrospective studies in the future.  
2 So all of these activities -- we're kind of  
3 throwing out a lot of different alternatives under each  
4 activity. We will not necessarily be proceeding with  
5 the full analysis for each of them so that's part of  
6 what we're inviting comment upon, if there's some we can  
7 dismiss and not further investigate.  
8 And it's also not necessarily a "pick one."  
9 We could combine them to come up with a preferred  
10 alternative so it could be changing our response and  
11 implementing the document.  
12 So we are requesting specific information  
13 from you, the public. We want to identify environmental  
14 concerns. So this is when you look at the stranding  
15 network, when you look at the disentanglement network,  
16 when you look at the MMHSRP, what sorts of things, what  
17 sorts of issues do you see that are environmental  
18 impacts that concern you?  
19 And these are impact on the human  
20 environment, the biological, socioeconomics, tourism all  
21 of those things that Sarah had on the slide. And, also,  
22 there are cumulative impacts.  
23 One of the advantages of doing an EIS study  
24 is we can look at the cumulative impact of all these  
25 activities across the country.

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1 So, in other words, if you're doing  
2 stranding response and you're burying carcasses on one  
3 beach, each individual carcass as you look at it, maybe  
4 does not contribute very much. But if you step back and  
5 take a look at the longer time scale over how many  
6 animals are buried a year, what happens to that beach in  
7 10 years, 20 years. And now it's not just this beach  
8 but several beaches around you or all beaches around the  
9 U.S., so there are cumulative impacts.  
10 And the other kinds of specific information  
11 that we're really requesting is help us define the  
12 alternatives, help us kind of limit back from the 18  
13 things down to something a little more manageable, and  
14 also potential mitigation efforts.  
15 So when we identify something that could  
16 have an impact on the environment, we also want to  
17 mitigate, or try and minimize that impact, so kind of  
18 standards or activities that we could do. Okay. So  
19 there's several kind of areas in which we could use  
20 input from you.  
21 So the types of activities, what sorts of  
22 activities should the MMHSRP be conducting on a local, a  
23 regional, a national level in response to stranded  
24 animals, sick animals, entangled animals, injured  
25 animals and other marine animals in distress?

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1 Are there critical research for management  
2 needs? So, is there a need for this data that we can  
3 actually fulfill that need by stranding investigations,  
4 by doing rehab, by doing disentanglement, by doing the  
5 research and biomonitoring?  
6 If there are needs, are we currently meeting  
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7 them?  
8 If we're not currently meeting them, what  
9 are those needs as you see them? How are they likely to  
10 affect the species or ecosystems, and what should we do  
11 in order to meet them?  
12 So that level of effort question: Should  
13 there be -- First of all, should there be different  
14 standards or levels of effort for different species or  
15 different group of species?  
16 If yes, how should the species be divided:  
17 Cetaceans versus pinniped? ESA-listed versus  
18 non-listed? By divvying up the population status?  
19 And if so, if we divide them, how should we  
20 set standards or how should we set levels of effort or  
21 limits of effort?  
22 And this kind of comes back to the question  
23 of using our resources in the most efficient-wise  
24 manner.  
25 Organization and qualifications, Is the

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1 current organization of the national stranding and  
2 health assessment network adequate? And this focuses on  
3 the local level, regional, the state, ecosystem-wise  
4 national level.  
5 What changes would help us make the  
6 organization more effective?  
7 What kind of qualifications should we expect  
8 of people, individuals or organizations, prior to  
9 becoming a part of the network, either the stranding  
10 network or disentanglement network?  
11 And what about requirements for continued  
12 participation in the networks? Once you have your LOA  
13 what should we be asking or expecting you to do in  
14 order to keep that LOA?  
15 Certification or licensing process?  
16 Continue training, continuing education  
17 credits, whatever.  
18 Effects of activities, Are there any  
19 potential environmental impacts that we are not  
20 identified?  
21 Are public and animal health and safety  
22 needs adequately addressed by the current MMHSRP?  
23 Are the current release criteria, or the  
24 ones that are proposed, adequate to protect wild  
25 populations of marine mammals from introduced diseases?

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1 And are there any other relevant issues or  
2 data that we need to consider when we do our EIS  
3 analysis? And, if so, please let us know what that will  
4 be.  
5 That wraps up the presentation. Again, any  
6 comments -- we're asking for comments on the documents  
7 that were issued to you, if you have specific comments  
8 on how the interim documents or guidelines are currently  
9 written.  
10 And, then, also, kind of stepping back and  
11 taking a look at the programmatic MMHSRP and how it's  
12 currently organized and then how, in your opinion,  
13 either personal as part of an organization, it could be  
14 organized or should be organized and then, the  
15 activities that could be done or should be done, all

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16 those sorts of things, so that we can take a good look  
17 at them as part of the EIS and hopefully come to some  
18 sort of guidance or conclusion at the end of the  
19 process.  
20 And also how much should we as NMFS be  
21 involved or dictating or requiring -- We have the  
22 statutory authority to authorize and have oversight of  
23 the stranding network, but, your comments on that are  
24 also appreciated.  
25 At this time, we're going to go to the oral

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1 comments, so this is your chance to get up and make  
2 comment on the record, based on anything you've heard  
3 tonight or any concerns or issues you already have.  
4 This is obviously not your last chance to make a  
5 comment.  
6 If you do wish to stand up and give oral  
7 comments, we ask that you sign in, there'll be a  
8 four-minute limit but we can maybe stretch that a little  
9 bit and the court reporter is here to help make sure  
10 that we have an accurate record of what you say.  
11 If you don't feel like getting up and  
12 talking into the microphone your other option tonight is  
13 to hand in written comments. We have comment sheets or  
14 if you brought anything with you or you can submit your  
15 written comments by February 28th. There's an address  
16 which is also provided in the FR, the e-mail address is  
17 my e-mail and the fax number.  
18 The additional information, that includes  
19 copies of all of the interim guidance, so it's available  
20 for review at public libraries here at Santa Barbara  
21 Main Branch Public Library, it's also available on our  
22 web page for download.  
23 And if you want to receive copies of the  
24 draft EIS when it's issued in the future or any other  
25 additional information we supply, if you register here

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1 or if you go back and check our Web site that'll be the  
2 easiest way to do it.  
3 And -- Okay. I guess I should ask at this  
4 time, does anyone have an interest in making a comment  
5 on the record?  
6 Come to the microphone and please introduce  
7 yourself, name and affiliation.  
8 MS. BERMAN: My name is Michelle Berman,  
9 Santa Barbara Museum of Natural History.  
10 And I guess my comment or question has been  
11 addressed on some different levels, but how much can  
12 NMFS or NOAA Fisheries really demand of us with no  
13 compensation in return?  
14 Specifically disposal or burial or certain  
15 activities that would be costly to network participants,  
16 how much can they mandate us to do something without any  
17 kind of financial compensation for that?  
18 MS. WILKIN: I should clarify the only  
19 comment period is the time for you to -- to give  
20 comments and we're not actually going to respond to  
21 them --  
22 MS. BERMAN: Okay.  
23 MS. WILKIN: -- tonight, here.  
24 MS. BERMAN: All right.

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24-JAN-1

25 MS. WILKIN: That's an issue which you

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1 raised that we can take into consideration in the  
2 document.  
3 And we will respond to it officially in the  
4 EIS.

5 MS. BERMAN: I guess on the broad scale, a  
6 lot of participants have been questioning how much can  
7 be demanded of a volunteer network, essentially?  
8 And another go-along with that would be  
9 would the John H. Prescott Grant Program be considered  
10 our financial compensation, even though it's a  
11 competitive process, is that our compensation to follow  
12 through with the mandated actions with the new SA?

13 Thank you.  
14 MS. WILKIN: Anyone else?  
15 Okay. Well, I think that we will end the  
16 comment period there. So we'll be turning off the court  
17 reporters record, the official record.  
18 (The Hearing was adjourned at 8:03 p.m.)

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CERTIFICATE

1  
2  
3  
4 I, JOAN L. PARKER, CSR No. 12912, in and for  
5 the State of California, do hereby certify:  
6 That the foregoing proceedings were taken  
7 down by me in shorthand at the time and place stated  
8 herein, and represent a true and correct transcript of  
9 the proceedings.  
10 I further certify that I am not interested  
11 in the event of the action.  
12 Executed this \_\_\_ day of \_\_\_\_\_, 2006,  
13 at Santa Barbara, California.

14  
15  
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19

20 \_\_\_\_\_  
21 JOAN L. PARKER, CSR No.: 12912  
22 Certified Shorthand Reporter in  
23 and for the State of California  
24  
25

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National Marine Fisheries Service  
Marine Mammal Health and Stranding  
Response Program

**ENVIRONMENTAL IMPACT STATEMENT**

January 25, 2006  
Volume: 1

**CERTIFIED  
COPY**

Reported By: Freddie Reppond  
Job: 1-2786

NATIONAL MARINE FISHERIES SERVICE  
MARINE MAMMAL HEALTH AND STRANDING RESPONSE PROGRAM  
ENVIRONMENTAL IMPACT STATEMENT

SCOPING MEETING

January 25, 2006

50 California Street, Suite 2600  
San Francisco, CA 94111

REPORTED BY: FREDDIE REPPOND

Combs Reporting, Inc. - (888) 406-4060  
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A P P E A R A N C E S

2 For National Marine Fisheries Service:

3 Sarah Howlett

4 Sara Wilkins

5 Dr. Janet Whaley

6 From the public:

7 Bruce Bartholomew

8 Unidentified speakers (2)

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Page 2

1 [PROCEEDING BEGAN AT 1:35

2 P.M.]

3 SARAH HOWLETT: I'd just like to welcome  
4 everybody to our scoping meeting for the Marine Mammal  
5 Health and Stranding Response Program environmental  
6 impact statement. My name is Sara Howlett. I am a  
7 biologist with the MMHSRP; and with me today is Sarah  
8 Wilkin, who is also a biologist; and Dr. Janet Whaley,  
9 who is our national stranding coordinator.

10 Just to give you a little background on why we  
11 are doing our scoping meeting, the purpose of this is to  
12 allow for early public notification of the proposed  
13 federal action, or actions. The scoping meetings allow  
14 for NMFS to present the proposed action to the public  
15 and to get input back on the scope or range of issues  
16 for the EIS, as well as just getting some information on  
17 environmental issues to include or possibly dismiss from  
18 our analysis.

19 So this is the second of our scoping meetings.  
20 Our first one was last night in Santa Barbara; and we  
21 have one in Honolulu, in Seattle, and in Anchorage on  
22 the West Coast; and our East Coast ones begin in St.  
23 Petersburg, then Boston, and Silver Springs.

24 So the agenda for today. I've already  
25 presented the information on scoping. We'll have a

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1 little bit on the background on the National  
2 Environmental Policy Act process. Sara will give an  
3 overview of MMHSRP as well as a review of the proposed  
4 actions and alternatives for the EIS. And then we'll  
5 have a formal public comment period.

6 So we highly encourage anybody who wants to  
7 give an oral comment to sign up. So the registration  
8 area everybody passed through and you can sign up for  
9 our mailing list there as well as signing up to present  
10 a comment; staff exhibit area, which are posters. We  
11 will have a formal presentation and the oral comment  
12 period. If you want to sign at the table for oral  
13 comments. Also, written comments will be accepted  
14 today. We have forms up here if you would like to take  
15 one. You can hand it in today -- we'll have some  
16 information at the end of where you can send it to as  
17 well. And just so you know, transcripts of today's  
18 meeting are being captured by a court reporter so that  
19 we will have it for public record.

20 So the NEPA process: The purpose of NEPA is  
21 the basic environmental charter for the U.S. It's to  
22 encourage harmony between man and the environment, to  
23 promote efforts to prevent or eliminate damage to the  
24 environment, and to enrich man's understanding of  
25 important ecological systems and natural resources.

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1 The requirements of NEPA: NEPA requires NMFS  
2 to do an analysis of potential environmental impacts for  
3 any federal agency action. And this just means that  
4 NMFS needs to consider environmental consequences during  
5 the decision-making to reduce, prevent, or eliminate  
6 environmental damage and also to provide public  
7 involvement in the process. And just know that NEPA  
8 does not dictate the decision to be made by NMFS but it  
9 helps to inform the decision-making process.

10 So why are we conducting an EIS? There's a  
11 list of factors to be considered if an EIS should be  
12 conducted; and this is a list that we feel applies to  
13 our EIS; and the subject is of significant public  
14 controversy based on potential environmental  
15 consequences; and the action may have uncertain  
16 environmental impacts or risk; and it may establish a  
17 precedent or a decision in principle about future  
18 proposals; may result in cumulatively significant  
19 impact; or it may have adverse effects on endangered or  
20 threatened species.

21 So the benefits of doing this EIS: It will  
22 allow for our programmatic analysis of the MMHSRP and  
23 all the activities and future activities of the program.  
24 It will allow for an assessment of the cumulative  
25 impacts of each of the activities of the program; and it

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1 will eliminate the need to conduct an individual Marine  
2 Mammal Health and Stranding Program.

3           Why are we doing an EIS now? The current  
4 Marine Mammal Production Act and the Endangered Species  
5 Act permit that we hold will expire on June 30th of  
6 2007. NEPA analysis of the MMHSRP activities covered  
7 under the permit must be completed prior to the issuance  
8 of our new permit. And, also, an EIS is needed to  
9 finalize the interim standards provided in the policies  
10 and practices manual; and both the permit and the  
11 policies practices manual will be talked about later by  
12 Sara.

13           The components of an EIS. The first is the  
14 purpose and need, which is just the basic statement  
15 describing why the action is needed; the proposed action  
16 and alternatives; the affected environment or resources  
17 that we believe will be impacted or could be impacted;  
18 the potential environmental consequences and mitigation.

19           So what are the possible impacts? And these  
20 could be adverse or beneficial; and if any mitigation  
21 measures will be needed to correct the significant  
22 adverse impacts; and also consideration of public input  
23 and comment.

24           This is a list of the environmental resources  
25 that are typically considered in an EIS. It is a big

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1 list; and some of the particular ones that we'll be  
2 interested in are protected species, which are obviously  
3 marine mammals and threatened and endangered species;  
4 water quality; human health and safety; and cumulative  
5 impacts as well.

6           The EIS process: The notice of intent, or the  
7 NOI, was published December 28th in the Federal  
8 Register; and that began our formal scoping process.  
9 The scoping process will be concluded at the end of  
10 February when all our written comments are due at the  
11 end of February. Then we will take these into  
12 consideration and pull together a scoping report which  
13 will be probably be an appendix in the EIS; and we'll  
14 take these into consideration when we're drafting our  
15 EIS as well. Once the draft EIS is published, there's a  
16 45-day comment period and public hearings as well to  
17 collect input back from the public on the draft. Then  
18 the final EIS is published and 30 days after the final  
19 EIS, a record of decision is published, which basically  
20 said this is what the agency decision-maker has decided  
21 upon and the reasons for deciding on it.

22           So public input opportunities: Obviously  
23 today you're here at the scoping meeting, so we would  
24 like you to definitely identify specific issues that you  
25 hear today and submit your comments. You can sign up to

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1 be on our mailing list to receive the draft EIS, the  
2 final EIS, and any other information. You can  
3 participate in a public hearing after the draft EIS is  
4 completed; and you can review the final EIS.

5           So this is our tentative schedule. As I said  
6 before, scoping will be concluded at the end of  
7 February. The draft EIS should be completed September  
8 of 2006. The public comment period will be from  
9 September to November of 2006, including public  
10 hearings. The final EIS will be out in May of 2007; and  
11 the record of decision will be issued in June of 2007.

12           And Sara will take over and talk about the  
13 proposed action alternatives.

14           SARA WILKIN: Sara's let you know about the  
15 NEPA process in general. I'm here to give you more  
16 specifics about our EIS.

17           So just a brief background about the Marine  
18 Mammal Health and Stranding Response Program (MMHSRP).  
19 It was established under Title IV, which was an  
20 amendment to the Marine Mammal Protection Act. And the  
21 legislative-mandated goals and purposes are to  
22 facilitate the collection and dissemination of reference  
23 data for health and health trends of marine mammals and  
24 the marine mammal population in the wild; to correlate  
25 the health and health trends of these marine mammals

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1 with environmental factors; and then, finally, to  
2 coordinate effective responses to marine mammal and  
3 unusual mortality events.

4           So taking kind of that charge from Congress,  
5 we at NMFS have developed a kind of multifaceted  
6 program, which consists of some of the following  
7 components, including the stranding and disentanglement  
8 networks on a national basis; the Prescott Grant  
9 Program, which provides financial assistance to  
10 stranding network members; the unusual mortality event  
11 and emergency response program, which, again, draws most  
12 of its participants from the stranding network but could  
13 exceed; the information management program which manages  
14 the data that's obtained from stranding networks,  
15 containment networks, and other research activities; and  
16 then the biomonitoring research development and tissue  
17 banking programs.

18           So interim policies which are available on our  
19 website and are kind of part of what we are discussing  
20 here as -- these are the components of the policies and  
21 practices manual which, in order to turn them from  
22 interim to final guidance, they need to undergo a NEPA  
23 review; so most of these deal with the stranding network  
24 or disentanglement network, including the template for  
25 the stranding agreement; the minimum qualifications for

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1 an organization or individual to obtain a stranding  
2 agreement; the facility guidelines for marine mammal  
3 rehabilitation facilities; and the release criteria for  
4 releasing our rehabilitated marine mammals into the  
5 wild. Then, finally, there's guidelines that are posted  
6 for the disentanglement network which are currently  
7 developed and implemented primarily on the East Coast,  
8 but there's some interest in kind of expanding that.

9 Sarah talked about the permit. Our permit is  
10 issued under the Marine Mammal Protection Act and the  
11 Endangered Species Act. Teri Rowles, who is the  
12 director of our program, is the principal investigator  
13 in this department.

14 The primary activities that are covered under  
15 the permit -- the big one is that it provides for the  
16 response of those animals listed in the Endangered  
17 Species Act. So the Marine Mammal Protection Act is  
18 what give us the authority to then pass on to the  
19 stranding network members to respond to marine mammals  
20 that are in distress. An issue is that the Endangered  
21 Species Act does not have kind of a similar provision to  
22 delegate this authority downward so, therefore, we do  
23 those activities under our MMPA/SA permit. It also  
24 permits import/export and analyses of diagnostic  
25 tissues, so allowing groups that are doing those

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1 analyses to maintain the tissues -- to hold them and  
2 then do the studies on them.

3 Then another big part of the permit is the  
4 health assessment captures in populations where there's  
5 been some kind of question about health or health  
6 transference and where there's been an unusual mortality  
7 event in the past. So these are captures of what we  
8 think are healthy animals, but in order to assess the  
9 health of the population. There are other things  
10 covered under the permit. These are kind of the main  
11 items for today.

12 Just a little overview of the stranding  
13 network: These are the total number of strandings that  
14 were reported to the stranding network, for which a  
15 Level A data sheet, which is kind of our basic data  
16 sheet, was filled out, 2001 to 2004. You can see  
17 there's a lot more pinnipeds than cetaceans. We have a  
18 combined total of upwards of 6,000 strandings for some  
19 years. So at the bottom there, one thing to keep in  
20 mind is the cumulative impacts of some of these. The  
21 response or rehabilitation of a single animal might have  
22 very small, negligible, no impact at all; but when you  
23 kind of add it up on a bigger scale across the country  
24 and over time, you start having to consider the  
25 cumulative impacts of all those responses.

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1           And then specifically for the Southwest  
2 Region, for you folks, these are the pinniped  
3 strandings; and those animals that stranded dead versus  
4 the animals that stranded live and then the live animals  
5 that were rehabilitated and released into the wild. So  
6 in 2003 there were over a thousand pinnipeds released  
7 from the state of California.

8           And then cetaceans stranded for the same time  
9 period: Again, an analysis that stranded dead, animals  
10 that stranded live; and only one animal has been  
11 rehabilitated and released in the period that we covered  
12 here, so something to keep in mind.

13           The purpose and need for our EIS: Pretty much  
14 the same purpose and need as we see it for our period  
15 program. The purpose is to respond to marine mammals in  
16 distress, which includes those that are stranded and on  
17 the beach disentangled, out of habitat, injured, et  
18 cetera; and to answer research and management questions  
19 related to marine mammal health, specifically wild  
20 populations of marine mammals.

21           So the need for our program, or for this EIS,  
22 is to operate the MMHSRP effectively and efficiently,  
23 making the best use of available limited resources. We  
24 always recognize that there's not enough money, time,  
25 and people to go around, so we want to make the best use

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2 of what we have; to collect the necessary data on those  
3 marine mammals and their health in order to meet our  
4 agency needs -- information needs -- for conservation  
5 and management purposes; and then to ensure that human  
6 and animal health and safety is one of our highest  
7 priorities.

8           So the proposed actions for our EIS is  
9 actually a combination of a couple of different actions.  
10 The first is the issuance of the policies and best  
11 practices manual, which will cover those documents that  
12 I talked about before that are establishing guidelines  
13 and, in some cases, a baseline for the national  
14 stranding network.

15           The second thing is the issuance of the MMHSRP  
16 permit, so we will apply for a new permit. The  
17 stranding agreement will continue to be issued and  
18 renewed on a case-by-case basis by conforming to the  
19 policies that are published in the manual.

20           And then other day-to-day operations, such as  
21 response, rehabilitation, release determinations and all  
22 that would continue, although conforming to the  
23 policies.

24           So the first set of alternatives that I'm  
25 going to present today are the ones that were laid out  
in the Federal Register notice, or notice of intent.

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1 Upon further analysis and discussion, we have actually  
2 kind of modified those slightly, so I will present that  
3 as the second set of alternatives. But the action  
4 alternation in the FR basically covers everything that I  
5 just mentioned -- the issuance of the policy manual, the  
6 issuance of the permit, the stranding agreement -- and  
7 then the disentanglement network would also continue,  
8 the health assessment captures would continue, the  
9 monitoring program will continue, et cetera.

10 Alternative 2, the no-action alternative, is  
11 we are required under NEPA to assess the no-action  
12 alternative, which is what would happen if the  
13 government did nothing, if we kind of didn't do  
14 anything. So we wouldn't issue the policies and  
15 practices; and, therefore, we would not issue -- we  
16 would also not issue the new MMHSRP permit; new  
17 stranding agreements would not be issued and renewal  
18 stranding agreements would not be issued.

19 So what that would mean essentially over time,  
20 as those stranding agreements expired, the network would  
21 cease to function. Without the permit, research  
22 opportunities would cease to function and  
23 disentanglements would cease to function. So  
24 essentially at some point in the future the program as  
25 we kind of know it would not exist anymore.

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1 Now, one problem is that this could conflict  
2 with the statutory mandates under Title IV, where we are  
3 required to collect the necessary data on marine mammal  
4 health; but NEPA guidelines also indicate that we should  
5 continue to assess alternatives even if they conflict  
6 with federal laws; and, also, the law does not dictate  
7 how we have to have this network or how we have to  
8 collect the necessary data. So, therefore, we are still  
9 free to kind of rethink.

10 Then the status quo alternative, or  
11 Alternative 3, is, rather than doing nothing, it's that  
12 we keep exactly what we are doing right now. So the  
13 policies and practices document would not be issued, but  
14 current stranding agreements would continue to be  
15 renewed as they are issued right now. The permit could  
16 be renewed or reissued as it's currently written. We  
17 would continue our current disentanglement partnership,  
18 et cetera. Basically, everything would keep going. So  
19 the network would continue to function at its current  
20 level, but there's some question about whether it would  
21 make any adaptive changes, whether any new partnerships  
22 could come in, new facilities be granted an MOA, or  
23 changes to the permit -- whether we could add new  
24 research projects or modify the ones that we have. This  
25 alternative might preclude adaptive changes. Also, by

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1 not issuing the policies and practices documents, we  
2 would not have the guidance for the stranding network.  
3 Alternatives that might be eliminated essentially focus  
4 on doing some portion of our program but not the entire  
5 program.

6 So I said that we kind of thought about it  
7 some more and are looking at slightly modifying our  
8 alternatives; and what this involves is taking and  
9 looking at alternatives under each activity so it's not  
10 so much an alternative for everything in the program but  
11 each component of the program has alternatives under it;  
12 and then as part of the EIS we could pick a preferred  
13 alternative that would kind of include several  
14 different -- a different choice under each one.

15 These are the six elements, or activities, of  
16 the program that we're thinking about focusing on,  
17 primarily because these are the ones where we have  
18 identified the potential for environmental impact. That  
19 includes stranding response, carcass disposal and  
20 euthanasia issues, rehabilitation in general, release of  
21 rehabilitated animals, disentanglement and  
22 disentanglement network, and biomonitoring and research  
23 activities. Okay.

24 Now, we have a lot of words on the slide. For  
25 each activity they are going to look similar to this.

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1 Under each activity, there could be a no-action  
2 alternative -- so what happens if we did nothing -- in  
3 this case, for stranding response. The stranding  
4 agreements would expire, so at some point in the future  
5 there would be anymore stranding response.

6 The status quo alternative -- what if we keep  
7 doing what we are doing now, so we keep renewing the  
8 stranding agreement that we currently have but we don't  
9 issue any new ones and we don't issue the policies and  
10 procedures documents, so there's no rehab facility  
11 guideline; there's no [inaudible].

12 Another alternative could be to immediately  
13 curtail response -- cease and deacease.

14 And then the next two alternatives are  
15 different ways to think about what if we chose to  
16 respond to some animals or some species and not others?  
17 So, for instance, if we responded only to cetaceans and  
18 not to pinnipeds, if we respond only to those species  
19 that are listed in our ESA and did not respond to  
20 species that weren't.

21 There's two ways to do this. The first would  
22 be that we require a response to one group; and then the  
23 other group is kind of optional: If you have the  
24 resources available, stranding participants could  
25 respond to them.

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1           The second is that your stranding agreement  
2 would authorize response to one group and not authorize  
3 response to another group, so the second group would  
4 essentially be prohibited. We would not have the  
5 statutory authority to respond to those animals. This  
6 comes up in all the activities -- the thought that  
7 activities could be broken down and separated based on  
8 what the animal is -- the subject animal.

9           Then the final three alternatives here relate  
10 to the policies and procedures document to the stranding  
11 agreement and how they are issued and whether they're  
12 issued to anyone who applies for them or whether there  
13 are minimum criteria invoked when you're evaluating a  
14 stranding agreement and then whether we use the  
15 stranding criteria as they're proposed right now or  
16 whether we make some kind of changes to them and then  
17 implement them after revision.

18           None of these alternatives -- the alternatives  
19 are not necessarily mutually exclusive, so under  
20 stranding response we could choose a couple of the  
21 alternatives and proceed that way.

22           Carcass disposal and euthanasia -- again, we  
23 have the no-action alternative and the status quo  
24 alternative. Other alternatives that we've come up with  
25 include burying all animals, transporting all animals

1           offsite, and then disposing of them by some other means.  
2 Then, with euthanasia, one alternative is to no longer  
3 chemically euthanize an animal or then kind of combining  
4 the euthanasia concerns with the carcass disposal  
5 concerns by any animals that are chemically euthanized  
6 must be transported and disposed of by some other means  
7 than burial. But all the other animals that are not  
8 chemically euthanized can be buried, transported,  
9 disposed of however feasible. Most of these are to  
10 combat the potential impact of having the euthanasia  
11 released into the environment.

12           Rehabilitation -- again, no action, status  
13 quo, immediate cessation; so we stop all rehab activity.  
14 Again, splitting our activities so that some animals  
15 would be rehabilitated and others wouldn't; or some  
16 animals would be required and others would be kind of  
17 optional. And then to deal with the facility  
18 guidelines, whether we implement them as they're  
19 proposed and issued right now or we make modifications  
20 to them and implement them that way.

21           Release -- same thing -- no action, status  
22 quo.

23           All-animals-released alternative: So if it's  
24 not a release candidate, then the animal could not be  
25 taken into rehabilitation in the first place. Again,

1 some animals are released and others aren't, depending  
2 on what category they fall into. And then dealing with  
3 the documents, the release criteria implemented as  
4 proposed or modified and implemented.

5           Disentanglement: No action, status quo.  
6 Again, disentangling some animals and not disentangling  
7 other animals. And then the implementation of the  
8 disentanglement guidelines; and this could be  
9 implemented on a national basis or on a regional basis.  
10 The guidelines involve training prerequisites for  
11 participants in the disentanglement network. Or  
12 modifying those disentanglement guidelines and then  
13 implementing them.

14           And, finally, the biomonitoring research  
15 action -- no action -- end of biomonitoring project;  
16 status quo -- renewal of the permit and we continue the  
17 activities that we are currently doing.

18           Health-assessment captures: One alternative  
19 would be to eliminate health-assessment captures; so  
20 then biomonitoring would continue -- only tissues from  
21 stranded animals, bipod animals, and subsistence  
22 animals; or tissue-banking could be eliminated and only  
23 have tissues on immediate analyses with no retrospective  
24 study.

25           So in all these cases what we're trying to do

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1 is look at the activity and think about the potential  
2 impact that that activity could have on the human  
3 environment and then come up with alternatives that  
4 might help us minimize that activity or potentially  
5 mitigate that activity, which is minimal.

6           So, therefore, why we are here with you today  
7 is because we are requesting input into helping us come  
8 up with this EIS. We actually have specific questions  
9 that we would request input on. The general categories  
10 of information that we need is to help us identify  
11 environmental concerns, to help us identify the  
12 activities of the program that would potentially result  
13 in environmental impact -- if we haven't identified them  
14 already, if you think of others, or if you agree or  
15 disagree with us that some of these activities could  
16 have impact and to look at indirect and cumulative  
17 impacts of the program.

18           The second is to help us define the  
19 alternatives and potential mitigation measures. There's  
20 a lot of alternatives up there. In most likelihood, not  
21 all of them will be carried forward into the full  
22 analysis. We can disregard them, especially on the  
23 basis of public comment. So if some of these  
24 alternatives are clearly, to you, not going to work,  
25 then your comment to that effect could help us disregard

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1 those alternatives.

2 Then the third thing is to make necessary  
3 modifications to the interim policy, so we are also  
4 asking for comments on the draft interim document that  
5 are posted on our website -- either very specific or  
6 general comments.

7 So here is some of the specific information  
8 that we would like you to think about providing us as  
9 part of your comments:

10 What sorts of activities? This is kind of the  
11 umbrella of activities that we do.

12 What sorts of activities should the MMHSRP be  
13 doing -- on a local, national, regional level -- in  
14 response to stranded, entangled, sick, injured, and  
15 other marine mammals in distress?

16 Are there critical research and management  
17 needs that we can meet by doing stranding  
18 investigations, by doing rehabilitation, by doing  
19 disentanglement, by doing health-related research and  
20 biomonitoring? If we've identified these needs, are  
21 they currently being met? And, if not, what are they  
22 and how could we meet them?

23 The level of response effort: So alternatives  
24 that were proposed under each of these activities  
25 involve somehow dividing our effort.

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1 So the first question is should there be  
2 different standards or levels of effort depending on  
3 which species or group of species you're talking about.  
4 If so, if you believe there are, how should NMFS set  
5 standards? How should we set the effort and how should  
6 we think about dividing species into these groups?

7 So some of the ways we've proposed is:  
8 Cetaceans, pinnipeds listed under the SA, not listed;  
9 the status of the population. OSP is optimal  
10 sustainable population, which comes out of the stock  
11 assessment program. Or whether a population has  
12 increased or whether a population is decreasing, et  
13 cetera.

14 The third major heading is organization and  
15 qualification for the national marine mammal stranding  
16 networks, for the disentanglement network, or the  
17 biomonitoring research program. So is the current  
18 organization adequate, thinking about it on a local, a  
19 state, a regional, and a national level.

20 What changes could you see that would help us  
21 make the organization of the networks more effective?

22 Qualifications questions: What about the  
23 minimum qualifications prior to becoming a stranding  
24 agreement holder or a disentanglement network  
25 participant? We do have proposed minium qualifications

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1 that are the interim; and this is kind of asking you to  
2 review that and let us know if you agree or disagree.

3 Then what are the requirements for continued  
4 participation in the networks? Once you've received  
5 your LOA, what should be required in order for you to  
6 maintain the stranding agreement? So certification or  
7 licensing process, continuing education credits. What  
8 kind of training, if any?

9 Then the effects of the activities. So, first  
10 question: Are public and animal health and safety needs  
11 adequately addressed in the program as it currently  
12 stands? The release criteria as proposed -- the interim  
13 criteria -- are they adequate to protect wild  
14 populations from introduced diseases? Are there  
15 potential environmental impacts that you can see that we  
16 have not identified? And if there are other relevant  
17 views or data that you have that we should consider,  
18 please provide it to us or give us a reference. If  
19 there's a paper that's been published or a tech memo  
20 that you know or anything like that, we would appreciate  
21 it.

22 All right. So we're -- now it's time for the  
23 oral comments. As Sarah mentioned, there are many  
24 different ways for you to give public input into this  
25 process. And the oral comment period is kind of one of

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1 them and the most immediate; and this is, I should  
2 clarify, it's not a question-and-answer session. This  
3 is your comment to us. It will taken down and made part  
4 of the official record and then we will respond to it  
5 later as part of the EIS document, but we're not going  
6 to respond to it today at this point.

7 If you want to make an oral comment, we ask  
8 that you sign in, let us know your name and affiliation.  
9 There's a four-minute time period, unless there's not  
10 that many people, in which case we can be flexible. And  
11 again it's being reported, so that we have an accurate  
12 and complete record of your comments. If you don't want  
13 to go on the record and say anything today, you do have  
14 several different options for entering written comments,  
15 including handing in prepared comments today or using  
16 the comment sheets that we have -- turning them in. Or  
17 you can submit your written comments before the February  
18 20th deadline to the address which is here in the  
19 notice. There's an e-mail address and a fax.

20 The additional information, which includes  
21 copies of all the interim documents, is available for  
22 review at a public library in each city in which we're  
23 having a scoping meeting. So here at the downtown San  
24 Francisco library there's a binder with all this  
25 information. It's also available for download on our

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1 web page. And, third, if you want to receive future  
2 copies of the draft EIS or if we have any other  
3 information, please make sure that you're on our mailing  
4 list or check the website.

5 All right. So we will a take a brief break in  
6 case anyone has decided that they want to make a  
7 comment. And we'd like to thank you all for  
8 participating.

9 UNIDENTIFIED SPEAKER: I'd like to have you  
10 back up, because there was an option in there that you  
11 mentioned. And it was -- [inaudible] oh, biomonitoring.  
12 So I don't know if this needs to on the record, but you  
13 can do no action or you can do status quo, which is what  
14 you're doing right now, which is a continuation of  
15 current, but no new projects; and the only two other  
16 options up there are no health assessment or no tissue  
17 banking. But you don't have anything up there for new  
18 projects, so you might want to add another category.

19 SARA WILKIN: So I guess the other alternative  
20 would be to issue the permit with kind of current and  
21 future --

22 UNIDENTIFIED SPEAKER: You have no ability to  
23 do greater biomonitoring. You're limited at what your  
24 status quo is now or less than that, from your slide  
25 there. It's just a comment. I just wondered if you

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1 might want to add another section to that slide. If the  
2 possibility exists that you could do future greater  
3 biomonitoring, it seems to me that would be a good  
4 section to have on that slide.

5 SARA WILKIN: All right.

6 BARTHOLOMEW BOTTOMS: My name is Bartholomew  
7 Bottoms. I'm a veterinarian down in Santa Cruz. I'm  
8 working as a large-animal vet. And I volunteer with  
9 Fish and Game; I've just been hired on as [inaudible]  
10 down there in Santa Cruz.

11 And I was out in September on a marine turtle  
12 research effort. We were assisting on a project on the  
13 leatherback sea turtles, just a minor project with UC  
14 Davis and Fish and Game and Moss Landing Marine Labs.  
15 And we came upon a humpbacked whale entanglement in the  
16 course of the day and made a series of calls. One of  
17 the members of the stranding team was there. We were  
18 not successful in disentangling the whale. We spent six  
19 hours.

20 Now, in hindsight, with obvious 20/20, looking  
21 back, there were a series of things that we probably  
22 could have done more effectively if we had certain  
23 things, like the proper tools, maybe a little bit more  
24 formalized training, and, if anything, maybe more people  
25 up and down the coastline. And I know that there is

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1 maybe not as many responders on the central and northern  
2 California coast as there are down on the South Coast.  
3 But I do think that to gear up this stranding network,  
4 everybody on the stranding team, from my perspective,  
5 should have a set of those long hook-knives with the  
6 extending poles and the detachable heads so you don't  
7 have to try to clamp a knife to a boot hook; and it's  
8 not as effective. And I think that there should maybe  
9 be some specific protocols in place when one of these  
10 entanglements happens, because sometimes methodologies  
11 improves response.

12 So I guess that's about all I have to say on  
13 it. I also have a written thing that I will give  
14 somebody.

15 DR. JANET WHALEY: Remember to look at the  
16 disentanglement guidelines that are on our website.  
17 They are listed as East Coast, the Northwest Coast,  
18 Hawaii, and Alaska. So look at those guidelines and  
19 have your comments on there.

20 SPEAKER: I don't want to go on the record --

21 SARA WILKIN: We have a formal comment period  
22 right now. We are paying him money to record it. After  
23 this, we turn him off and have an informal session. So  
24 if you want it to be on the record, public record, speak  
25 now. If not, wait a few more minutes.

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1 Anybody else want to make a public comment?  
2 Okay. So that concludes our formal part.  
3 [THE PUBLIC COMMENT PERIOD  
4 ENDED AT 2:13 P.M.]  
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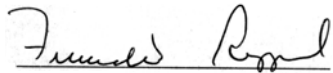
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STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

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CERTIFICATE OF REPORTER

I, the undersigned, a duly authorized Shorthand Reporter and licensed Notary Public, do hereby certify that the within proceedings were taken down by me in stenotype and thereafter transcribed into typewriting under my direction and supervision and that this transcript is a true record of the said proceedings.



FREDDIE REPPOND

02/03/2006

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DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

MARINE MAMMAL HEALTH AND STRANDING  
RESPONSE PROGRAM

ENVIRONMENTAL IMPACT STATEMENT SCOPING MEETING

TRANSCRIPT OF PROCEEDINGS

Held by The National Marine Fisheries Services at  
the Hawaiian Islands Humpback Whale National Marine  
Sanctuary, O'ahu Office, 6600 Kalaniana'ole Highway,  
Honolulu, Hawaii, on Friday, January 27, 2006,  
commencing at 4:00 p.m.

REPORTED BY:  
Wendy Tomita, CSR 165  
Notary Public, State of Hawaii

2

APPEARANCES:

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DAVID SCHOFIELD  
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CHRIS YATES  
Acting Assistant Regional Administrator  
Protective Resources

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3

## I N D E X

PAGE

## PRESENTATION BY:

MS. SARAH HOWLETT

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MS. SARAH WILKIN

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FRIDAY, JANUARY 27, 2006

4:00 P.M.

--oo0oo--

MS. SARAH HOWLETT: My name is Sarah Howlett and I'm a biologist with the MMHSRP. And with me today is Sarah Wilkin who is also a biologist, Dr. Janet Whaley, who is the National Stranding Coordinator from the Pacific, NMFS Pacific Islands Regional Office. We have David Schofield, who is the Marine Mammal Response Coordinator for Protective Resources, and Chris Yates, who is the Acting Assistant Regional Administrator for Protective Resources.

So the purpose of our scoping meeting is to allow for the early public notification of a proposed federal action or actions. This is to let us have the opportunity to present the proposed action to the public and to seek input on the scope or the range of issues to be discussed in the EIS.

So this is our third scoping meeting on the west coast. Two were in California, and we have one left in Seattle and one in Anchorage, and our east coast, St. Petersburg, Boston and Silver Spring. And these will all be wrapped up by the end of February.

So the agenda for today, information on

the scoping, background on the NEPA process, the National Environmental Policy Act, an overview of the MMHSRP, a review of the proposed action and alternatives, and the public comment period.

So everybody came through the registration area and our staff exhibit area with our posters. We'll have our formal presentation and then an oral comment period, and written comments will also be accepted today. So we encourage anyone who would like to give an oral comment to please sign up either right now or at the end of our presentation. And again, written comments may be turned in as well. And today's meeting is being captured by our court reporter.

So the National Environmental Policy Act process. The purpose of NEPA, this is taken directly from the Act itself, is "to encourage harmony between man and the environment, to promote efforts to prevent or eliminate damage to the environment and to enrich man's understanding of important ecological systems and natural resources."

So the requirement of NEPA. NEPA requires NMFS to look at the potential environmental impacts of any proposed federal action, then to consider the environmental consequences during their decision

making to reduce, prevent or eliminate environmental damage, and also provide public involvement in the key basis of the EIS.

It is important to note that NEPA does not dictate the decision to be made by NMFS, but it helps to inform the decision making process.

Now, why are we doing an EIS? There are a list of factors that NOAA should consider when doing an EIS to determine if an EIS needs to be done and these are the few that we have picked out that relate to our EIS. The proposed actions could be a subject of significant public controversies based on potential environmental consequences and may have uncertain environmental impacts or risks and may establish a precedent or decision in principal future proposals, result in cumulatively significant impacts and it may have adverse impacts on threatened and endangered species or habitats.

The benefits of conducting an EIS. It will allow for a programmatic analysis of the MMHSRP and all of the activities current and future that will occur, it will allow for an assessment of the cumulative impacts of these activities, and will also eliminate the need to conduct individual NEPA analysis on the activities under the MMHSRP.

Why is NMFS doing an EIS now? Well, the current Marine Mammal Protection Act, Endangered Species Act permit that's issued to the program will expire on June 30th of 2007, and in order for us to be issued a new permit, a NEPA analysis must be conducted on the MMHSRP activities. And a NEPA analysis is also needed in order to finalize the interim standards that are provided in the Policies and Practices Manual, and both the permit and the manual will be talked about by Sarah next.

The proponents of an EIS. It consists of the purpose and needs, which is just a brief statement explaining why the action is being considered, the proposed action and alternatives to the proposed action, the affected environment or the impacts, the resources that may be impacted by the federal action, potential environmental consequences and mitigations, and of consideration of public comment. So this is a list of environmental resources that are typically considered in an EIS, and the ones that we have picked out that we feel are of a concern for our actions are "protected species," which includes marine mammals and threatened and endangered species, "water quality," "human health and safety" and "cumulative impacts."

The EIS process. The Notice of Intent or NOI was published in the Federal Register in December and that began the official scoping process. We have scoping, and this will be wrapped up by February, and comments are due at the end of February. And so the comments will be taken in consideration while we are drafting our EIS. Once the EIS is published there's a 45-day comment period and a set of public hearings to get feedback from the public. The final EIS will be published and in 30 days after the final EIS, the record or decision will come out which says, the design document by the agency's decision maker, saying what action was chosen and how they came about that action.

Public input opportunities. Obviously today you're all participating in our scoping meeting. You can submit comments, you can sign up on our mailing list to receive information, the draft EIS, the final EIS. You can review and comment on the draft EIS, participate in a public hearing and also review the final EIS.

And this is our tentative EIS schedule. As I said, the scoping will wrap up at the end of February. Our draft EIS will be complete around September of 2006. The public comment period and

public hearings will be conducted between September and November of 2006, and the final EIS will be completed by May of 2007, with the record of decision coming out in June of 2007.

I'll turn this over to Sarah and she will talk about the MMHSRP.

MS. SARAH WILKIN: All right, Sarah. Well done. Great job of doing an overview of NEPA and what kind of the whole process is. I'm going to talk more about the specifics of our particular EIS.

So Marine Mammal Health and Stranding Response Program or MMHSRP was established under Title IV of the Marine Mammal Protection Act, which is an amendment to the Act, with the mandated goals and purposes shown here. There are three of them. First, to facilitate the collection and dissemination of reference data on health and health trends of marine mammals and marine mammal populations in the wild; to correlate the health and health trends of those marine mammals with physical, chemical and biological parameters. There are so many environmental factors. And third, to coordinate effective responses to unusual mortality events of marine mammals.

The current structure of the MMHSRP as

implemented by NMFS looks something like this.

There are many kind of different programs within the overarching program that all work together for the same goals, including the Marine Mammal Stranding Network, the Disentanglement Network, the Prescott Grant Program, which gives financial assistance to participants in the Stranding Network, the Unusual Mortality Event and Emergency Response Program, which incorporates the working group on Marine Mammal Unusual Mortality Event, and also incorporates some members of the Stranding Network and the response to the UME, the Information Management Program, which is concerned with managing the data that's collected as a result of the other activities of the program and, finally, the health, biomonitoring research, development and tissue banking programs.

8 So the interim policies that Sarah  
0 mentioned that we were wanting to issue as final documents are shown here. These are available on our website. And our proposed method is to issue all of these together into one manual, so the policies and best practices for essentially marine mammal stranding and disentanglement response.

A little bit more information about our



permit. It's issued jointly under the Marine Mammal Protection Act and the Endangered Species Act. And the most important thing about it for this crowd is that it provides for response, both stranding and disentanglement for those marine mammals that are listed under the Endangered Species Act.

Although the MMPA sets up the mechanism that we use of entering into agreements and having state agencies respond to stranded animals, there's no similar provision in the ESA for stranding response. So therefore we, the program has applied for and obtained a permit with Teri Rowles as the principal investigator, that then flows down to the stranding network members to allow them to do ESA response. It also permits for the import and export and analyses and holding of diagnostic tissues collected as part of the stranding response, and provides for health assessment captures in populated wild populations of marine mammals where there is a question relating to the health or health trends of that animal. So these would be captures of theoretically healthy animals but in an area where there has been a health issue in the past, including an unusual mortality event or a disease outbreak.

Just to give you a little bit of overview

or background, these are the total strandings for which a level A data sheet, which is our basic response, was filled out in the entire United States from 2001 to 2004. And down at the bottom there are one -- one thing to keep in mind when we're doing this EIS on the program, are the cumulative impacts of stranding response and rehabilitation and release, because there are a lot of marine mammals represented here, close to 5,000 pinnipeds in 2003.

So specific to the Pacific Island region, this is the most up-to-date data reflecting cetacean strandings at least from 2001 to 2004. And the scale on the left is a bit different from the previous draft, but there still are a fair number of cetaceans during the year, both alive and dead.

So the purpose of our EIS is essentially the purpose of the program, the MMHSRP, and that is to respond to marine mammals in distress, which includes those that are considered stranded, entangled, out of habitat, and also to answer research and management questions related to marine mammal health. And the need for this action is to operate the program effectively and efficiently, making the best use of our available but limited resources. Everyone agrees there's never enough

money or time or people to go around, so we're trying to investigate ways that we can use the resources that we have in the best way possible, and to use those resources to collect the data that we need as an agency in order to meet our information needs for conservation and management of wild marine mammal populations. And thirdly, to insure that human and animal health and safety is always one of our highest priorities.

The proposed action for our EIS is the issuance of the policies and best practices, those five documents that I showed before, in one manual; the issuance of and permit under the ESA, MMPA. Stranding agreements will continue to be issued or renewed on a case-by-case basis, but implementing the products contained in the policies guidelines. So a criteria will be established for a minimum criteria in order to obtain an LOA, and the template is also contained. And then other day-to-day operations would continue, including stranding response, marine mammal rehabilitation and release determination. But again, those would be somewhat tempered by the policies as proposed.

I should take a moment here and say that the actions and alternatives as I'm presenting them,

we've presented one set of actions and alternatives in the Federal Registry Notice which went out in December 28th. And in kind of subsequent discussions we have come up with another series of alternatives that I'll talk about a little bit later that are just slightly -- they're different, they're differently organized than the ones that are presented here.

So as listed in the FR, the action alternative or alternative one, are also our preferred action, are the, basically the four things that I've already mentioned, including the issuance of the policies and practices document, the issuance of the permit, stranding agreements continuing to operate, and the disentanglement network continuing.

Alternative two. Under NEPA we are required to assess the "no action" alternative, just to say what would happen if the Federal Government did not undertake this action and didn't do anything. So under alternative two, the policies and practices document would not be issued and no new or renewal stranding agreements would be issued. And what that would mean is that over time, as the stranding agreements expire, the network would cease to function. There would be no new permit issued

and therefore no research activities, no response to ESA animals and no disentanglement. So eventually, it would take a few years, but eventually the network as we know it would cease to exist. However, this alternative does conflict with our statutory mandates under Title IV, which requires us to collect this health and health trends data. But NEPA also requires that we assess alternatives, even if they do conflict with other federal laws.

And then the status quo alternative would be, what if we did not issue the documents and continued as is, we continued with the status quo currently, what the government is doing right now. So current stranding agreements would continue to be renewed, new stranding agreements would be examined on a case-by-case basis, the permit would be renewed or reissued, and current activities would continue. So basically the network would continue to function exactly at its current level.

One fear that we have is that adaptive changes to the network might be precluded by undertaking this alternative. And that again, as we have listed in the FR, there are some alternatives that we'd continued that might be eliminated, which basically are changing the activities of the program

and limiting it or in some way doing only selective activities.

All right. So for the purposes of the scoping meetings, and again as a result of some of our discussions and further thinking, we are offering up these alternatives, which is to say that we're subdividing them into activities. And the six activities we have listed here are the ones for which we can see a potential impact on the environment, the human environment.

Health and human safety falls into all of these categories essentially. Response, there are also potential issues with disturbance of the beach and of other animals. Carcass disposal and euthanasia is a concern because of what may be released into the environment after disposing of a carcass, and if the animal is euthanized, of the chemicals that are used to euthanise it.

Rehabilitation concerns in facilities, because if they have an effluent, which is usually a concern once it's monitored. And then also human safety as far as zoonotic diseases, the potential for a disease exchange.

Release of rehabilitated animals is a concern for the health of the wild population as far

as putting an animal that's been in captivity back into the wild. Disentanglement is health and safety. And at the bottom, monitoring and research activities.

So underneath each of these activities, and I'll go on to show you this. There will be a range of alternatives with a preferred alternative selected within each of them. And the final EIS determination would involve choosing an alternative under each of these six categories.

So the first example, stranding response, so having alternatives under this. The first, no action alternative, where our stranding agreements would expire and there would not be any further stranding response. The status quo alternative, where current stranding agreements would be renewed. One alternative to curtail response immediately rather than waiting for agreements to expire.

The next two, which you'll see because they come up again and again in all these different alternatives, is the idea that we would have different response activities or different activities based on what kind of animal it was. And we have listed here at least three different ways proposed to separate out animals. So by species,

groups, where there would be a response to cetacean but not to pinnipeds. By population status, whether it's listed under the ESA or not. And then population status, if they're at or above their optimum sustainable population.

And then the two ways to look at those would be, in the stranding agreement, it could require a response to some animals but make the response to others optional, a function of whether there are resources available and interest. Another way would be that the stranding agreements would be modified so that response to some animals would be authorized and response to other animals would not be authorized, essentially meaning that that would then become a take under the MMPA and would be illegal.

Some further alternatives under this activity deal with the issuance of the stranding agreement. So whether stranding agreements are issued to anyone who applies for them, or whether the criteria are implemented as we're proposing to implement them, where applicants would be checked against the minimum criteria for obtaining a stranding agreement, and then whether we issue that criteria exactly as proposed or if we revise and

then issue and implement a revised criteria. And again, the preferred alternative under this could be a combination of some of these different alternatives.

For carcass disposal and euthanasia, again the no action alternatives, where stranding agreements expire so the animals won't be responded to in the first place, which negates worries about carcass disposal and euthanasia. Status quo, current agreements are renewed and so the current methods of carcass disposal, which are many and depend on the location and resources, would continue.

Others for, specifically for carcass disposal, that all animals would be buried, thereby kind of returning to the environment. Or that all animals would be transported and disposed of in a different way but not burial. With euthanasia, a requirement that no animals would be chemically euthanized. So if euthanasia would -- the option of something else would be used. Or that chemically euthanized animals would be transported off site for disposal. And other animals that were not chemically euthanized could be left on the beach, buried or transported.

Under rehabilitation, again, the no action alternative, the status quo alternative, and immediate cessation alternative, where we wouldn't wait for agreements to expire but there would be no further rehabilitation.

Again with the subdivision of activities, based on what group of animal we're dealing with. And then the two alternatives dealing with the facility guidelines, whether they're implemented as currently proposed, or if they're modified and then implemented.

Under release, again, no action, status quo. All animals released, which would go back to the fact that animals would not be taken into rehabilitation if they weren't release candidates. Again with the division of effort based on kinds of animals. So some animals would be released and some animals would be required, for others it would be optional.

The release of some animals would be authorized, and for others it would not be authorized. And the two dealing with the documents, the release criteria either implemented at proposed, or modified and then implemented.

Disentanglement. Again, the no action and

the status quo. The disentanglement of some animals authorized and other animals not authorized. Implementation of the disentanglement guidelines, and this would be a national implementation. They are currently implemented for the northeast and southeast regions. And these have training prerequisites before you can be a member of the disentanglement network, or modification of the disentanglement guidelines in some way prior to implementation.

And finally, biomonitoring alternatives. The status quo, and no action again. And then the elimination of some activities that are currently done, including no further health assessment captures. So biomonitoring would continue, but it would only be on tissues collected from strandings, bycatch and subsistence animals.

Another one would be no tissue banking. All tissues collected as part of the biomonitoring projects would be used immediately and not be saved, which results in no retrospective studies, or the issuance of a new permit that would cover current and also new foreseeable biomonitoring and research activities.

All right. We've given you a whole bunch

of different alternatives. This is the result of ones that we could see that could be used in the analysis, but we are requesting specific information from you as part of our public scoping, and the specific information kind of goes into three forms. The first is to help us identify environmental concerns. As I've said to you we've singled out these six kind of scope of activities because we see that they have potential impacts, but we could have missed something. So we are requesting information about our activities that could result in environmental impacts both direct, indirect and cumulative impacts.

The second is to help us define the alternatives as well as potential mitigation measures. We've given a whole bunch of alternatives and we realize that not all of these alternatives are necessarily feasible or a good idea. And what we would prefer to do is rule some out in the beginning of the process and not analyze them further. So we're asking for the help of the public to help us determine the definitional alternatives.

And then the third is to make necessary modifications to the interim policies. We have presented them to you in their current form on our

website and through a couple of other means I'll talk about later, and we would like to use your input to help us make changes to them if changes are necessary.

So here are some of the specific questions that we've asked. You will see these on the handouts and in the Federal Registry notice and many other places, but I'll just go through them one more time.

The first is what sort of activities. So what kinds of activities should be conducted by the MMHSRP on a local, a regional, on a national level in response to stranded, entangled, sick, injured and other marine mammals in distress? Secondly, are there critical research or management needs that may be met by stranding response, by rehabilitation, by disentanglement, by biomonitoring, et cetera, and are these needs currently being met? And if they are not, what are they? What could you identify and how are they likely to help, to benefit the marine mammal species or the ecosystem, and what should we do in order to meet those needs?

The second category concerns the level of response effort. The first question is should there be different standards or levels of effort for

different species or groups of species? As we've set out in all of the alternatives that was proposed, as one alternative could be to kind of stratify a response. If so, if you believe that there should be different standards, how should we set them, and how should we divide the species into the different groups? We've kind of proposed three different ways, but if you have other ideas, that would be appreciated.

Organization and qualifications. Is the current organization of the National Stranding and Health Assessment adequate at kind of all levels, local, state, regional, ecosystem and nationally? What changes would make the organization more effective, if any?

And then qualification issues. What in your opinion should be the minimum qualifications of an individual or organization prior to becoming a stranding agreement holder or disentanglement participant? And relating back to the "Interim Minimum Qualifications" document that we've posted and is it adequate? And what about the requirements for a continued participation in the networks? Currently there's not really anything. Should there be certification or licensing process? Should there

be some kind of renewal process? Should there be required training? And if so, what kinds of training?

And the effects of the activities. So do you feel that public and animal health and safety needs are adequately addressed by the current program? How about the current release criteria, are they adequate to protect wild populations from introduced diseases? Are there potential environmental impacts you can see that we have not identified? And if you have any other relevant issues or data that we should consider, we would appreciate it if you would provide it or provide us some reference.

And that basically concludes the presentation as far as our activities, our proposed activities. We're now going to take the time for oral comments. These are comments that will be taken by the court reporter and considered part of the formal record. I'll go through this.

If you are interested in doing a formal oral comment at this time, we'd appreciate it if you'd let us know. And there's a four minute time limit that we could alter. And we do have, as we said, a court reporter here to insure that we have

an accurate and complete record of your comments.

Oral comments are not the only way to provide us input. Although if you do have anything that you've heard today that kind of raises some issues or something that you would like to see addressed, we would appreciate it if you would go ahead and state it as part of the oral comments. But if you're not ready to do that you can submit written comments. You can either do those today if you've prepared them already, or if you have a comment, one of the comment sheets, you can write on that. Or you can submit them by mail, e-mail or fax to the addresses here, and make sure that they are received by February 28.

The additional information are, namely the copies of all the interim documents, are available for your review on our web page and also at the public library and each of the locations of our scoping meetings, so there's one here in Honolulu. And if you want to receive copies of the draft EIS and the final EIS in the future, if you've registered here, then we'll make sure you get on our mailing list, or we'll also be posting them on our website. So you can check that further locally.

All right. Now we're going to collate all



your signup information, which there's so much of.

We'd like to thank you for your participation. I do want to stress that the oral comment period that we'll go into now is kind of a, it's a forum, it's an open forum for you to make comments, but it's not necessarily -- it's a one-way forum. You're going to be providing comments to us. We will respond to those comments as part of the EIS, but not here today. Once we're finished with the formal comment period, then we will adjourn the formal portion of the meeting and dismiss the court reporter and then we could have informal question-and-answer if there's any interest in that.

So at this time does anybody have a formal comment that they want to submit, anything that they want to say on what they've heard here today? Speak now or forever hold your peace.

All right. Then I think that will conclude our formal scoping meeting. Thank you all for coming.

(The meeting concluded at 4:14 p.m.)

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C E R T I F I C A T E

I, WENDY TOMITA, in and for the State of Hawaii, do hereby certify:

That I was acting as shorthand reporter in the foregoing matter on the 27th of January 2006;

That the proceedings were taken down in machine shorthand by me and were thereafter reduced to typewriting by me; that the foregoing represents, to the best of my ability, a correct transcript of the proceedings had in the foregoing matter;

I further certify that I am not counsel for any of the parties hereto, nor in any way interested in the outcome of the case named in the caption.

DATED: January 30, 2006.

*Wendy Tomita*  
 WENDY TOMITA CSR 1818  
 NOTARY PUBLIC  
 STATE OF HAWAII

Notary Public, State of Hawaii  
 My commission expires: 3-12-09

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MARINE MAMMAL HEALTH & STRANDING  
RESPONSE PROGRAM MEETING  
JANUARY 30, 2006

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BE IT REMEMBERED THAT, the MMHSRP Scoping Meeting, was taken before, Karen M. Kane, a Certified Shorthand Reporter, #3072, and a Notary Public for the State of Washington, on January 30, 2006, commencing at the hour of 2:28 p.m., being reported at 7600 Sandpoint Way Northeast, Building 9, Seattle, Washington.

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MS. HOWLETT: I'd like to thank you for attending our scoping meeting today for the Environmental Impact Statement on the Marine Mammal Health and Stranding Response Program.

My name is Sarah Howlett, and I'm a biologist with the MMHSRP. My colleagues are here today: Sarah Wilkin, who is also a biologist; Dr. Janet Whaley, who is the national stranding coordinator; and we also have Brent Norberg, who is the northwest regional stranding coordinator.

So, the purpose of our scoping meeting today is to allow for the early public notification of a proposed federal action or actions. So, these are just providing us the opportunity to go to the public and tell them what we are proposing to do and to also seek input on the scope of issues for our Environmental Impact Statement.

So, this is our fourth scoping meeting on the West Coast. We've been to Santa Barbara, San Francisco, and Honolulu, and we'll be also going to Anchorage; on the East Coast, St. Petersburg, Boston, and Silver Spring.

So, our agenda for today's meeting: A little background on scoping, an overview of the National Environmental Policy Act process; an overview of the MMHSRP; a review of the proposed actions and alternatives for our EIS, and the public comment period.

There is a layout we had at our registration area

1 out front. You could sign up for our mailing list, sign up  
2 to give an oral comment or pick up a written comment form,  
3 our staffed exhibit area with posters, our formal  
4 presentations, and then our oral comment period will follow.

5 Okay. So, hopefully you signed in at the  
6 registration table. And just to let you know that our  
7 meeting today is being captured by a court reporter for  
8 public record.

9 So, the NEPA process: The purposes of NEPA -- this  
10 comes straight from the act itself -- is to encourage harmony  
11 between man and the environment, promote efforts to prevent  
12 or eliminate damage to the environment, and enrich man's  
13 understanding of important ecological systems and natural  
14 resources.

15 The requirements of NEPA: As a federal agency,  
16 NEPA must analyze the potential environmental impacts of  
17 their actions and this is to consider environmental  
18 consequences during the decision making to reduce, prevent,  
19 and eliminate environmental damage and also to provide an  
20 opportunity for public involvement in the EIS process. And  
21 it's important to note that NEPA does not dictate the  
22 decision that will be made by them, but it does help to  
23 inform the decision-making process.

24 So, why are we preparing an EIS? There are a list  
25 of factors NMFS will consider to determine if an action

1 warrants an EIS, and these are the few factors off the list  
2 that we believe our EIS falls under.

3 So, the federal action could be the subject of  
4 significant public controversy based on potential  
5 environmental consequences; it may have uncertain  
6 environmental impacts or risks; it may establish a  
7 precedent -- precedent and principle about future proposals,  
8 and may result in cumulatively significant impacts, and it  
9 may have adverse effects on threatened and endangered  
10 species.

11 The benefits of conducting an EIS: This EIS will  
12 allow for a programmatic analysis of the MMHSRP, including  
13 the current and future activities of the program; it will  
14 allow for an assessment of the cumulative impacts of these  
15 activities, and it will eliminate the need to conduct  
16 individual NEPA analyses on the activities of the program.

17 Why are we conducting an EIS now? Our current  
18 Marine Mammal Protection Act/Endangered Species Act permit is  
19 issued and it will expire on June 30th of 2007. To receive a  
20 new permit, the NEPA analysis must be conducted on the  
21 activities that are covered by the permit and it must be  
22 considered prior to the issuance of the new permit; and an  
23 EIS is also needed to finalize the interim standards that are  
24 provided in the policies and practices manual, and both the  
25 permit and the policies and practices manual will be

1 discussed later.

2 So, the components of an EIS: The purpose and  
3 need, which is just a brief statement about why the action is  
4 being considered; the proposed action and alternatives; the  
5 affected environments or the resources that may be impacted  
6 by the proposed action; potential environmental consequences  
7 and mitigations, and consideration of public input.

8 This is a list of environmental resources that are  
9 typically considered in an EIS, and the ones that we feel are  
10 truly important for our areas are: protected species, marine  
11 mammals, threatened and endangered species, water quality,  
12 human health and safety, and cumulative impacts. That  
13 doesn't mean that the other resources will not be covered.

14 The EIS process: Our notice of intent was  
15 published in the Federal Register, December 28th; and that  
16 became -- began the formal scoping process. Our scoping will  
17 be wrapped up at the end of February. The draft EIS will  
18 then be published and once the draft is published, there's a  
19 45-day comment period and we will conduct public hearings as  
20 well to gather comments.

21 The final EIS will be published and 30 days after  
22 the final EIS, the record of decision is published, which is  
23 just a document by the agency to say what they decided upon  
24 and how they came to that decision.

25 Our public input opportunities: Today you're

1 participating in a scoping meeting. You can submit comments  
2 either today or by mail. You can sign up to be on our  
3 mailing list to receive the draft EIS, the final EIS, and any  
4 other information on the EIS; you can review and comment on  
5 the draft; you can participate in a public hearing, and you  
6 can review the final EIS.

7 And our tentative EIS schedule of this scoping will  
8 commence at the end of February; our draft EIS will be  
9 complete in September of this year; public hearings, November  
10 of this year; the final EIS will be completed in May of 2007  
11 with the record of decision in June of 2007.

12 And I'll turn this over to Sarah Wilkin, and she  
13 will talk about the MMHSRP.

14 MS. WILKIN: All right. So, Sarah has done a great  
15 job of giving you kind of an overview of NEPA in general; and  
16 my job now is to talk a little bit more about what our  
17 particular EIS plans are.

18 The Marine Mammal Health and Stranding Response  
19 Program, or MMHSRP, was established under Title IV of the  
20 Marine Mammal Protection Act, which is an amendment to the  
21 act, and the goals and purposes as they're stated in act are  
22 these three things: To facilitate the collection and  
23 dissemination of data on the health and health trends of  
24 marine mammals and marine mammal populations in the wild, the  
25 first one; the second is to correlate those health data with

1 physical, chemical, and biological or environmental  
2 parameters; and the third is to coordinate effective  
3 responses to unusual mortality events. So, these are the  
4 charges given to the program by Congress.

5 Since the passage of Title IV, the Marine Mammal  
6 Health and Stranding Response Program has been organized in a  
7 variety of different components that all work together to try  
8 and achieve those three goals, including the components you  
9 see here: The National Stranding Network; the National  
10 Disentanglement Network; the John H. Prescott Marine Mammal  
11 Rescue Assistance Grant Program, which awards financial  
12 assistance to participants in the stranding network and  
13 researchers conducting research on tissues from stranded  
14 animals; the Marine Mammal Unusual Mortality Event and  
15 Emergency Response Program, which, again, incorporates some  
16 members of the stranding network but also includes an  
17 advisory panel of the working group of Marine Mammal Unusual  
18 Mortality Events; the Information Management Program, which  
19 is organized to manage all of the information collected by  
20 all the various components in the overarching program; and  
21 the Health Biomonitoring, Research, Development and Tissue  
22 Banking Programs, which work together to provide more of the  
23 research arm of the MMHSRP.

24 So, one of the reasons for us conducting an EIS at  
25 this time is there are several interim policies that have

1 been in development for quite some time, and prior to  
2 releasing the final drafts -- or final documents, we need to  
3 undertake a NEPA analysis of the potential impact. And these  
4 documents are available on our Web site for download and also  
5 at a public -- a public library here in Seattle, and they  
6 include a stranding agreement template, the minimum  
7 qualifications for attaining a stranding agreement, the  
8 minimum facility guidelines for rehabilitation facilities,  
9 and the criteria prior to release of a rehabilitative marine  
10 mammal, and then network guidelines that are being  
11 established for the disentanglement network.

12 A little bit more information about our permit: It  
13 is issued to the program under both the Marine Mammal  
14 Protection Act and the Endangered Species Act with Dr. Teri  
15 Rowles, who is the head of the program as the principal  
16 investigator; and then all the regional stranding  
17 coordinators and regional stranding networks are incorporated  
18 as coinvestigators under this permit. The main thing that  
19 the permit does that you may not have known is that it  
20 provides for both stranding and disentanglement response of  
21 animals that are listed under the Endangered Species Act.  
22 So, the Marine Mammal Protection Act gives NMFS the authority  
23 to establish stranding agreements -- or as they used to be  
24 called -- letters of agreement -- with stranding  
25 organizations to respond to stranded marine mammals.

1 However, there is no similar provision under the Endangered  
2 Species Act. So, in order to be authorized to respond to  
3 stranded animals and animals in distress, we have applied for  
4 and received this permit. It also permits for the import and  
5 export and analyses of diagnostic tissues. So, any of those  
6 tissue samples that you may have had of ESA-listed animals  
7 would be covered under this and the import and export of all  
8 MMPA and ESA animals, and also it provides for health  
9 assessment captures in populations where there's a question  
10 relating to their health or health trend. So, these would be  
11 captures of animals that we believe are healthy but in an  
12 area where there's been some kind of health concern such as  
13 an unusual mortality event, other kind of die-off, mass  
14 stranding, et cetera.

15 Just a little bit of over -- overview on the  
16 stranding network. These are the total strandings that were  
17 reported to the network and then had a Level A data sheet  
18 filled out, which is kind of the basic information sheet,  
19 from 2001 to 2004 in both cetaceans and pinnipeds; and what I  
20 have there down at the bottom is cumulative impacts. One of  
21 the things that we're supposed to be looking at under NEPA is  
22 the impacts of all of the actions taken together. So, while  
23 the impacts of response or rehabilitation release of one  
24 marine mammal might be very, very small or nothing at all,  
25 once we're looking at around 5,000 pinnipeds, for instance,

1 in the year 2003, we have to start looking at the cumulative  
2 impacts of response and rehabilitation and release of all of  
3 those animals.

4 Here is your northwest region data from 2001 to  
5 2004. This is the pinnipeds. So, animals that stranded dead  
6 are on the far left, animals that stranded alive in the  
7 middle; and then the far right is those animals that stranded  
8 alive, were introduced into a rehabilitation facility, and  
9 then were released back to the wild.

10 So, the number is increasing a little bit up to  
11 20,000 in 2004, which 2004 had the most live strandings. And  
12 then cetacean strandings in '01 and '04, there were no  
13 cetaceans released after rehabilitation. In fact, very few  
14 live-stranded cetaceans in any of those years.

15 All right. So, the purpose and need of our EIS:  
16 The purpose is essentially the same as the purpose of the  
17 program, and that is to respond to marine mammals in  
18 distress, which includes those that are stranded, entangled,  
19 and out of habitat, and to answer research and management  
20 questions related to marine mammal health.

21 The need: Our need is to operate this program  
22 effectively and efficiently, making the best use possible of  
23 our available but limited resources. I think one thing  
24 everyone can always agree on is there's not enough money to  
25 go around and there's not enough people and there's not

1 enough time. So, the question is how can we fulfill the  
2 purpose of those mandated goals while making the best use of  
3 the resources that we have in order to collect the necessary  
4 data on marine mammal and health trends to meet our  
5 information needs as an agency for conservation and  
6 management and, finally, to ensure that human and animal  
7 health and safety is always one of our highest priorities.

8 So, the proposed action, therefore, is the issuance  
9 of the policies and best practices manual, which incorporates  
10 all five of those interim documents, which would be releasing  
11 it in one kind of combined form as a final; the application  
12 for and subsequent issuance of a new ESA/MMPA permit to the  
13 program; stranding agreements would continue to be issued or  
14 renewed on a case-by-case basis but utilizing the guidance  
15 policies from the interim guidance. So, the interim criteria  
16 documents would be implemented and then a template would be  
17 utilized and other day-to-day operations of the stranding  
18 disentanglement and other programs would continue, including  
19 response, rehabilitation, release determinations; but, again,  
20 this would all be done utilizing the guidance provided in the  
21 policies and practices manual.

22 All right. So, we have a set of alternatives here  
23 that are the same as those proposed in the Federal Register  
24 notice. The fifth publication of the notice in the FR at the  
25 end of December, we had further discussions and brainstorming

1 and come up with another set of alternatives that I will be  
2 providing immediately after these. So, for your reference,  
3 these are the ones that were initially proposed.

4 So, the action alternative is essentially the same  
5 as the preferred alternative that I just mentioned, which  
6 includes the issuance of the documents, the issuance of the  
7 permit, stranding agreements continuing to be issued or  
8 renewed, and the disentanglement network continuing --  
9 continuing.

10 Alternative 2: Under NEPA we are required to  
11 consider the no action alternative, which is to say what if  
12 the government didn't do anything. So, under this  
13 alternative, a policies and practices manual would not be  
14 issued, the permit would not be reissued. And what this  
15 would mean was, first, with the no reissuance of the permit,  
16 all response to endangered species and all  
17 disentanglement response would have to halt because it would  
18 no longer be authorized and then, also, in the future with no  
19 action, no new or renewal stranding agreements could be  
20 issued or extended. So, therefore, as stranding agreements  
21 expired, the network -- kind of as we have it today -- would  
22 cease to function and there would be no biomonitoring or  
23 research activities under the permit.

24 So, as it states at the bottom, this does conflict  
25 somewhat with our statutory mandates under Title IV that

1 require us to obtain this data. However, under NEPA we are  
2 actually instructed to con -- to consider not only the no  
3 action alternative but also consider alternatives that might  
4 conflict with other laws.

5 And then the third alternative status quo, which is  
6 to say what if the government continued as is and kind of  
7 maintained what we have today.

8 So, the new actions: The policies and practices  
9 manual would not be issued, but current stranding agreements  
10 could be renewed as issued; the permit could be renewed or  
11 reissued as it is currently; current partners that we have  
12 would continue, and then new applications could be considered  
13 on a case-by-case basis, essentially following what we do  
14 today. So, this would ensure that the network could continue  
15 to function at its current level. However, there are  
16 concerns that we may be precluded from making adapting  
17 changes if we wanted to change the permit, for instance.

18 And then alternatives that were listed in the FR  
19 that might be eliminated from further consideration include  
20 limiting some of the actions of the program; for instance, to  
21 only doing biomonitoring research to only doing stranding  
22 response or limiting somehow the animals or types of animals  
23 that we respond to.

24 All right. After our further discussion, these are  
25 our new envisionment of alternatives; and this is breaking

1 down and having alternatives kind of subclassified under each  
2 category of activity.

3 We have chosen the following six activities because  
4 they are the ones that we see as having potential impacts to  
5 the environment especially in the cumulative sense. So,  
6 human health and safety is inherent in all of these as a  
7 potential impact, both the direct health and safety of the  
8 volunteers who are interacting with the marine mammals and  
9 also public health concerns from having diseased animals.  
10 And, so, those are the primary concerns and response along  
11 with some disturbance potential for beach responses.

12 Carcass disposal and euthanasia are concerns based  
13 on the potential loads of toxins in the carcasses; and then  
14 with euthanasia, if you chemically euthanize an animal, the  
15 chemicals that are being used and then being released into  
16 the environment.

17 Rehabilitation: Again, human health and safety  
18 concerns and also concerns in a facility having an affluent;  
19 the release of rehabilitated animals. This is a concern for  
20 the health of the wild populations as you're releasing an  
21 animal that has been sick and has potentially been in contact  
22 with other things back out into the wild; disentanglement;  
23 again, health and human safety, and then biomonitoring and  
24 research activities.

25 So, under each of these activities there will be a



1 range of alternatives and a preferred alternative or  
2 combination of alternatives would be chosen from within each  
3 activity; and we'll go into that in exhaustive detail.

4 So, for instance, stranding response, the first  
5 major class of activity that we had. Again, a no action  
6 alternative and the status quo alternative will show up under  
7 each of these.

8 So, under the no action alternative we would allow  
9 stranding agreements to expire and the network would cease to  
10 function; the status quo alternative, we would renew current  
11 stranding agreements but there remains a question of how we  
12 would treat any future stranding agreements. Another  
13 option alternative is to curtail response immediately so that  
14 we don't wait for stranding agreements to expire but we just  
15 don't do anything.

16 The next two both involve what happens if we have  
17 different criteria for response depending on what kind of  
18 animal it is, and there are two ways to go about this and  
19 they both depend on kind of the terms and conditions  
20 established in the stranding agreement; and the first would  
21 be to require a response to some group of animals while  
22 making the response to the other group of animals be optional  
23 so that if you had -- if resources permitted, you could  
24 respond to those, but it wouldn't be necessary.

25 The other way is to have the stranding agreement

1 actually authorize the response to some animals and not  
2 authorize the response to other animals, which would  
3 essentially prohibit those other response activities. And  
4 then under each of these we have a couple of different ways  
5 that we kind of thought of -- of breaking down the animals  
6 into different groups.

7 So, cetaceans versus pinnipeds, those animals that  
8 are listed under the Endangered Species Act versus those  
9 animals that are not listed. And then another way of  
10 determining populations, those animals at or above the  
11 optional stranded population versus those animals that are  
12 below or where the status is unknown. So, keep these in mind  
13 because you'll see them again.

14 And then the final three alternatives here have to  
15 deal with the -- the policies and practices documents; in  
16 this case, the stranding agreement minimum criteria template.  
17 And the first one would be the issuing of stranding  
18 agreements to anyone who applied, essentially; secondly,  
19 implementing the minimum criteria which then establishes a  
20 baseline and then only those applicants that meet the minimum  
21 criteria will be issued a stranding agreement; and then the  
22 third is revising that document from what is currently  
23 proposed and then implementing it.

24 All right. Under carcass disposal and euthanasia,  
25 again, the no action alternative so that stranding agreements

1 expire and there will be no further response; so, therefore,  
2 there's no further carcass disposal.

3         The status quo: Current methods of carcass  
4 disposal may continue, whatever they may be; all animals  
5 could be buried on site or, conversely, all animals would be  
6 transferred off site for disposal; and then with the  
7 euthanasia question, there could be essentially that chemical  
8 euthanasia would be not allowed; no animals would be  
9 chemically euthanized or that we would require that  
10 chemically euthanized animals would have to be transported  
11 off site for disposal while the other animals could be left,  
12 buried, or transported, depending on logistics.

13         All right. Under Rehabilitation, again, no action  
14 alternative and status quo alternative: The third, immediate  
15 cessation of activities -- in other words, not waiting for  
16 response -- the stranding agreement to expire; then the  
17 partitioning of activity based on the kinds of animals and,  
18 again, whether it's required and optional or authorized and  
19 not authorized and then how we decide on the categories of  
20 animals. And then the final two again deal with the  
21 policies, those rehabilitation facility guidelines, whether  
22 they're implemented as proposed or whether they're modified  
23 and implemented.

24         Release: No action, status quo, all animals  
25 released, which would imply that animals that are not release

1 candidates would, therefore, not be taken into rehabilitation  
2 in the first place or would be euthanized upon being  
3 determined that they were not a release candidate; again,  
4 release of some animals versus not releasing other animals  
5 and how we divide that up and a couple different ways; and  
6 then the release criteria, whether we implement them as  
7 proposed in the interim documents or whether we modify them  
8 and implement them.

9         Disentanglement: Again, no action, status quo, and  
10 then authorization of disentanglement of some animals and not  
11 authorizing disentanglement activities for other animals and  
12 how we divide that up, and then the implementation of the  
13 disentanglement guidelines. This would be implementing them  
14 nationwide. They currently are implemented, for the most  
15 part, on the East Coast voluntarily and they have pretty  
16 strict training prerequisites set out before members can  
17 be -- participants can be part of the disentanglement  
18 network, or the other alternative is to modify those  
19 disentanglement guidelines prior to implementing them.

20         And, finally, Biomonitoring: Again, a no action  
21 and the status quo. Some kind of modification of the  
22 activities that are currently permitted, including no health  
23 assessment captures or no tissue banking or the issuance of  
24 the new permit that would include current and new foreseeable  
25 projects under biomonitoring research.

1 I think I should stress that there are -- we're  
2 presenting you a lot of alternatives, and we recognize that  
3 not all of them are good ideas. They're not all feasible,  
4 they won't all work; and, therefore, we're requesting  
5 information from you to help us narrow it down a little bit  
6 and kind of focus our scope.

7 So, the specific information that we're requesting  
8 from the public kind of falls into these three categories,  
9 and the first is to identify environmental concerns. I've  
10 presented you with those six kind of major groups of activity  
11 that we've identified, but if you see anything else that is  
12 encompassed under the MMHSRP that you think could lead to  
13 environmental impacts that we have not identified, we would  
14 like to know what that might be. And, also, anything that  
15 you have concerns about -- environmental concerns about with  
16 the activities of the program and both direct, indirect, and  
17 cumulative impacts.

18 The second is to help us define the alternatives  
19 and potential mitigation measures. So, we've presented a  
20 whole bunch of different alternatives and we would like to  
21 focus our analysis and only look at a few of them. And, so,  
22 we need input from the public to help us determine which of  
23 those are actually feasible alternatives.

24 And, third, to make necessary modifications to the  
25 interim policies, we are also seeking comments on all of the

1 documents that are currently out as interim events.

2 So, here are some of the major categories under  
3 which we're really looking for specific information, and  
4 these are specific questions we are asking:

5 Types of Activities: What sort of activities  
6 should be conducted on the local, on the regional, and on the  
7 national levels in response to stranded animals, in response  
8 to entangled animals, sick, injured, et cetera, how do those  
9 break down.

10 Are there critical research or management needs  
11 that we can meet through stranding investigations, through  
12 rehabilitation, disentanglement, or health-related research  
13 and biomonitoring activities? And are we currently meeting  
14 those critical research or management needs and, if not, what  
15 needs do you see that we could be meeting and what should be  
16 done -- what should we be doing in order to meet them.

17 The level of response effort, that question of  
18 should we somehow divide or partition our response. So,  
19 should there be different standards or levels of effort for  
20 the different species or groups of species? If so, how  
21 should we go about setting those levels or standards and how  
22 should we think about dividing species. And, again, these  
23 are kind of three that we're proposing for discussion, but if  
24 you have other ideas...

25 And then organization and qualifications. So, in

1 your opinion, is the current organization of the national  
2 stranding and health assessment networks adequate on the  
3 local, state, regional, ecosystem, and national levels; and  
4 what changes could you envision that would make the  
5 organization more effective. Although we are mandated to be  
6 collecting this data, there is nothing in the law that tells  
7 us how we have to go about doing it and, therefore, we do  
8 have a little bit of latitude to make changes if they're  
9 necessary. And what should the minimum qualifications of an  
10 individual or organization be prior to becoming a holder of a  
11 stranding agreement or disentanglement participant, and this  
12 goes back to the minimum qualifications document and  
13 essentially your assessment of that document.

14 But then, also, what about the requirements for  
15 continued participation in the networks? In other words,  
16 once you've received a stranding agreement, what should  
17 you -- what should we expect an organization do in order to  
18 maintain that agreement? Should there be a certification or  
19 licensing process or required training, continuing education  
20 credits, something along those lines?

21 And then the effects of the activities. So, are  
22 public and animal health and safety needs currently addressed  
23 adequately by the MMHSRP; the release criteria as proposed,  
24 are they adequate to protect wild populations from introduced  
25 diseases and other concerns; are there any potential

1 environmental impacts that we have not identified; and can  
2 you think of any other relevant issues or data that we should  
3 consider in our analysis and, if so, then we ask you to  
4 please provide us a -- the data or a reference for the data.

5 That concludes the formal presentation of our  
6 proposed EIS. So, we're now going to take oral comments.  
7 The oral comment period is a time for you, the members of the  
8 public, to make a statement that will be captured on the  
9 record and then included in our -- in our document as far as  
10 public comments and our response to those comments. It's  
11 not -- it's not a -- a forum for discussion. So, in other  
12 words, we're not going to respond to your oral comments today  
13 here; although they will be responded to as part of the EIS.  
14 Once we finish with the formal oral comment period, we will  
15 adjourn the official meeting and turn off the court reporter,  
16 and then we can have an informal question and answer session  
17 if there's any burning issues that haven't been answered.

18 So, if you wish to give an oral comment, we ask  
19 that you sign in at the table. We just have, I think, two  
20 sign-ups so far. If anyone else is interested, please let us  
21 know. We have stated a 4-minute time limit, but that could  
22 be a little bit flexible. And, again, we want to stress that  
23 it's being recorded for an accurate and complete record of  
24 your comments.

25 If you don't feel like making a statement, you can

1 hand in written comments which will -- which will be treated  
2 the same way as an oral comment. And your options are to  
3 hand them in today, to take one of our comment sheets and  
4 write on that and turn that in later or today, and/or submit  
5 written comments before the end of February either by mail,  
6 by E-mail, or by fax; and all of these addresses are also  
7 available on the handouts and in the Federal Register notes.

8 So, the additional information: Those documents,  
9 again, as I said, are available for review at public  
10 libraries. They're at one library in each city where we're  
11 giving scoping meetings. So, there's one here at the Seattle  
12 Public Library; it's also available on our Web page for  
13 download; and then to receive copies in the future of our  
14 draft and final EIS's, you can either register here or check  
15 the Web site where we'll be posting copies of them.

16 All right. We probably don't need a break, but we  
17 would like to thank you for your participation. The public  
18 input is extremely important to us as we're developing the  
19 EIS, and I think now we'll take comments.

20 And I would ask that if you're going to make a  
21 comment, to come to the front to that we can make sure it  
22 will be captured.

23 MEETING PARTICIPANT: The slides will be on the Web  
24 site, too?

25 MS. WILKIN: Yes. Yeah, this slide show will also

1 be available on the Web site since we modified the  
2 alternatives for you.

3 Okay. So, we had two sign-ups for oral comment,  
4 which are David and Nathan. So, David, do you want to start?

5 MR. BAIN: I need just a few more minutes to get  
6 organized --

7 MS. WILKIN: Okay.

8 MR. BAIN: -- and then I'll be ready to go.

9 MS. WILKIN: Are you ready?

10 MR. PAMPLIN: Okay.

11 MS. WILKIN: All right. And, if you'd, please,  
12 introduce yourself and your affiliation.

13 MR. PAMPLIN: Hello. My name is Nathan Pamplin.  
14 I'm a biologist with Makah Fisheries Management in Neah Bay,  
15 Washington. I appreciate the opportunity to comment and  
16 welcome the -- the efforts that go into an EIS. I can -- I  
17 can appreciate that firsthand.

18 The first thing I'd like to start with -- and I'll  
19 be kind of hitting on -- on a variety of topics -- but the  
20 first topic is -- is the effect of one of the resources that  
21 you've identified and just to give some additional attention  
22 to, and that is of treaty rights.

23 Native Americans have been utilizing stranded  
24 animals for thousands of years for both subsistence and  
25 cultural purposes and encouraged to recognize not only wi thin

1 the -- the reservation boundaries but also access to those  
2 resources within the usual and accustomed hunting and fishing  
3 areas recognized in -- in a number of different court cases  
4 but, in particular, the Bolt decision; ensure that the  
5 participants in the stranding network understand that Native  
6 Americans have access and -- and rights to the stranded  
7 animals as well as allowing both cultural ceremonial  
8 subsistent practices to continue as well as gathering the  
9 scientific data. Both can be done. There's been numerous  
10 examples throughout the United States for both cultural  
11 practices and -- and scientific practices can go hand in hand  
12 and both can learn a lot from each other. But just to  
13 encourage, also, that if -- if samples are removed from the  
14 site, et cetera, for scientific purposes, that -- that  
15 knowing the stranding agency does a good job trying to make  
16 sure that the tribe has access to those sites once the  
17 scientific sampling is -- is completed.

18 On a -- a completely separate topic, talking about  
19 the rehabilitation of marine mammals, I'm also concerned with  
20 what was kind of brought up as far as how to -- how to spend  
21 limited competitive federal funds. I think as far as  
22 separate NGO's or nonprofits that are involved in -- in rehab  
23 of marine mammals and following the standards that are set up  
24 by knowing they can do that, that's fantastic; but as far as  
25 under the grant program and things like that, the federal

1 funds should probably be targeting species that are either  
2 depleted or -- or listed under the ESA. Also, I felt that  
3 the -- the rehab guidelines that were put out on the Web site  
4 should hopefully be kind of the minimum standards just as far  
5 as concerns on releasing animals that have acquired a new  
6 disease being in rehab, et cetera.

7 With that, though, I recognize that by avoiding  
8 essentially some of the -- the federal funded rehab of  
9 recovered species -- I mean, No. 1, recovered species are  
10 going to be the most frequent species to strand, and the  
11 public wants the stranding network to act and respond to  
12 these animals; and, so, I think along with this needs to come  
13 a lot more public education. I know that's something that's  
14 thrown out a lot. That's something that -- that really could  
15 be put into as far as the planning of how -- how money is  
16 spent in terms of why is it that NOAA is not going to respond  
17 to a recovered species, et cetera, and as well as provide  
18 funding for the stranding network participants to have  
19 education programs as well for within their -- their areas  
20 that they're operating.

21 Another completely separate shift, I would  
22 appreciate seeing that summaries are presented of strandings,  
23 and particularly of cetaceans -- mainly baleine whales and  
24 sperm whales, but also even small odontocetes under the  
25 international convention of the regulation of whaling. Other

1 countries are providing information on stranding. It seems  
2 like the U.S. doesn't at IWBC -- or we do, but it's like from  
3 2001 as more recent years, and it would be good to  
4 incorporate at least a previous calendar year's data every  
5 year for the meeting just to show that we're on par. And  
6 that's important both in the environment subgroup as well as  
7 during the main commission meetings when they have the annual  
8 report for that country, it's important to be in compliance  
9 with the -- the international convention.

10 Last thing as far as the Level A data form, I would  
11 encourage -- and I think a lot of stranding participants are  
12 doing this, anyway, but probably make it a requirement on the  
13 Level A form is to do photo ID shots on particular baline  
14 whales or small odontocetes or killer whales, et cetera, on  
15 dorsal patches as part of the routine Level A data. And, so,  
16 hopefully that's four minutes. Okay. Thanks.

17 MS. WILKIN: Thank you.

18 MR. BAIN: Okay. I'm David Bain. I have a number  
19 of profession affiliations, but I'm speaking on my own for  
20 now.

21 Let's see. I think we need to think about probably  
22 three different things: conventional stranding of an animal  
23 on a beach, and entangled animals were mentioned; but we also  
24 from time to time get misplaced animals where you have  
25 orphaned individuals or animals that are far outside their

1 range and they're not really stranded but human intervention  
2 may well be in the best interest of those individuals.

3 We've heard some discussion of trying to limit  
4 treatment to individuals directly impacted by humans. So, if  
5 you have an animal with a gunshot wound, it's kind of obvious  
6 that human factors were involved; but I would also like to  
7 point out there can be indirect effects. For example, human  
8 activities might separate a young animal from its mother and  
9 that separated animal may not be able to take care of itself  
10 and by the time it hits the beach, the record of that human  
11 impact is missing.

12 There can also be cryptic factors such as exposure  
13 to toxic chemicals, ingestion of plastics or things like that  
14 that won't be obvious to somebody on the beach but may be  
15 indicative of human factors contributing to the stranding.

16 I think one thing the status quo does not do well  
17 is allow research with stranded individuals. There's some  
18 things that are well taken care of, like archiving tissues,  
19 but there are other things like studying hearing ability that  
20 unless somebody has a permit to study hearing in that  
21 particular species in stranded individuals, it can't be done;  
22 and I think it might be good to have more flexibility. So,  
23 if somebody has a research technique that's determined to be  
24 humane and, you know, suitable for use on marine mammals and  
25 the attending veterinarian determines it won't affect the

1 likely outcome of the individual being cared for, that the  
2 research should be allowed to go ahead.

3 I think there could also be a lot more work done to  
4 facilitate collaboration between people who specialize in  
5 research and people who specialize and work with stranded  
6 animals.

7 I'd like to emphasize the importance of isolating  
8 stranded animals that may be released from terrestrial  
9 diseases so that we don't introduce new diseases into the  
10 wild. Also, I would like to see more emphasis on postrelease  
11 follow-up than what we saw in the presentation here.

12 As far as the qualifications of individuals, I  
13 think we need to recognize that in the rehabilitation program  
14 there are lots of different kinds of individuals. There's an  
15 attending veterinarian who is there a limited amount of time  
16 and making decisions on, you know, diagnosing diseases and  
17 determining what medication to present; but there also are  
18 more managers who are there, you know, say, eight hours a day  
19 and would be directly supervising care much of the time; and  
20 then there's also volunteers that do a lot of the hands-on  
21 things and they may be involved in feeding stranded animals  
22 and that sort of thing, but don't necessarily need the  
23 expertise to do a lot of decision making.

24 The physical plant needs to be adequate so the  
25 animals are well cared for and while they're being cared for,

1 and as I mentioned before, they need to be isolated from  
2 exposure to terrestrial disease factors.

3 On the safety side, it seems like people should  
4 have training in working in the physical environment they'll  
5 be in, whether it's in water dealing with entanglement or,  
6 you know, rocky shorelines or sandy beaches, you know, the  
7 way you need to behave.

8 One of my stranding responses was in quicksand,  
9 which was an interesting situation to be involved in.

10 Also, they need to be informed about the risk of  
11 injuries. They need to know, you know, how much you have to  
12 worry about from the teeth and how much you have to worry  
13 about from the tail and injuring your back by lifting  
14 something too heavy and all those sort of things. They need  
15 to be advised about zoonoses and diseases that can be  
16 transmitted between people and animals and steps they should  
17 take to prevent that, and I think there should also be some  
18 safety training in transport mechanisms. I've been involved  
19 in some responses where people haven't driven appropriately  
20 or, you know, being in the back of a truck with an animal  
21 raises safety issues that are different than what we might  
22 experience in a tank or a pool.

23 Let's see. I think it would be good to expand  
24 disentanglement programs to try to coordinate the  
25 disentanglement efforts with gear design. So, if there are



1 problems that make gear especially hard to get off animals,  
2 maybe the gear itself could be redesigned to be easier to  
3 remove. It would also be good to facilitate risk -- or  
4 identify risk factors so that, you know, a particular gear  
5 design more likely to entangle animals than others, that  
6 modifications could be made.

7 I'd like to see a consideration of changing the  
8 Prescott program from people making proposals about what they  
9 will do in the future to being more rewarded for past  
10 achievement. So, if somebody has a track record of  
11 successfully responding to strandings that, you know, they  
12 should get funding based on that as opposed to saying I want  
13 to go out and buy a truck or I want to go out and, you know,  
14 buy new dissecting knives; that, you know, once they've  
15 demonstrated they know what they're doing, you have to say,  
16 "Okay. Do what you need to do and tell us how you spent the  
17 money."

18 I think data-access policies and sharing -- or  
19 data-access policies and also sharing care protocols in -- in  
20 things like formulas for feeding young animals is an area  
21 that deserves a lot of attention. And another thing that  
22 would be good to have is a database of stranding response  
23 personnel and what their experiences are so that if you need  
24 somebody that has experience in working with beached whales  
25 or, you know, working with calves that your particular staff

1 doesn't have at that time, then you can just look in the  
2 database and go, you know, this organization has somebody and  
3 we might be able to borrow them to match our expertise to our  
4 needs at the moment.

5 And another thing that might be good to look at at  
6 this time is thinking about moving from being volunteer based  
7 to getting people who are going to do stranding response as a  
8 career. So, you know, start paying people more and also  
9 start treating them like professionals so that, you know,  
10 they'll be going to professional meetings and they'll be  
11 going to in-service training and those sorts of things. And,  
12 obviously, that will cost money, but, you know, it may be  
13 having well-trained people and people that know they're in  
14 this for the long run rather than, you know, for the next few  
15 months, and then it depends on whether the next grant comes  
16 through whether they'll still be doing that or they'll be  
17 going back to real life afterwards, I think improve the  
18 quality of the people involved and improve maybe the  
19 effectiveness of the stranding program.

20 When we start thinking about discriminating amongst  
21 species, we should be thinking about whether we can  
22 extrapolate results from one species to another. So, for  
23 example, the blood values in one species tell us something  
24 about blood values in another species or what the norms are.  
25 We should also be thinking about the value of the experience.

1 So -- and, you know, maybe there's no real need to  
2 rehabilitate and reintroduce harbor seals as a way of  
3 maintaining the population, but the experience with the  
4 harbor seals may be quite valuable for dealing with  
5 threatened or endangered Steller sea lions and similarly you  
6 may have bottle-nosed dolphins that are quite common and you  
7 don't necessarily have a need to release them but, you know,  
8 maybe you would have an endangered killer whale and what we  
9 learn from working with other species may turn out to be  
10 quite important. And we've also seen how quickly the status  
11 of the species can change. You know, you get a morbilli  
12 outbreak and all of a sudden you've lost 50 percent of your  
13 population. So, what once was a population well above OSP  
14 could, you know, a year later be well below OSP.

15 And then another important thing about working with  
16 what we might think of as a low-priority species is  
17 technology developments. So, if you're trying to figure out,  
18 you know, how do you get food into a calf, you know, with the  
19 least amount of stress, you can, basically, work on those  
20 sorts of things with calves of other species and then you've  
21 got a high priority species to take care of.

22 I think coastal zone management may need a bit more  
23 consideration and there are lots of different types of  
24 shoreline and, you know, the policies for how you deal with  
25 strandings may be different depending upon whether it's

1 private land or state land or county land or tribal lands and  
2 so on. So, making sure that people know which is which and  
3 what the rules are and, you know, what the range of rules  
4 should be, you know, those different types of categories.

5 Another thing that we need to think about in -- in  
6 this area especially is a lot of the carcasses we're dealing  
7 with may be toxic waste even before animals are euthanized;  
8 and when we're dealing with carcass disposal, that needs to  
9 be taken into consideration. And then as far as the  
10 alternatives to consider that may be eliminated from further  
11 study, I encourage eliminating all of them. And I guess I  
12 won't take any more time to go into that right now but follow  
13 up with written comments later.

14 MS. WILKIN: Is there anybody else who has been  
15 inspired or would like to contribute?

16 All right. In that case, thank you-all for coming;  
17 and we'll adjourn the formal public meeting at this time.

18 (Whereupon the meeting was concluded at 3:18 p.m.)  
19  
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21  
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25

1 CERTIFICATE

2 .  
3 I, Karen M. Kane, do hereby certify that  
4 pursuant to the Rules of Civil Procedure, the witness  
5 named herein appeared before me at the time and place  
6 set forth in the caption herein; that at the said  
7 time and place, I reported in stenotype all testimony  
8 adduced and other oral proceedings had in the  
9 foregoing matter; and that the foregoing transcript  
10 pages constitute a full, true and correct record of  
11 such testimony adduced and oral proceeding had and of  
12 the whole thereof.

13 .  
14 IN WITNESS WHEREOF, I have hereunto set my  
15 hand this 12th day of February, 2006.

16 .  
17 .  
18 \_\_\_\_\_  
19 Karen M. Kane Commission Expiration

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National Marine Fisheries Service  
MARINE MAMMAL HEALTH & STRANDING RESPONSE  
SCOPING MEETING  
February 1, 2006  
U.S. Fish & Wildlife Service  
1011 East Tudor Road  
Anchorage, Alaska

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PROCEEDINGS  
(Anchorage, Alaska - 2/1/2006)

MS. HOWLETT: I'd like to welcome everybody  
to our scoping meeting for our Marine Mammal Health and  
Stranding Response Program EIS. My Name is Sarah Howlett I'm  
with the MMHSRP, I'm a biologist and we have Sara Wilken who  
is also a biologist with the MMHSRP. Doctor Janet Waley who  
is the National steering coordinator. And we also have  
Eliree Jensen who is the Alaska Regional steering  
coordinator.

So the purpose of today's meeting is to allow  
for the early public notification of a proposed Federal  
action or actions. And this meeting will just give NMFS the  
opportunity to present to the public our proposed action and  
to gain some insight on the range of issues that should be  
covered in the EIS. This is our fifth scoping meeting on the  
West Coast, we've been in California, Honolulu, and Seattle.  
And then we continue on to St. Petersburg, Boston and then  
Silver Spring.

So the agenda for our meeting, the  
information on scoping, we'll have a background on the  
National Environmental Policy Act process, an overview of the  
Marine Mammal Health and Stranding Response Program, a review  
of the proposed actions and alternatives for our EIS and the  
public comment period. So we ask that you please sign up at

1 the registration table to present your oral comments. And if  
2 you haven't you can also do it later after you've seen our  
3 presentation. Written comments may also be turned in today,  
4 if you have prepared ones we can take them we also have a  
5 written comment form that you can take with you as well. And  
6 just to let you know that today's meeting is being recorded  
7 by a court reporter.

8                   So the National Environmental Policy Act.  
9 The purpose of NEPA, this is straight from the act itself, is  
10 to encourage harmony between man and the environment, to  
11 promote efforts to prevent or eliminate damage to the  
12 environment and to enrich man's understand of important  
13 ecological systems and natural resources. The requirements  
14 of NEPA, NEPA requires any agency that is going to propose a  
15 Federal action to assess the potential environmental impacts  
16 of the action and they must consider the environmental  
17 consequences during decision making to reduce, prevent or  
18 eliminate environmental damage. And NEPA also requires  
19 public involvement in different phases of the EIS. And it's  
20 important to know that NEPA does not dictate the decision  
21 that will be made by NMFS but it just helps to inform the  
22 decision-making process.

23                   So why are we preparing an EIS? There are a  
24 list of factors that NOAA must consider when they are  
25 proposing an action and this list will determine if a EIS is

1 necessary. So these are the ones that we feel apply to our  
2 EIS. That is the Federal action maybe subject -- a subject  
3 of significant public controversy based on potential  
4 environmental consequences. It may have uncertain  
5 environmental impacts, it may establish a precedent and  
6 principle about future proposals, it may result in  
7 cumulatively significant impacts or it may have adverse  
8 affects on threatened or endangered species or their  
9 habitats.                   The benefits of preparing this EIS.  
10 It will allow for a programmatic analysis of the MMHSRP the  
11 current activities and the future activities. It will allow  
12 for the assessment of the cumulative impacts of the current  
13 and future activities of the program and it will eliminate  
14 the need to conduct individual NEPA analysis on each of the  
15 individual activities.

16                   Why is NMFS doing an EIS now? The current  
17 Marine Mammal Protection Act and Endangered Species Act  
18 permit that is issued to the MMHSRP will expire June 30th of  
19 2007 and in order for us to obtain a new permit a NEPA  
20 analysis must be done on the activities that are covered  
21 under the permit. The EIS is also needed to finalize the  
22 interim standards that are provided in the policies and  
23 practices manual. And both the permit and the policies and  
24 practices manual will be talked about by Sara in a few  
25 minutes.

1                   What are the components of an EIS? The  
2 purpose and need is just a statement detailing why the  
3 action is being considered. The proposed action and  
4 alternatives to the proposed action are also covered. The  
5 affected environment which basically covers resources that  
6 may be impacted by the proposed action. Potential  
7 environmental consequences and mitigations to these  
8 consequences and also consideration of public input.

9                   This is a list of environmental resources  
10 that are typically considered in an EIS and those that we  
11 feel are important area are protected species, water quality,  
12 human health and safety, treaty rights and cumulative  
13 impacts. It doesn't mean that the other won't be covered in  
14 our EIS but these are just the main ones. The EIS process,  
15 the notice of intent or the NOI was published in the Federal  
16 Register December 28th and that actually began our formal  
17 scoping process. Our scoping process will wrap up in  
18 February and comments are due February 28th. The draft EIS  
19 will be published and once the draft EIS is published there's  
20 a 45 day comment period and we will also have public meetings  
21 as well. The final EIS is published and 30 days after the  
22 final EIS a Record of Decision is issued and this is just a  
23 document that says what the agency decided upon and how they  
24 came to those conclusions.

25                   Public input opportunities, obviously you're

1 participating today in our scoping meeting and we recommended  
2 that you, you know, identify any issues and please comment on  
3 them by oral or written. Sign up on our mailing list to  
4 receive the draft EIS, the final EIS and any other  
5 information that we may give out. Review and comment on the  
6 draft EIS, participate in a public hearing and also review  
7 the final EIS.

8                   So this is our tentative schedule for our  
9 EIS. As I said scoping will be finished at the end of  
10 February. The draft EIS will be complete by September of  
11 this year. Public hearings in November of 2006, the final  
12 EIS should be completed by May of 2007 with the ROD being  
13 issued in June of 2007.

14                   So I'll pass this over to Sara for the rest  
15 of our presentation.

16                   MS. WILKEN: All right. So Sarah's told you  
17 kind of NEPA in general and I'm here to tell you more about  
18 our EIS and what exactly we're planning -- proposing to do.  
19 So just first a general background about the MMHSRP. It was  
20 established under Title 4 which is an amendment to the Marine  
21 Mammal Protection Act. And it has these three mandated  
22 goals, so these are written into the statute, that the MMHSRP  
23 should facilitate the collection and dissemination of  
24 reference data on health and health trends of marine mammal  
25 populations in the wild. That it should correlate these

1 health findings and health trends of the marine mammals with  
2 environmental parameters. And third, to coordinate effective  
3 responses to marine mammal unusual mortality events.

4                 So, the MMHSRP then as it was -- it was  
5 established in the statute and this is how it's been  
6 implemented by NMFS to date. Under the overarching big  
7 program there's many components to it, including the Marine  
8 Mammal Stranding Network, which is a national organization of  
9 agreements that NMFS has with different facilities to do  
10 stranding response. The Disentanglement Network which is  
11 similar to the Stranding Network but uses different partners.  
12 The Prescott Rescue Assistance Grant Program which is  
13 established to give financial assistance to participants in  
14 the Marine Mammal Stranding Network and to scientific  
15 researchers who are using tissues from stranded marine  
16 mammals.

17                 The unusual mortality event and emergency  
18 response program, which again uses members from the Stranding  
19 Network but also involves another body the working group, on  
20 Marine Mammal Usual Mortality Events which acts as a  
21 consulting group. The information management program which  
22 is responsible for managing the information obtained by all  
23 the other different aspects of the MMHSRP and finally the  
24 Health Bio Monitoring Research Development and Tissue Banking  
25 programs which serve as the research arm for the MMHSRP.

1                 Sarah mentioned the issuance of the policies  
2 and practices manual. This is what we have envisioned at the  
3 current time to be issued as all together as part of one  
4 manual. So these policies are for stranding agreements, both  
5 the template how the agreement will be written and the  
6 minimum qualifications required before a group can obtain a  
7 stranding agreement. Again the minimum guidelines for a  
8 rehabilitation facility and the criteria for a release  
9 determination prior to releasing a rehabilitated marine  
10 mammal. And then the Disentanglement Network guidelines  
11 which are current implemented and essentially this form on  
12 the East Coast but issuing them as part of the policies would  
13 expand them nationwide.

14                 Just a little bit about the permit. The  
15 permit is issued to the program with Dr. Terry Rolls who's  
16 the head of the program as the principle investigator. It is  
17 issued jointly under the Marine Mammal Protection Act and the  
18 Endangered Species Act. And probably the number one thing  
19 that the permit allows is that it provides for both stranding  
20 and disentanglement response of ESA listed animals. So while  
21 under the MMPA we have the authority to enter into agreements  
22 for stranding response there's no parallel kind of authority  
23 under the ESA, so we need another mechanism to permit the  
24 takes involved in stranding response, so this permit is how  
25 it's done. And each of the regional coordinators is listed

1 as a co-investigator under the permit and then the authority  
2 is delegated down to the facilities.

3                   The permit also allows for import and export  
4 so international transfer of tissues and also the analysis of  
5 diagnostic tissues without needing to get a separate permit  
6 for that group to do the diagnostics. And then it provides  
7 for health assessment captures in populations where there's  
8 a question relating to health or health trends. So these are  
9 captures of what we believe to be healthy animals but in a  
10 population where's there's been some kind of health question  
11 like a UME or a disease outbreak or something in the past.

12                   So just to give you a little bit of overview  
13 of what we're -- the scope of what we're talking about here.  
14 These are the total U.S. strandings for which a Level A data  
15 form or basic data sheet was filled out from 2001 through  
16 2004. And down at the bottom there one of the important  
17 things to keep in mind we're doing a programmatic analysis so  
18 looking at the activities of the stranding network throughout  
19 the entire country and on a fairly significant time scale.  
20 So accumulative impacts becomes kind of a big concern where  
21 we're looking at you know, not just responding to one or a  
22 handful of animals but responding to, for instance, almost  
23 5,000 pinnipeds in one year.

24                   And specifically for your region these are  
25 the most recent numbers we have for Pinaped strandings in

1 2001 to '04. Dead pinnipeds, so animals that were stranded  
2 and reported when they're dead. Animals that stranded --  
3 pinnipeds that stranded live. And then the last category is  
4 released pinnipeds which are those that were taken into  
5 rehabilitation and then released from rehabilitation. And  
6 again also with citation strandings, with dead, live and  
7 cetaceans that were rehabilitated and then released.

8                   So that's a little bit of background about  
9 the program, and now a little bit more about the EIS. So  
10 every EIS has a purpose and needs statement which should  
11 explain relatively concisely and in plain language what it is  
12 that we are trying to accomplish. So the purpose for our EIS  
13 is essentially the same as the purpose for our program. And  
14 that is to respond to marine mammal in distress, which  
15 includes stranded animals, entangled animals and those that  
16 are out of habitat. And to answer research and management  
17 questions related to marine mammal health.

18                   And the need, why we need to do this response  
19 is threefold. And the need for our EIS, is to operate the  
20 program effectively and efficiently making the best use of  
21 limited resources everyone can pretty much agree across the  
22 board there's never enough money to go around and there's  
23 never enough time and people and effort. So our challenge is  
24 to try and figure how to operate the program the most  
25 efficiently using what we have. In order to collect the data



1 on Marine mammal health and health trends that we need to  
2 meet our information needs and these are our information  
3 needs as an agency for appropriate conservation and  
4 management and eventual recovery of marine mammal  
5 populations. And finally to ensure that human and animal  
6 health and safety is always one of our highest priorities.

7           So the proposed action then is the issuance  
8 of the policies and best practices in one manual that would  
9 incorporate all of the interim documents but they would be  
10 released as final guidelines. The application and reissuance  
11 of a permit under the ESA and MMPA. Stranding agreements  
12 would continue to be issued and renewed on a case by case  
13 basis but this would take into account the policies that are  
14 in the manual so the criteria would be implemented and the  
15 template would be implemented. And other day to day  
16 operations would continue including response, rehabilitation  
17 and release determinations, but again using the criteria and  
18 the policies set forth in the best practices manual.

19           So the action alternative or the alternative  
20 one as listed in the FR, and I should state though, in the  
21 Federal Register notice which is published on December 28th  
22 we set forward a list of proposed alternatives. Since the  
23 date of publication we have kind of kept on the development  
24 process and thinking about it and brainstorming we've come up  
25 with alternate alternatives or different alternatives that I

1 will be presenting after these. So these are the ones as  
2 they were presented in the Federal Register. The action  
3 alternative or alternative one, is the same essentially as  
4 the preferred alternative which is the issuance of the  
5 policies, the issuances of the permit and issuing and  
6 renewing stranding agreements and the continuation of the  
7 Disentanglement Network.

8           NEPA requires that we analyze a no action  
9 alternative, which is what would happen if the government did  
10 nothing or stopped doing what it's currently doing. Under  
11 the no action alternative the policies and practices would  
12 not be issued and the permit would not be issued because  
13 those are Federal activities. However, it would also have a  
14 trickle down affect in that stranding agreements would not be  
15 issued when the expired and there would be no extension of  
16 contracts or any kind of authorizations and no further  
17 biomonitoring research activities. So essentially as these  
18 agreements expired or weren't extended the network as we know  
19 it right now would cease to function. And I state here that  
20 this could conflict with our statutory mandates under Title  
21 4 which say that we have to obtain the health information,  
22 but NEPA -- actually the guidance that we've been given says  
23 that we should consider alternatives even if they conflict  
24 with other state mandates -- Federal mandates. Also all the  
25 no action alternative would mean is that we would stop

1 implementing the program the way we currently do, but if we  
2 could come up with an alternative implementation we could  
3 still collect that data.

4           The status quo alternative or alternative  
5 three, is what happens if we keep doing what we're doing. So  
6 we would not issue the policies and practices because that  
7 would be a new action. However we could keep renewing  
8 stranding agreements that currently exist, we could renew the  
9 permit as it's written and implemented right now. We could  
10 continue our agreements with disentanglement partners that we  
11 currently have and we would continue to consider new  
12 applications for stranding agreements on a case-by-case  
13 basis. So this would ensure that the network could continue  
14 to function at it's current level, however, there are  
15 concerns that we would not be able to make adaptive changes  
16 to the network as new technologies came out or as new  
17 partners wish to come on board and be part of the network, et  
18 cetera.

19           And then alternatives that are considered but  
20 maybe eliminated from further study involve restricting or  
21 limiting the activities of the program in some way. So  
22 either only doing biomonitoring and research and no longer  
23 doing stranding response. Alternately only doing stranding  
24 response, only responding to cetacean or only responding to  
25 ESA listed marine mammals.

1           Okay so here's what we're here today to  
2 propose as our alternate alternatives or a different way of  
3 thinking about it. And that is to have a subset of  
4 alternatives under different activities, we've chosen the six  
5 activities shown here as kind of large categories of  
6 activities that the MMHSRP does and then under each one of  
7 these there would be a series of alternatives. The reason  
8 we've chosen these six is because these are the ones that we  
9 have identified today as having potential impacts on the  
10 environment. So stranding response -- actually I should say  
11 health and human safety is present in all of these. But  
12 stranding response has the potential for disturbance to the  
13 beach communities in both physical and biological  
14 communities. Carcass disposal and euthanasia is a concern  
15 because we already have carcasses that have high contaminate  
16 loads and are considered a disposal hazard -- they're  
17 considered hazardous waste and need to be disposed of  
18 properly. And if you euthanize an animal then you have  
19 euthanasia solution or chemicals than will be distributed  
20 into the environment. Rehabilitation: again, health and  
21 safety of especially the volunteers who are coming in -- and  
22 staff who are coming into contact with the animals. Release  
23 of rehabilitated animals is the concern of potential spread  
24 of disease and other organisms to the wild population.  
25 Disentanglement is primarily a health and human safety and

1 also a potential controversy, and then biomonitoring and  
2 research activities. So each of these activities  
3 will be set up with alternatives under it and then a  
4 preferred alternative or a combination of alternatives can be  
5 chosen from within each activity and then combined into one  
6 large action. And we'll go through that in very fine detail.

7

8 So we start with the stranding response  
9 activity. The alternatives under this include a no action  
10 alternative, which we don't do anything and we allow  
11 stranding agreements to expire which means the network ceases  
12 to function at some point in the future. Status quo  
13 alternative where we renew the current stranding agreements  
14 that we have but don't authorize any new groups or we do it  
15 on a case-by-case basis. And immediate curtailment of the  
16 response so this is similar to the no action although it  
17 happens on a sooner time line.

18 And then the last two on this slide are  
19 recurring themes that you'll see over and over again as we go  
20 through all of these. That is that we would have different  
21 categories or types of response depending on the status of  
22 the animal that we're responding to. And there's two ways to  
23 think about it and they both tie back to the stranding  
24 agreement and what is contained within the stranding  
25 agreement. So the first way is that the stranding agreement

1 would require a response to one category of animals and a  
2 response to the other category or the remaining animals would  
3 be what we call optional or not required in the agreement.  
4 And then the second is that the stranding agreement would  
5 authorize response activities to some subset of animals but  
6 then the other animals would not -- you would not be  
7 authorized to respond to them, which would essentially  
8 prohibit response.

9 And then underneath each of these we have  
10 kind of three ways that we have currently thought of kind of  
11 splitting up the groups of animals between requiring response  
12 to cetacean and making response to pinnipeds be optional,  
13 requiring response to ESA listed animals and making response  
14 to animals that are not listed be optional and species below  
15 their optimum sustainable population as deemed in the stock  
16 assessment report or with an unknown population level would  
17 be required in species at or above OSP would be optional.  
18 And again all of those go down to the response to animals  
19 authorized and other animals not authorized. So these are  
20 just ways of trying to break up the effort.

21 In addition we have three more alternatives  
22 that are about the products, the interim documents. And the  
23 first one is that a stranding agreement would be issued to  
24 any applicant after review of their application materials,  
25 essentially that the minimum criteria would not be

1 implemented. The second is that the criteria would be  
2 implemented exactly as they are proposed right now so that  
3 only applicants that meet that criteria would be issued a  
4 stranding agreement. And the third is that the stranding  
5 criteria under goes some kind of revision as a result of the  
6 EIS process and are then implemented.

7 All right. Under carcass disposal and  
8 euthanasia, again there's a no action alternative, which we  
9 would allow stranding agreements to expire and animals would  
10 no longer be responded to, therefore they're left on the  
11 beach. The status quo alternative where we continue what  
12 ever current stranding agreements are existing and therefore  
13 current methods of carcass disposal continue what ever those  
14 may be. Another alternative would be to require that all  
15 animals were to be buried, returned to then environment.  
16 Another alternative is that all animals can not be left at  
17 the site but must be transported off site and then disposed  
18 of by any other means, a landfill, a incinerator, towed out  
19 to sea, et cetera. And then with regards to euthanasia  
20 either that you know one alternative is that no animals are  
21 chemically euthanized and therefore we have to come up with  
22 other still humane ways of euthanasia or that chemically  
23 euthanized animals have to be transported for disposal and  
24 disposed of in a allowed facility. While animals that are  
25 not chemically euthanized can be left on the beach, buried or

1 transported as feasible.

2 All right. And by under the activity the  
3 heading of rehabilitation the no action alternative again  
4 that agreements expire. Statues quo, we keep renewing  
5 current agreements, immediate cessation again is the same as  
6 the no action although on a sooner time line. Again with  
7 partitioning effort between different groups of animals and  
8 whether it's required versus optional or authorized versus  
9 prohibited and then with the facility guidelines whether  
10 they're implemented as proposed or modified and then  
11 implemented.

12 Release of marine mammals back to the wild.  
13 Again a no action alternative, status quo, all animals are  
14 released so if they're not release candidates they're either  
15 not taken into rehabilitation in the first place or they are  
16 euthanized. Release of some animals and not release of  
17 others, broken up in a couple different ways. And then the  
18 release criteria either implementing them exactly as proposed  
19 or modifying them and then implementing.

20 Disentanglement, again no action and status  
21 quo. And then partitioning as where some -- disentanglement  
22 of some animals would be authorized under the permit and  
23 other would not be. And then the implementation of  
24 disentanglement guidelines this would be nationwide and would  
25 involve training prerequisites prior to participation in the

1 Disentanglement Network or the modification of the  
2 disentanglement guides and then implementation.  
3                   And finally biomonitoring. The no action  
4 alternative, the permit would be allowed to expire and  
5 therefore biomonitoring activities would cease. Status quo  
6 we renew the permit and continue those activities that are  
7 currently existing. One thing to limit would be no more  
8 health assessment captures, so biomonitoring would still  
9 continue but only through tissues from stranded animals by-  
10 caught animals and animals from subsistence hunts.  
11 Alternately no tissue banking so that tissues would be used  
12 -- the tissue bank, marine mammal tissue bank as we know it  
13 would end and any tissues collected would be used in  
14 immediate analyses and that would preclude the ability to do  
15 retrospective studies in the future. Or the issuance of a  
16 new permit with both current and new foreseeable research  
17 projects, essentially allowing biomonitoring activities to  
18 continue and even expand.  
19                   All right. So under each of those activities  
20 there's a pretty wide range of alternatives and we are  
21 seeking input from you the public to assist us in a couple of  
22 different ways as we proceed with the analysis. The first is  
23 to identify environmental concerns, I put forward those six  
24 activities as activities which we have seen have the  
25 potential to have impacts on the environment. If you can --

1 if you see any other activities that we have that also have  
2 the potential, if you could identify those that's one thing  
3 we're requesting. And also is concerns with direct, indirect  
4 and accumulative impacts of the MMHSRP on kind of a national  
5 scale.  
6                   The second is to help define the alternatives  
7 and potential mitigation measures, so we've proposed a wide  
8 range of alternatives under each of the activities and we  
9 understand that not all of those alternatives are feasible or  
10 even necessarily a good idea. And we're asking for public  
11 input to help us kind of limit the range of alternatives that  
12 we actually consider in depth. And assist us to reject some  
13 of them. And then the third thing is to make necessary  
14 modifications to the interim policies, so as part of this  
15 process we are also asking for your comments on all of the  
16 interim documents that are proposed and whether editorial in  
17 scope or kind of broader.  
18                   So here are some of the specific questions  
19 that we're asking. And the first heading is types of  
20 activities, so in your opinion, personal, professional, as an  
21 organization, as a government agency. What sort of  
22 activities should the MMHSRP be conducting on a local,  
23 regional and national level in response to stranded and  
24 entangled, sick, injured and other marine mammals in  
25 distress, and how should those activities differ. And are

1 there critical research or management needs that may be met  
2 by doing stranding investigations, by doing rehabilitation,  
3 by doing disentanglement or by doing this health related  
4 research and biomonitoring. If there are these needs do you  
5 see that they are currently being met, or if not what needs  
6 can you identify that are not currently being met and what  
7 can we do in order to meet them.

8           The next category is the level of response  
9 effort and should there be different standards or levels of  
10 effort for different species or groups of species. So under  
11 each of those activities it was proposed that we partition  
12 our effort or restrict our effort in some way. So the first  
13 question is, is that a good idea just in general? If so, how  
14 would you advise NMFS to set standards or levels or effort  
15 and how would you like to see species divided? So these are  
16 some that we've come up with, cetacean, pinnipeds, ESA  
17 listed, non-listed or somehow based on their population  
18 status, if you have other ideas those would be appreciated.

19           The next main category is about organizations  
20 and qualifications. So participates in the Stranding  
21 Network. And the first is, is the current organization of  
22 the National Stranding and Health Assessment Networks  
23 adequate and this is at the local, at the state, at the  
24 regional, at the ecosystem and at the national level. What  
25 changes do you see that would make the organization of the

1 MMHSRP more effective? The next question has to do with the  
2 minimum qualifications, interim document. Which is that,  
3 what should the minimum qualifications of a individual or  
4 organization be, prior to becoming a stranding agreement  
5 holder or disentanglement participate? In other words, do  
6 you think the minimum interim document as proposed is  
7 adequate or should it be changed and if so, how?

8           And then what about the requirements for  
9 continue participation in the network. Once you have  
10 obtained a stranding agreement, what if anything should we  
11 ask of you in order to maintain it? Should there be  
12 certification or licensing process? What about required  
13 training or continuing education credits or something  
14 similar? And the effects of the activities of the MMHSRP are  
15 public and animal health and safety needs currently  
16 adequately addressed by the program? Are the current release  
17 criteria as proposed adequate to protect wild populations  
18 from introduced diseases? Are there any other potential  
19 environment impacts that we have not identified resulting  
20 from any of the activities conducted under the program? And  
21 are there any other relevant issues or data NMFS should  
22 consider in this analysis? And if you have other  
23 information, if you could provide or a reference for it that  
24 would be useful.

25           All right. That concludes the formal

1 presentation that we're giving you. The next part of the  
2 process is oral comment period which is a formal comment  
3 given from you to NMFS, it's not a question and answer  
4 session, in that we will respond to comments as part of the  
5 EIS document, but we will not respond to them today. But if  
6 you have comments if you want to sign in and let us know your  
7 name and affiliation. You'll have four minutes which is  
8 flexible if there's not very many of you. And just to stress  
9 that the meeting is being recorded so that we'll have a  
10 complete record of your oral comments. Oral comments and  
11 written comments hold the same weight in that they all get  
12 treated equally, so with written comments your options are to  
13 hand them in today if you have prepared comments, to take one  
14 of our comment sheets over there and fill it out and then  
15 hand it in later either today or later. Or submit them on a  
16 sheet or typed up separately however you want, by mail, email  
17 or by fax. And all of these addresses are available in the  
18 FR notice in the handouts and on our website. And comments  
19 are due at the end of February.

20 Additional information is available regarding  
21 our EIS it's available for review at public libraries,  
22 there's one in each city where we're having a scoping  
23 meeting, so there's here, the public library in Anchorage has  
24 a copy of all the documents, for instance, and any other  
25 additional information. And we will be maintaining those

1 through the process so the draft EIS, for instance, will also  
2 be housed there and a final copy. It's also available for  
3 download on our web page, listed at the bottom. And then if  
4 you want to receive a copy of the draft EIS when it's  
5 published if you register on our mailing list here or you can  
6 check the website.

7 And we'd like to thank you for your  
8 participation. Is there anybody who wants to make a comment?

9 (No responses)

10 MS. WILKEN: Anyone at all?

11 (No responses)

12 MS. WILKEN: All right then that will

13 conclude the formal portion of our meeting.

14 (Off record)

15 (END PROCEEDINGS)

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C E R T I F I C A T E

UNITED STATES OF AMERICA)

)ss.

STATE OF ALASKA )

I, Joseph P. Kolasinski, Notary Public in and for the  
state of Alaska, and reporter for Computer Matrix Court  
Reporters, LLC, do hereby certify:

THAT the foregoing Scoping Meeting for NMFS was  
electronically recorded by Nathan Hile on the 1st day of  
February 2006, in Anchorage, Alaska;

That this hearing was recorded electronically and  
thereafter transcribed under my direction and reduced to  
print;

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed my seal this 12th day of February 2006.

\_\_\_\_\_  
Joseph P. Kolasinski  
Notary Public in and for Alaska  
My Commission Expires: 3/12/08

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MARINE MAMMAL HEALTH AND STRANDING RESPONSE PROGRAM  
 ENVIRONMENTAL IMPACT STATEMENT  
 SCOPING MEETING

DATE: February 7, 2006

TIME: 5:30 p.m.

PLACE: NMFS Southeast Regional Office  
 263 - 13th Avenue South  
 St. Petersburg, Florida

REPORTED BY: DANIEL J. RUSSETTE, RMR  
 Notary Public  
 State of Florida at Large

PRESENT: SARAH WILKINS  
 SARAH HOWLETT

Pages 1 through 31

MORGAN J. MOREY & ASSOCIATES

1 MS. HOWLETT: We're going to start our meeting  
 2 today. I'd like to welcome everybody to the scoping meeting  
 3 for the Marine Mammal Health and Stranding Response Program  
 4 Environmental Impact Statement. My name is Sarah Howlett,  
 5 and I'm here with my colleagues, Sarah Wilkin and Trevor  
 6 Spradlin, and we're from the Office of Protected Resources  
 7 in Silver Springs. And I'd also like to introduce Mike  
 8 Payne, who is the chief of the Marine Mammal and Sea Turtle  
 9 Conservation Division. And we also have, from the Southeast  
 10 Region, we have Laura Engleby, Vicki Cornish and Blair  
 11 Mase-Guthrie, who is the Regional Stranding Coordinator.

12 So the purpose of our scoping meeting today is to  
 13 allow for the early public notification of a proposed  
 14 federal action or actions. And this just provides the  
 15 National Marine Fisheries Service, NMFS, the opportunity to  
 16 present you, the public, the proposed action. And we also  
 17 are seeking input on the scope of our EIS or the range of  
 18 issues that will be covered in our EIS.

19 This is actually our sixth scoping meeting. We  
 20 had five on the West Coast within the past two weeks. Two  
 21 in California, one in Honolulu, one in Seattle and one in  
 22 Anchorage. And after today's we go to Boston, and then we  
 23 will have one in Silver Spring as well. So our agenda for  
 24 today's meeting is providing information on scoping. I will  
 25 also be providing background on the National Environmental

MORGAN J. MOREY & ASSOCIATES

1 Policy Act process. And Sarah will be giving the overview  
2 of the MMHSRP program as well as a review of the proposed  
3 actions and alternatives for our EIS. And we'll also have a  
4 formal public comment period.

5 So we please ask that you sign in at the  
6 registration table. If you'd like to be on a mailing list  
7 or if you would like to make an oral comment today. Also we  
8 will be accepting written comments today. If you have  
9 brought them you can give them to us. Or we also have a  
10 written comment form you can take with you. And also  
11 today's meeting is being recorded by a court reporter to  
12 keep our record.

13 So the National Environmental Policy Act process.  
14 The purposes of NEPA, this is straight from the act itself,  
15 is to encourage harmony between man and the environment, to  
16 promote efforts to prevent or eliminate damage to the  
17 environment and to enrich man's understanding of important  
18 ecological systems and natural resources.

19 The requirements of NEPA. Any federal agency  
20 action that's considered a major action must be analyzed for  
21 the potential environmental impacts. And this means that  
22 the federal agency must consider environmental consequences  
23 during decision-making to reduce, prevent or eliminate  
24 environmental damage and also to provide the public time to  
25 basically be involved in the EIS process. And it's

1 important to note that NEPA does not dictate the decision.  
2 That will be made by NMFS. But it helps to inform the  
3 decision-making process.

4 So why does NMFS prepare an EIS? There are a list  
5 of factors that need to be considered to determine if an EIS  
6 must be prepared, and these are just the factors that we  
7 believe I guess pertain to our federal action, and that is  
8 that the action could be the subject of significant public  
9 controversy based on potential environmental consequences  
10 and it may have uncertain environmental impacts. It may  
11 establish a precedent in principle about future proposals.  
12 It may result in cumulatively significant impacts. Or it  
13 may have adverse effects upon endangered or threatened  
14 species or their habitats.

15 The benefits of this EIS. It will allow for a  
16 problematic analysis of the MMHSRP. The current and the  
17 future projects that may fall under it, it will allow for an  
18 assessment of cumulative impacts of the actions and it will  
19 eliminate the need to conduct individual NEPA analyses of  
20 the programs' activities.

21 Why are we conducting an EIS now? Our current  
22 Marine Mammal Protection Act Endangered Species Act permit  
23 will expire on June 30th of 2007. In order for us to be  
24 reissued this permit we must conduct a NEPA analysis of the  
25 activities that are covered under the permit. An EIS is

1 needed to finalize the standards provided in the Policies  
2 and Practices manual. And both the permit and the Policies  
3 and Practices manual will be discussed a little bit later.

4 The components of an EIS. The EIS contains the  
5 purpose and need, which is just a brief statement explaining  
6 why the action is being considered. The proposed action and  
7 the alternatives to the proposed action. The effected  
8 environment or what resources may be impacted by the action.  
9 Potential environmental consequences and mitigations to  
10 these environmental consequences, as well as consideration  
11 of public input and comments.

12 So this is a list of resources that are typically  
13 considered in an EIS and those that we feel are most  
14 important for our EIS. Protected species, including marine  
15 mammals and threatened and endangered species, water  
16 quality, health, human health and safety and cumulative  
17 impacts.

18 In the EIS process the Notice of Intent or the NOI  
19 was published in December and it began the official scoping  
20 period for our EIS. Once that is done the draft EIS will be  
21 published, and after it is published there will be a 45 day  
22 comment period and a set of public hearings to gain comments  
23 back from the public. The final EIS will be published, and  
24 30 days after the final EIS the Record of Decision or ROD  
25 will be published. And this just states the agency's

1 decision and how they came upon the decision.

2 Public input opportunities for the EIS process.  
3 Tonight you are participating in a scoping meeting. We ask  
4 that you can identify specific issues and submit comments  
5 about those issues. You can sign up on our mailing list to  
6 receive information about the EIS, including the draft EIS.  
7 You can review and comment on the draft EIS. You can  
8 participate in a public hearing. And you can also review  
9 the final EIS.

10 So our tentative schedule for the EIS scoping will  
11 be wrapped up by the end of February. The draft EIS will be  
12 complete by September of this year. The comments and the  
13 public hearings will be conducted between September and  
14 November of this year. The final EIS will be completed by  
15 May of 2007 with the Record of Decision being issued in June  
16 of 2007. And here is Sarah, who will give you the proposed  
17 action and alternatives.

18 MS. WILKIN: All right. So while Sarah gave you a  
19 great overview of what NEPA is in the general sense, I'm  
20 here to give you more in the specifics of what it is  
21 exactly. So just a little bit of background about the  
22 Marine Mammal Health and Stranding Response Program. If  
23 you're not familiar, it was established under Title IV,  
24 which is an amendment to the Marine Mammal Protection Act,  
25 and there are three mandated goals and purposes. These are

1 written into the statute. That the MMHSRP is to facilitate  
2 the collection and dissemination of reference data on health  
3 and health trends of marine mammals and wild populations.  
4 And then to correlate the health and health trends that it  
5 has collected to environmental parameters. And then, third,  
6 to coordinate effective responses to unusual mortality  
7 events of marine mammals.

8           So while the act established the program NMFS has  
9 implemented the program in this way by having many different  
10 components. All these are kind of subprograms under the  
11 umbrella of the Marine Mammal Health and Stranding Program.  
12 These include the Marine Mammal Stranding Network, the  
13 Marine Mammal Disentanglement Network, the John H. Prescott  
14 grant program, which awards financial assistance to  
15 stranding network members and scientific researchers  
16 utilizing tissues collected from stranded animals. The  
17 Marine Mammal Unusual Mortality Event and Emergency Response  
18 Program, which, again, incorporates many of the people from  
19 the stranding network as part of the response but also  
20 involves an advisory group called the Working Group and  
21 other outside partners. The Information Management Program,  
22 which is charged with managing and collecting and actually  
23 disseminating the data that's collected by all of the other  
24 components of the program. And then the Marine Mammal  
25 Health Biomonitoring, Research, Development and Tissue

1 Banking Program, which is kind of the broad, overreaching  
2 research arm of the MMHSRP.

3           The interim policies, which we've discussed, are  
4 currently available for your review. And these are the  
5 following five policies, which are mostly aimed at the  
6 stranding network but also include the Disentanglement  
7 Network guidelines. So there is an interim Stranding  
8 Agreement template, which is the template language of how  
9 stranding agreements are going to be issued between NMFS and  
10 facilities. The Stranding Agreement minimum qualifications,  
11 which are the qualifications necessary to attain a Stranding  
12 Agreement in the first place. Rehabilitation facility  
13 guidelines, which are the minimum requirements for a  
14 facility to be doing rehabilitation of marine mammals. And  
15 the release criteria that should be fulfilled prior to the  
16 release of a rehabilitated mammal to the wild. And, again,  
17 the disentanglement network, which are implemented on the  
18 East Coast but we are proposing to implement them  
19 nationally.

20           Just a little bit of overview on the permit. This  
21 permit is issued to the program under the Marine Mammal  
22 Protection Act, which is issued to Dr. Teri Rowles, who is  
23 the principal investigator. She's the head of the program.  
24 And what it provides for is the very important element that  
25 some of you might not be aware of, which is the response,

1 both stranding, disentanglement, rehabilitation, release,  
2 everything for those animals are listed under the Endangered  
3 Species Act.

4 So the Marine Mammal Protection Act sets up ways  
5 that allows NMFS to enter into agreements with facilities to  
6 conduct stranding response and rehabilitation under  
7 stranding agreements and also allows for state and federal  
8 and local governments to conduct stranding response  
9 activities. The ESA doesn't have any kind of comparability  
10 provision, so in order to undertake these response  
11 activities we actually need to be covered under a permit for  
12 the Endangered Species Act.

13 So this permit is issued to the program, and then  
14 the regional coordinators or co-investigators and  
15 authorities, going down to the stranding responders. The  
16 permit also permits import and export of tissues that are  
17 collected for diagnostic purposes from marine mammals  
18 stranded and rehabilitated. And also analyses of those  
19 tissues. And finally -- well, actually not finally, but  
20 another major component of the permit is the  
21 health-assessment captures, and these are captures of  
22 animals that we believe are healthy but in populations where  
23 there is some kind of question about the health or health  
24 trend of the population, such as in an area where there has  
25 been an unusual mortality event in the past or recurring

1 mortality events. There are other aspects to the permit,  
2 but these are the major ones, particularly for the EIS.

3 Just an overview of the stranding network. These  
4 are the total U.S. strandings, the most recent data that we  
5 have for 2001 to 2004, and these are animals for which a  
6 Level A data sheet was filled out, which is our basic  
7 baseline kind of data for both cetaceans and pinnipeds. And  
8 this is nationwide.

9 So one thing I have down at the bottom that we're  
10 really trying to consider in this EIS is the cumulative  
11 impacts of the actions of the network. So while response  
12 and rehabilitation to one animal or a few animals, or  
13 whatever your facility might do, might not seem like a lot,  
14 when you look at the entire country you see that, for  
15 instance, in 2003 the response is almost 5,000 pinnipeds  
16 nationwide. For you in the southeast region this is what  
17 the picture looks like over the same number of years. These  
18 are pinniped strandings. You notice the Y axis scale is  
19 quite a bit different than the previous slide. But the  
20 released pinnipeds are those that are pinnipeds that were  
21 stranded live, taken into rehabilitation and then  
22 subsequently released. And some of these may have been  
23 transported out of the region but they were eventually  
24 returned.

25 And these are the numbers for cetacean strandings.

1 Again, it is important to note the Y axis. There are a  
 2 significant number of cetacean strandings in the southeast  
 3 region. Most of them would be dead animals, although there  
 4 were some live cetacian strandings. Some animals that are  
 5 rehabilitated and released.

6 So the purpose and need for our EIS is essentially  
 7 very similar to the purpose and need for the program in  
 8 general. And that is to respond to marine mammals in  
 9 distress, which include those that are stranded, those that  
 10 are entangled and those that are out of habitat, among  
 11 others, and to answer research and management questions  
 12 related to marine mammal health.

13 So our need, therefore, is to operate the MMHSRP  
 14 effectively and efficiently, making the best use of  
 15 available and limited resources. I think one thing everyone  
 16 can always agree on is there's not enough money to go around  
 17 and there is not enough time and there is not enough people,  
 18 and so our challenge is to try and make the best use of  
 19 those resources that we can in order to operate the program.  
 20 And the program needs to collect the necessary data on  
 21 marine mammal health and health trends for our agency, need  
 22 for appropriate conservation and management of the marine  
 23 mammal species and ensure human and animal health and safety  
 24 is always one of our highest priorities.

25 So this is our proposed action for the EIS. The

1 issuance of the Policies and Best Practices manual, which  
 2 encompasses all those five documents that I talked about  
 3 earlier, and then the subsequent implementation of those  
 4 documents once the manual is issued. The issuance of a new  
 5 permit to the MMHSRP which would encompass those activities  
 6 I talked about earlier and potentially others. Stranding  
 7 agreements would continue to be issued and renewed on a  
 8 case-by-case basis, but it would be done using the templates  
 9 that are part of the Policies and Practices manual. So the  
 10 Stranding Agreement template and the minimum criteria. And  
 11 then other day-to-day operations would continue, response,  
 12 rehabilitation, research, et cetera, but, again, utilizing  
 13 those policies and practices.

14 So action alternative or alternative one. Then I  
 15 have, parenthesis, as listed in the Federal Register. So  
 16 the Federal Register notice, which you had in front of you,  
 17 or maybe you've looked at our website, was issued on  
 18 December 28th, 2005. It listed a series of alternatives.  
 19 And since then in kind of further discussions and analyses  
 20 we've come up with a different way of framing these  
 21 alternatives that I'll go into in just a minute. But for  
 22 now these are the way that they were presented within the  
 23 Federal Register.

24 So the action alternative is essentially the  
 25 proposed action that I just stated that would involve the

1 issuance of the Policies and Practices, the issuance of the  
 2 permit. Stranding agreements would continue to be issued or  
 3 renewed on a case-by-case basis utilizing Policies and  
 4 Practices and the disentanglement network would continue  
 5 under the permit.

6 NEPA requires we consider a no action alternative,  
 7 which is to say what if the government didn't do anything.  
 8 So on our no action alternative Policies and Practices would  
 9 not be issued and the permit would not be renewed. So with  
 10 this alternative, therefore, there would be no new or  
 11 renewal stranding agreements either and those agreements  
 12 that currently exist would not be extended. There would be  
 13 no extension of contracts or authorization for our partners  
 14 in the disentanglement network and there would be no  
 15 biomonitoring or research activities. Essentially as these  
 16 stranding agreements continue to expire the network as we  
 17 recognize it today would cease to function.

18 Now, you may know I have my conflict with our  
 19 statutory mandates under Title IV of the MMPA which require  
 20 us to collect health and health trend data, however, NEPA  
 21 also advises us that we should assess alternatives even if  
 22 they conflict with other federal laws, and the bottom line  
 23 is those, the statute merely requires us to collect data and  
 24 it doesn't tell us how we should go about doing it. And so  
 25 this is a question of whether the current implementation of

1 the program is sufficient.

2 Status quo alternative or Alternative Three is an  
 3 assessment of what would happen if we maintain the status quo  
 4 or kept on doing kind of business as we're doing it now  
 5 where the Policies and Practices would not be issued,  
 6 current stranding agreements would be renewed as they are  
 7 currently issued and the permit would be renewed or reissued  
 8 as it's currently written and current research activities  
 9 would continue. Current disentanglement permits and new  
 10 applications would be considered on a case-by-case basis,  
 11 much as they are today.

12 So what this means is the network would continue  
 13 to function exactly at its current level into the future.  
 14 And the problem with that is that adaptive changes in the  
 15 network may be precluded from including, adding new  
 16 partners, or as people drop out of the network, for  
 17 instance, or adding a new research technique under the  
 18 permit.

19 And then alternatives that we considered but may  
 20 be eliminated from further study involve limiting the  
 21 impacts of the program in some way by changing what it is  
 22 that we do. So, for instance, one alternative would be to  
 23 only conduct biomonitoring/research activities. Another  
 24 would be to only conduct stranding response and no longer do  
 25 rehabilitation or research. Another would be to respond and

1 do other activities on cetaceans only. The other would be  
2 for most marine mammals. Again, these are alternatives that  
3 would be eliminated from further discussion.

4 So I said that we kind of reconsidered how we're  
5 thinking about these alternatives, and this is how I'd like  
6 to propose you to think about them when you're giving us  
7 your comments. And that is on organizing our alternatives  
8 under each activity. And I have listed here six activities  
9 that are kind of categories of what we do under the MMHSRP.  
10 These are ones that we have identified as having the  
11 potential to have impacts on the human environment.

12 So the first one listed is response. And that  
13 encompasses beach response, capture of animals, transport of  
14 animals, and the potential impact there includes impacts on  
15 the beach and the environment, community by disturbance, and  
16 also health and human safety issues are present throughout  
17 all of these alternatives, but that is one. And also there  
18 is the potential for public controversy.

19 The second is carcass disposal and euthanasia,  
20 which has the potential for environmental impacts. And we  
21 have carcasses that have undetermined or in some cases  
22 extremely high loads of contaminants and toxins and other  
23 chemicals that would be released into the environment,  
24 depending upon the disposal. And then euthanasia as a whole  
25 other suite of issues when you have animals that you know

1 have chemicals added to them and you have to consider how  
2 you're going to dispose of those carcasses.

3 Rehabilitation, again, is health and human safety,  
4 primarily of those volunteers that are working directly with  
5 the animals. Release of rehabilitated animals is a concern  
6 for the wild populations of animals that we are sending  
7 rehab animals back out to and the concern for the  
8 introduction of novel diseases or pathogens that the animal  
9 may have acquired while in rehabilitation.

10 The disentanglement activity primarily encompasses  
11 health and human safety. And then biomonitoring and  
12 research activities, again, are human safety. And then some  
13 other issues. Threatened and endangered species is another  
14 one that comes up. So for the scoping for alternatives  
15 within each of these activities a preferred alternative or  
16 combination of alternatives would be selected and then could  
17 be chosen.

18 And we'll go into that in detail. Starting now.  
19 So under stranding response, for instance. This is the  
20 first activity, stranding response. There is a no action  
21 alternative, which is to say that the government does  
22 nothing and allows all current stranding agreements to  
23 expire, which would essentially end the stranding network at  
24 sometime in the future when those expirations are reached.  
25 This status quo alternative would be that those current



1 stranding agreements would continue to be renewed in  
2 perpetuity so that the stranding network would continue with  
3 exactly the same partners now. If a partner would choose to  
4 drop out of the network there would not be another  
5 organization to replace it.

6 Another alternative could be to curtail a response  
7 immediately. So rather than waiting for stranding  
8 agreements to expire, just decide to stop responding today.  
9 And then the next two are kind of the thought process of  
10 limiting our activities based on the kind of category or  
11 class of animal that we're responding to. And there is two  
12 ways to think about this. And both of these involve how the  
13 stranding agreements are set up. And the first would be  
14 that the response to some animals would be required as part  
15 of the Stranding Agreement, and then response to other  
16 animals would be optional, depending on whether you had the  
17 resources and were able to mount a response.

18 The second one is some animals would be authorized  
19 under the Stranding Agreement and response to other animals  
20 would not be authorized, essentially would be prohibited.  
21 And then under either of these we have a couple of different  
22 ways we thought of divvying up the animals, including  
23 cetaceans on one hand, pinnipeds on the other. Those  
24 animals that are listed under the Endangered Species Act and  
25 species that are below optimal sustainable populations is

another part of where a population value is set for a  
species. So if the animal is below that level or had an  
unknown status the response could be required or authorized,  
and if the species was at that level or above it, then it  
would be optional or prohibited.

The final three alternatives under the stranding  
response activity all involve the Stranding Agreements and  
how they'll be issued. So the first is the Stranding  
Agreement could be issued to any applicant after review.  
The second would be that the criteria, the minimum criteria  
would be implemented as proposed, and, therefore, only those  
applicants that meet minimum criteria will be issued a  
Stranding Agreement. And the third is the criteria as  
proposed would somehow be revised and then implemented.

All right. For the second activity, carcass  
disposal and euthanasia. Again, we have a no action  
alternative. If the stranding agreements expire then there  
will be no longer a response, so carcass disposal is not an  
issue, animals are left on the beach. Status quo  
alternative would be that current Stranding Agreements are  
renewed and current methods of carcass disposal continue,  
which seems to be kind of a case-by-case and  
facility-by-facility basis.

Another method of carcass disposal would be to  
require all animals would be buried on site. Another, all

1 animals would be transported off site for disposal. This is  
 2 kind of the opposite of the other one. And disposal methods  
 3 could include landfill, incinerator, towed out to sea, et  
 4 cetera. And then under the euthanasia, no animals will be  
 5 chemically euthanized or chemically euthanized animals would  
 6 be transported off-site for disposal and other animals would  
 7 be left, buried or transported as feasible.

8 Under the activity category of rehabilitation,  
 9 again, we have no action. Status quo alternative where  
 10 current rehabilitation activities would immediate cease or  
 11 rehabilitation, no more rehabilitation and animals would be  
 12 left euthanized or translocated. Again, the idea of  
 13 dividing our activities between different categories of  
 14 animals and whether that's required or optional. And the  
 15 last two dealing with the Rehabilitation Facility  
 16 Guidelines, whether we implement them as proposed or we  
 17 modify or revise them or implement the revised version.

18 Release. Again, a no action. Again, status quo.  
 19 Another alternative is all animals are released, so animals  
 20 are not taken into rehabilitation. Again, the alternative  
 21 of dividing our effort based on categories of animals and  
 22 whether that's required and optional or authorized or not  
 23 authorized, and then the release criteria, whether they are  
 24 implemented as proposed or modified and implemented.

25 Disentanglement. No action would be to allow the

1 contracts and agreements that we currently have in the  
 2 permit to expire. So there essentially would be no further  
 3 disentanglement response once that happens. Status quo  
 4 where we continue current contracts in the permit but this  
 5 would preclude modifications and technology and also  
 6 preclude the addition of different groups into the stranding  
 or the disentanglement network.

8 The question of partitioning our effort between  
 9 different groups of categories, but whether it's authorized  
 10 or not authorized. The implementation of the  
 11 disentanglement guidelines. This, again, would be on a  
 12 nationwide basis, which requires training prerequisites for  
 13 those participants that wish to be part of the  
 14 Disentanglement Network or the modification of these  
 15 guidelines and implementation.

16 And biomonitoring. Again, no action, the status  
 17 quo, and then limiting our current research activities in  
 18 some way, whether that's through no health assessment  
 19 captures where we would continue biomonitoring but only on  
 20 tissues collected from stranded animals, by caught animals  
 21 and no tissue banking, which would mean tissues could only  
 22 be used for immediate analyses and there would be no future  
 23 retrospective studies. Or the issuance of a new permit that  
 24 would include the current and new, foreseeable projects.

25 So specific information requested by NMFS. The

1 first is to identify environmental concerns. So as we had  
2 identified those six activities as kind of broad areas that  
3 we thought might have some impacts on human environment. If  
4 you see any other areas of the program that could have  
5 impacts on environment that we have not identified, we are  
6 requesting that you help us out by doing that. And also to  
7 be considered, not just the direct impacts of our  
8 activities, but also indirect activities and the cumulative  
9 impacts.

10 The second is to help define the alternatives and  
11 potential mitigation measures. I presented a whole bunch of  
12 alternatives there. Not all of them are necessarily good  
13 ideas. Not all of them are necessarily feasible. And we  
14 would like input from the public to help us determine which  
15 of those alternatives should be carried forward and actually  
16 analyzed and which should be redacted without further  
17 analysis as being not workable.

18 And the third is to make necessary modifications  
19 to the interim policies. We have all of these policies  
20 currently available in their interim form and we're also  
21 taking comments on them, how they are written, whether  
22 that's kind of logistical comments or typographical or  
23 editorial or whatever. So these are some of the questions  
24 that we're asking that you all think about when you're  
25 composing your comments to us to help us determine the scope

1 of this EIS.

2 And the first is the very basic question of what  
3 kind of activities should we be doing? On a local, on a  
4 regional or national level, what kind of activities should  
5 the program do in response to stranded, entangled, sick,  
6 injured and other marine mammals in distress, and if the  
7 activities should vary under each of those categories.

8 Second, are there research or management needs that are  
9 critical that may be met by doing stranding investigations,  
10 by doing rehabilitation, disentanglement or health-related  
11 research and biomonitoring, and are we currently meeting  
12 those needs? If not, what are they and how do you think  
13 that the program could better meet those needs?

14 Next is the level of response effort. So I said  
15 that one of our ideas for alternatives was to kind of  
16 stratify the response effort in some way. And this goes  
17 back to kind of making the best available use of our  
18 resources. So the first question is should there be in your  
19 opinion different standards or level of effort for different  
20 species or groups of species? And this could be at any of  
21 those different activities. If so, if you believe that  
22 there could be different levels of response or effort, how  
23 should we set those standards? And then the third question  
24 is how should we divide the species?

25 Again, we kind of proposed the cetacean and

1 pinniped species category. Those that are listed under the  
 2 ESA versus those animals that are not listed. And  
 3 population status, whether that's figured using OSP or if  
 4 they are increasing or decreasing, et cetera. If you have  
 5 other ideas, we would welcome them.

6 Organization and qualifications. So the current  
 7 organization of the National Stranding and Health Assessment  
 8 Network, in your opinion is it adequate to meet the purpose  
 9 and need that I stated earlier? And this is at the local  
 10 level, at the state, regional, ecosystem and national  
 11 levels. What changes can you envision that would make our  
 12 organization more effective?

13 Then the qualifications. What should the minimum  
 14 qualification of an individual or organization be prior to  
 15 becoming a Stranding Agreement holder or entanglement  
 16 participant? This goes back to this interim policy and  
 17 essentially your interpretation whether you think it's  
 18 adequate or not. But then the next question is what about  
 19 the requirements for continued participation in our  
 20 networks? Which is once you've obtained a Stranding  
 21 Agreement what should we ask of you to maintain that  
 22 agreement every time? So some ideas. Should there be  
 23 certification or a licensing process? Every few years you  
 24 would be expected to do some kind of licensing or training,  
 25 required training, continuing education credits or some kind

1 of participation in NMFS training, et cetera.

2 The effects of activities. The first question,  
 3 are public and animal health and safety needs, are they  
 4 currently adequately addressed by the current MMHSRP as they  
 5 exist? The second question is about the release criteria  
 6 and whether they are adequate in your opinion to protect  
 7 wild populations from introduced diseases. Are there  
 8 potential environmental impacts from the activities of the  
 9 program which are broad that we have not identified? And if  
 10 you have any other relevant issues or data that you think we  
 11 should consider, we would appreciate if you could provide  
 12 that to us or at least give us a reference for it.

13 All right. That concludes our formal presentation  
 14 about our proposed EIS. And so now we start the formal oral  
 15 comment period. If you would like to get up and speak, then  
 16 we ask that you sign in at the registration table. Some of  
 17 you did as you came in. If you didn't and you would like to  
 18 give a comment based on what you've heard tonight, please  
 19 let us know. If there are multiple comments we might impose  
 20 a time limit, but I don't think that's going to be a  
 21 problem. And just, again, to repeat, that the meeting is  
 22 being recorded by a court reporter so that we have an  
 23 accurate and complete record of what you're saying. If you  
 24 don't feel up to getting up and speaking on the record  
 25 tonight, you have many other options for input into our EIS,

1 including handing in prepared written comments today, using  
2 either -- if you have them already prepared or if you use  
3 our comment sheets or submitting comments for receipt by  
4 February 28th, either by mail, e-mail or fax to any of these  
5 numbers which are available on the information on our  
6 website on posters in the back and in this presentation.

7 And additional information, again, since one of  
8 the things we're asking about is comments on these policies  
9 and procedures, and since that impacts some of the  
10 alternatives, those are provided for your review at public  
11 libraries. There is a public library in each of the cities  
12 in which we're doing a scoping meeting, including the  
13 St. Pete Public Library. Also available at our website. If  
14 you know of anyone who would need to receive paper copies,  
15 they can let us know. And then to receive future copies for  
16 the draft EIS or any other information that we might have  
17 you can register here at the registration table or we will  
18 be posting it on our website.

19 So we'd like to thank everyone for their  
20 participation, and now we're going to open the floor to oral  
21 comments. I want to stress that the comment period is kind  
22 of a forum for you as the public to stand up and express  
23 your opinion. It is one sided. In other words you are  
24 presenting to us. And, again, we're going to have it taken  
25 down by the court reporter and we will address those

1 comments, but we will do it in a written form as part of the  
2 EIS. After we conclude the formal oral comment period we  
3 will open the floor and off the record can have a more  
4 informal question and answer dialogue. So at this time we  
5 have at least one oral comment. Anybody else interested in  
6 giving a comment?

7 MR. O'DELL: I have a question. First, are all  
8 these alternatives that you listed up there in the documents  
9 on the web or are --

10 MS. WILKIN: This presentation. This presentation  
11 will be -- I think it was posted today, actually.

12 MR. O'DELL: That's new.

13 MS. WILKIN: If you'd like to come up and use the  
14 microphone.

15 MR. O'DELL: Yeah, such a big room. My name is  
16 Dan O'Dell. I am a senior research biologist with the Sea  
17 World Research Institute, and will remain that way for the  
18 foreseeable future, unless I win the Florida Lottery or  
19 something like that. By way of background, I've been  
20 involved in stranding operations here in Florida since 1973  
21 before there was any formal stranding network, and up  
22 through 2001, between myself and a number of my students, we  
23 were responsible for computerizing all of the Level A  
24 stranding data for cetaceans and pinnipeds in the  
25 Southeastern United States.

1           So I've seen a lot of water go over the dam in  
2 terms of different forms and responses and how the network  
3 has grown. I do want to point out that I have commented in  
4 writing on some of the documents that are already on the web  
5 and will probably do so again. A couple of points I want to  
6 make today. Especially -- and this cuts across the board  
7 with the multiple categories of things that might be  
8 addressed. And this deals with the basic Level A data.

9           I see lots of paperwork generating for  
10 qualifications for people and training and things like that,  
11 but even today currently I enter stranding data for the  
12 State of Florida for those individuals or organizations not  
13 yet certified to use the online data base, and we need a lot  
14 of work. I mean we can have all the regulations and things  
15 and requirements, but I think there needs to be a lot of  
16 training, a lot more training.

17           There has certainly been a lot done on people  
18 filling out the Level A data forms, and I sort of say these  
19 comments at just about any stranding meeting that I go to,  
20 these Level A data are the key, they are the foundation for  
21 interpreting just about everything else that comes out of it  
22 way down the road, tissues are saved, archived, analyzed  
23 maybe 10 years later. It's important to have that single,  
24 unique identifying number for that animal so it can be  
25 tracked out backwards just to put the pieces together maybe

1           10 or 15 years down the road.

2           That doesn't always happen. There is often  
3 confusion, especially with mass stranding, which is  
4 confusing in itself as to who is responsible for filling out  
5 the data sheets. It's never quite resolved, especially in a  
6 larger mass stranding. Some of the things, like the  
7 Incident Command System, may be used, and in some of these  
8 cases might solve some of that problem.

9           But the point, again, is paying a lot of attention  
10 to this basic information, training people, put your field  
11 number on there, make sure it's unique, and if the animal  
12 goes from facility to facility, especially a live animal  
13 rehab, each facility might assign its own field number or  
14 internal I.D. number, and things tend to get lost down the  
15 road.

16           Certainly there's been a huge improvement. We see  
17 people, you've got your GPS unit now, and location, latitude  
18 and longitude, and I've been going back through old data,  
19 and it's really obvious in the past couple of years how good  
20 these locations are when things are stranded. If people  
21 know how to use their GPS, and I check every one of these,  
22 and it's downtown somewhere, somebody punched the button the  
23 wrong place.

24           So there is a lot of checking and double checking,  
25 even at the very basic level. So that's really the key

1 thing I want to make, is call for basic training, filling  
2 this Level A data out. The importance of the unique field  
3 identification number on each and every specimen. And  
4 personally I believe that all stranded marine mammals should  
5 be treated equally, even though live animals take lots more  
6 money than the other ones, really, to study the health of  
7 the populations, you really need to examine every stranding  
8 to see what is there, 'cause you often don't know until you  
9 get out on the beach and look closely even what species it  
10 is because these are often misidentified in the initial  
11 reports.

12 So lots of very basic, basic things. Even though  
13 we have lots of high tech things that can be done, the  
14 basics or back to the basics is extremely, extremely  
15 important in my opinion. Like Sarah said, there is never  
16 enough money to do everything you wanted to do. Something  
17 as an aside that occurred to me that's not so much, well, an  
18 impact on the human environment, but each year in Florida we  
19 remove several hundred cetacean carcasses from the beach.  
20 And I'm not even counting the manatees that go.

21 That's a lot of biomass that's pulled out of the  
22 environment, and something I've wondered in the back of my  
23 head, well, is that an effect on the environment, taking all  
24 that energy out? Assuming these animals are dying naturally  
25 for different reasons. Is there an effect on the habitat in

1 any way, putting hundreds of thousands of kilos of tissue  
2 that would be recycled into the environment are taken out  
3 and put in a landfill or something like that. I'm not sure  
4 how that fits into the whole program. Something you sort of  
5 tend to think about, all those vultures out there being  
6 deprived of dinner or something like that. That's really  
7 all I want to say today, is the importance of the level A  
8 data training and the completeness, because it really is the  
9 foundation for all the analyses that are to come in the  
10 future.

11 MS. WILKIN: Thank you. Anyone else interested in  
12 making a statement? Anyone inspired? All right. If  
13 there's nothing else, then I'll close the formal comment  
14 period. Again, thank you for attending.

15 (MEETING CONCLUDED AT 6:13 p.m.)  
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25

STATE OF FLORIDA     )  
COUNTY OF PINELLAS    )

I, Daniel J. Russette, Registered Merit Reporter certify that I was authorized to and did stenographically report the Scoping Meeting, and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 21<sup>st</sup> day of February, 2006.

  
Daniel J. Russette, RMR

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00001 2044 response program 021306  
1 MARI NE MAMMAL HEALTH AND STRANDING RESPONSE PROGRAM  
2 OFFICE OF PROTECTED RESOURCES  
3 NATIONAL MARI NE FISHERIES SERVICE  
4  
5 February 13, 2006  
6 5:17 p.m.  
7 Boston Aquarium  
8 Central Wharf  
9 Boston, Massachusetts  
10 Amanda Stevens, Notary Public and Professional Shorthand Reporter  
11 in and for the Commonwealth of Massachusetts.  
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00002 APPEARANCES:  
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2  
3 SPEAKERS:  
4 SARAH HOWLETT  
5 SARAH WILKIN  
6 Office of Protective Resources  
7 National Marine Fisheries Service  
8 1315 East West Highway  
9 Silver Spring, Maryland 20910  
10 301.713.2332  
11 sarah.howlett@noaa.gov  
12  
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00003 MARI NE MAMMAL HEALTH AND  
1 STRANDING RESPONSE PROGRAM  
2 OFFICE OF PROTECTED RESOURCES  
3 NATIONAL MARI NE FISHERIES SERVICE  
4 FEBRUARY 13, 2006  
5 PROCEEDINGS:  
6 Page 1

7 2044 response program 021306  
8 MS. WILKIN: I'd like to  
9 welcome you all here for the scoping  
10 meeting for the Marine Mammal Health and  
11 Stranding Response Program and  
12 Environmental Impact Statement.  
13 My name is Sarah Howlett, and with  
14 me is my colleague, Sarah Wilkin, and we  
15 are from NOAA Headquarters, Office of  
16 Protective Resources. And also with us  
17 tonight is Mendy Garron, the Acting  
18 Northeast Regional Stranding Coordinator,  
19 and Jamison Smith in the back who is the  
20 East Coast Dientanglement Coordinator.  
21 So the purpose of our meeting today  
22 is to allow for the early public  
23 notification of the proposed federal action  
24 or actions. And so this meeting is just  
giving the National Marine Fisheries

00004 Service, or NMFS, the opportunity to  
1 present to the public the proposed  
2 actions, and to seek input on the scope or  
3 the range of issues that will be discussed  
4 in our EIS.  
5 And so far, this is actually our  
6 seventh scoping meeting. Our West Coast  
7 locations, as you can see, we've had some  
8 in California, Hawaii, Seattle and in  
9 Anchorage, and also in the East Coast, St.  
10 Petersburg, and this coming Friday we will  
11 also be having one in Silver Spring.  
12 So the agenda for our meeting today  
13 is to give you some background in the  
14 scoping process, the background on the  
15 National Environmental Policy Act process,  
16 and overview of the Marine Mammal Health  
17 and Stranding Response Program, review of  
18 the proposed actions and alternatives for  
19 our EIS, and an opportunity to receive  
20 public comment.  
21 So we ask that you please sign in  
22 at our registration table outside, if you  
23 haven't already. You can sign up to be  
24

00005 on our mailing list. We will also be  
1 accepting written comments today if you  
2 have prepared them already. If not, you  
3 can also pick up a written comment form  
4 that's also out on the registration table.  
5 And let you know that today's  
6 meeting is being captured by our court  
7 reporter, so that we will have it on  
8 public record.  
9 So the NEPA process. The purposes  
10 of NEPA -- this comes directly from the  
11 act itself -- is to encourage harmony  
12 between man and the environment, to  
13 promote efforts to prevent damage to the  
14 environment, and to enrich man's  
15 understanding of important ecological  
16 systems and natural resources.  
17 Page 2

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18 The requirements of NEPA, as a  
19 federal agency, required to analyze the  
20 potential environment impact of a proposed  
21 agency action. And this means they have  
22 to consider the environmental consequences  
23 of the action during decision making and  
24 provide for public involvement key phases

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1 of the EIS process, obviously one of them,  
2 and it's important to note that NEPA does  
3 not dictate the decision that's made by  
4 NMFS, just helps to inform the decision  
5 making process.  
6 So why are we conducting an EIS?  
7 There are a list of factors that NOAA must  
8 consider to determine in a federal action,  
9 and EIS is warranted for a federal action,  
10 and these are just a few that we picked  
11 out that are relevant to our EIS or that  
12 we feel are relevant to our EIS. And  
13 that's the federal action could be subject  
14 to significant public controversy based on  
15 the potential environmental impact, it may  
16 have uncertain environmental impact, it may  
17 result establish a precedent about future  
18 proposals, it may result in cumulatively  
19 significant impacts, and it may have  
20 adverse impacts on threatened or endangered  
21 species or their habitats.  
22 The benefits of conducting the EIS  
23 is that it will allow for programmatic  
24 analysis of the MMHSRP, which means the

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1 current program and any other activities  
2 that hold current in the future. It will  
3 allow for an assessment of a cumulative  
4 impact of every single activity that will  
5 occur under the program, and it will  
6 eliminate the need to conduct individual  
7 NEPA analyses on the activities of the  
8 program.  
9 We are doing an EIS now because the  
10 current Marine Mammals Protection Act and  
11 Endangered Species Act permit that's issued  
12 to the program will expire on June 30th of  
13 2007, and a NEPA analysis must be  
14 conducted on the activity of the program  
15 before a new permit can be issued. Also,  
16 NEPA analysis is needed to finalize the  
17 interim standards provided in the Policies  
18 and Practices Manual. And both the manual  
19 and the permit will be talked about by  
20 Sarah in a little bit.  
21 An EIS is composed of both purpose  
22 and need, which is just basic data about  
23 why the action is being considered. The  
24 proposed action and alternatives to the

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1 proposed action are also covered. The  
2 affected environment of the resources that  
Page 3

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3 may or may not be impacted, either  
4 adversely or a beneficial impact by the  
5 federal action, potential environmental  
6 consequences and mitigation for these  
7 consequences, as well as consideration of  
8 public input.

9 And this is just a list of  
10 environmental resources that are typically  
11 considered in an EIS. And while they will  
12 be covered, the ones that we feel are most  
13 important are Protected Species, Threatened  
14 and Endangered and Marine Mammals, Water  
15 Quality, Human Health and Safety and  
16 Cumulative Impacts.

17 The EIS process. The notice of  
18 intent or the NOI was published on  
19 December 28th, and that began the formal  
20 scoping process, the scoping which is now  
21 and will be conducted until basically  
22 February 17th.

23 Once we get scoping comments back,  
24 that will be incorporated into the

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1 comments and report that will be in the  
2 EIS, and the draft EIS will be published  
3 via a time line I will show you later.  
4 Once the EIS is published, there is  
5 a 45-day comment period and another round  
6 of public hearings for the public to come  
7 and comment on the EIS.

8 The final EIS will be published,  
9 and then 30 days after the final EIS, a  
10 record of decision, or ROD, is published,  
11 and this basically just says what the  
12 agency decided upon, how they came upon  
13 that decision.

14 Public input opportunities.  
15 Obviously tonight is one. You're here at  
16 a scoping meeting. We ask that you  
17 identify any issues that you have, that  
18 you find out tonight and submit your  
19 comments. We ask that you sign up on the  
20 mailing list so that you can review the  
21 draft EIS and any other information that  
22 we might put out. And we definitely have  
23 to review and comment on the draft EIS,  
24 participate in a public hearing, and

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1 review the final EIS.  
2 So here is the tentative EIS  
3 schedule. It says scoping will be  
4 finished on Friday, then the draft EIS  
5 should be completed September of this  
6 year. The comment period between  
7 September and October with public hearings  
8 in November, and the final EIS will be  
9 completed by May of 2007, and the record  
10 of decision will be issued by June of 2007  
11 as well.

12 And I will turn this over to Sarah,  
13 who will address the MMHSRP proposed  
Page 4

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14 actions and alternatives.  
15 MS. WILKIN: All right. So  
16 Sarah has given you kind of the generic  
17 overview of NEPA and what it is and why  
18 we're doing it, and I'm here to tell you  
19 more specifically about our program and  
20 our EIS.  
21 So MMHSRP, or the Marine Mammal  
22 Health and Stranding Response Program, was  
23 established under federal mandate, Title  
24 IV, which was an amendment to the Marine

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1 Mammal Protection Act. And there were in  
2 the law was written three goals and  
3 purposes. First, the collection and  
4 dissemination of reference data on health  
5 and health trends of marine mammals in the  
6 wild specifically; to correlate both health  
7 data and health trends to physical,  
8 chemical and biological, basically  
9 environmental parameters, and then to  
10 coordinate effective responses to marine  
11 mammal unusual mortality events.

12 So the law established the  
13 over-arching program, and then NMFS has  
14 chosen to implement this law in the  
15 following way by having many different  
16 components under the umbrella of the  
17 MMHSRP. So some of the components that we  
18 are talking about here tonight that are  
19 all included in the program are Marine  
20 Mammal Stranding Network, national, The  
21 Marine Mammal Disentanglement Network, the  
22 John H. Prescott Rescue Assistance Grant  
23 Program, which provides financial  
24 assistance in the form of grants to

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1 stranding network members and to  
2 researchers who are doing research on  
3 tissues and samples obtained from stranded  
4 marine mammals.

5 The Marine Mammal Unusual Mortality  
6 Event and Emergency Response Program, which  
7 again incorporates many of the same folks  
8 that are part of the stranding network,  
9 but also adds some other people and  
10 includes an advisory panel of a working  
11 group on marine mammal unusual mortality  
12 levels.

13 The Information Management Program,  
14 which is charged with managing all the  
15 information collected by all these  
16 different components, including the  
17 National Marine Mammal database, into which  
18 stranding Level A records are entered, and  
19 then Marine Mammal Health Biomonitoring  
20 Research, Development and Tissue Banking  
21 program, which is kind of the research arm  
22 of the MMHSRP.

23 So we said, Sarah said that one of  
24 the reasons for us doing the EIS is

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1 because the Best Practices and Policies  
2 Manual was going to be published. And it  
3 is currently out. All of these documents  
4 that you see up there are available on our  
5 Web site for review and comment, and  
6 they're available on an interim form, and  
7 they can't be finalized until NEPA  
8 analyzes the impact of finalizing these  
9 documents.

10 So they include the Stranding  
11 Agreement Template, which is a formal  
12 template for Letters of Agreement, which  
13 will now be called Stranding Agreements,  
14 will be written between NMFS and members  
15 of the stranding network. And it includes  
16 the Minimum Qualifications Document, which  
17 states the qualifications that an applicant  
18 must have in order to obtain a Stranding  
19 Agreement. Rehabilitation Facility  
20 Guidelines, which are considered the  
21 minimum guidelines for a facility to meet  
22 to do rehabilitation on stranded marine  
23 mammals. That's a joint document between  
24 the National Fisheries Service and U.S.

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1 Fish and Wildlife Service.  
2 The Release Criteria are the  
3 criteria that must be satisfied in order  
4 to release a stranded marine mammal to the  
5 wild after rehabilitation has completed.  
6 Then the Disentanglement Network  
7 Guidelines, which are currently implemented  
8 in that form on the East Coast and we're  
9 proposing to expand them nationwide.

10 A little bit more about our permit.  
11 There is a permit that's issued to the  
12 Marine Mammal Health and Training Response  
13 Program with Dr. Teri Rowles, as the head  
14 of our program, as the principal  
15 investigator. All of the regional  
16 coordinators will submit under this permit  
17 as well as investigators and a variety of  
18 other folks as well. It's issued jointly  
19 under the Marine Mammal Protection Act and  
20 the Endangered Species Act. And one of  
21 the main things that it does, which you  
22 may not be aware of, is that it actually  
23 provides for stranding and disentanglement  
24 response to animals that are listed in the

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1 ESA, because the Marine Animal Protection  
2 Act gives them the authority to enter into  
3 Stranding Agreements with groups to go out  
4 and respond to stranded animals, and it  
5 also has clauses that allow for states and  
6 local governments to respond to stranded  
7 marine mammals.

8 But the ESA doesn't have any  
9 similar provisions or allowance for these

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kind of authorizations to take place. So  
in order to kind of accomplish that, we've  
gone through the permitting process and  
obtained a permit to allow us and all the  
people that we delegate the authority to  
respond to stranded, entangled and other  
endangered marine mammals, endangered and  
threatened marine mammals in distress.  
And that's probably the most  
important point about the permit, but it  
also does allow for import and export of  
tissues and samples collected from stranded  
marine mammals for diagnostic and  
analytical purposes.

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assessment captures, which is where we go  
out and do captures in populations of  
animals that we believe are healthy, but  
it's a population that has some kind of  
lingering question about their health  
because of something that has happened in  
the past, whether it's an unusual  
mortality event, die-off, or some kind of  
environmental parameters.

So those are three of the things  
that are under this permit. That's not  
everything under the permit, but those are  
probably the key points for you to be  
aware of.

Just a look at the stranding  
network. These are the hot off the press  
recent data for Level As, for the entire  
United States between 2001-2004. So the  
Level A data sheet is the very basic data  
that's obtained on a stranded marine  
mammal: location, species, length, if  
possible, and a few more items.

So what I have down there at the  
bottom of the slide that's important to

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remember is cumulative impact. So because  
we're doing a programmatic document where  
we're assessing the impact of the entire  
program nationwide, it is important to  
remember that while you might not see the  
impact of a single response or a single  
rehabilitation or a single release,  
nationwide, there are fairly significant  
numbers of these activities going on.

So for instance in 2003, we had  
close to 5,000 Pinnipeds that were  
responded to nationwide. And then if you  
put that into a time line, where you're  
actually looking over the period of time,  
there is a potential to have impact from  
all of these additives adding up.

Closer to home, these are your --  
the Pinniped strandings here in the  
Northeast region for '01 to '04. The left  
group of bars are those animals that

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stranded dead. The middle are those that  
were stranded and reported live, initially,  
and then on the right are Pinnipeds that  
were admitted into rehabilitation,

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rehabilitated, and then released following  
rehabilitation.

So the left-hand scale has changed  
quite a bit since the earlier graph, but  
it's still fairly significant numbers in  
some years, you know, upwards of 500  
animals.

These are Cetacean strandings,  
again '01 through '04, with animals that  
stranded dead, animals that stranded live,  
and animals that were rehabilitated and  
then released.

All right. Every EIS has at the  
beginning a Purpose and Need Statement,  
which is a plain language simplified  
version of why are we doing this document.

And for us, this purpose and need  
for the EIS come very close to our  
believed purpose and need for the program,  
in general. So the purpose is to respond  
to marine mammals in distress, including  
those that are stranded, entangled and out  
of habitat, and to answer research and  
management questions related to marine

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mammal health.

And our need, therefore, to meet  
that purpose, is to operate the MMHSRP  
effectively and efficiently, making the  
best use available of limited resources.  
One thing that we found across the county  
everyone can agree is that there's not  
enough money to go around and there's  
generally not enough time and not enough  
people and not enough resources in  
general. So our goal, our challenge is to  
try and make the best use of what we've.

And we want to make the best use  
of what we have to answer questions. So  
we need to collect data on marine mammal  
health and health trends to meet our  
agency needs for appropriate conservation  
and management. And finally, we need to  
ensure that human and animal health and  
safety is always one of our highest  
priorities.

So this is our proposed action.  
This is what we at NMFS are proposing to  
do.

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The first is the issuance of the  
Policies and Best Practices for Marine  
Mammals Stranding Response Rehabilitation  
and Release. That would be issuing the  
interim documents in final form, and then  
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6 their implementation. And it would also  
7 be the issuance of a new permit to the  
8 program encompassing those activities that  
9 I had talked about earlier and perhaps  
10 some others.  
11 Stranding agreements would continue  
12 to be issued or renewed on a case by case  
13 basis, but it would be done implementing  
14 the policies and practices, so using the  
15 minimum criteria to determine if a group  
16 is eligible, and then using the template  
17 as the language.  
18 And then other day to day  
19 operations of the stranding and  
20 disentanglement and all the other programs  
21 would continue, including response,  
22 including rehabilitation, including release  
23 determinations, but again, it would be all  
24 be done utilizing those documents and

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1 implementing them.  
2 So we've rehabilitation facilities  
3 that would be expected to comply with the  
4 facility guidelines, the releases would be  
5 done following the release criteria, and  
6 the Disentanglement Network would operate  
7 under the network guidelines.  
8 All right. So when we published  
9 the Federal Register Notice on December  
10 28th, we stated that purpose and need and  
11 proposed action, and then listed action  
12 alternatives. And since then, we've  
13 continued kind of discussing and thinking  
14 and framing within our minds, and we've  
15 actually come up with a different way to  
16 present those alternatives, which I will  
17 do in just a minute.  
18 But first, I'm going to go through  
19 how they are spelled out in the FR Notice.  
20 So the Action Alternative is  
21 essentially our preferred action or  
22 proposed activity, which is the issuance  
23 of the Best Policies and Practices, the  
24 issuance of the permit, continuing to

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1 issue and renew Stranding Agreements, and  
2 continuing the Disentanglement Network and  
3 its activities under the permit.  
4 So the second is the No Action  
5 Alternative. NEPA requires us to consider  
6 a No Action Alternative, which is what  
7 would happen if the government did not do  
8 its proposed action or what would happen  
9 if the government did not do the activity.  
10 So under the No Action Alternative, we  
11 would not issue the policies and  
12 practices, which would not change anything  
13 from what's currently happening except that  
14 we would also not issue new or renewal  
15 Stranding Agreements, and we would not  
16 issue a new permit to the MMHSRP, and  
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17 contracts and authorizations for the  
18 partners in the Disentanglement Network  
19 would not be extended, and there would be  
20 no further biomonitoring or research  
21 activity.  
22 So what this means is that over  
23 time, as all of those agreements expire,  
24 the network, as we know it, would

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1 essentially cease to function.  
2 Now, as I say at the bottom, this  
3 could conflict with the statutory mandates,  
4 which is that we're required to collect  
5 data on health and health trends. And  
6 that's true, it is a potential conflict;  
7 however, NEPA also requires us to assess  
8 alternatives even if they're in conflict  
9 with other federal law.  
10 The other thing, though, is that  
11 there is nothing in the law that says how  
12 we need to have the program organized and  
13 so therefore we are free to think of other  
14 ways of organization that would still  
15 potentially fall within the No Action  
16 Alternative.  
17 Then the Status Quo Alternative is  
18 essentially what if we didn't do our  
19 proposed action but we just kept doing  
20 exactly what we're doing. And the good  
21 news about this alternative is we know  
22 what the impacts are because we know what  
23 we're doing right now, at least in theory.  
24 So under the Status Quo Alternative

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1 we would not issue the Policies and  
2 Practices document, the current Stranding  
3 Agreements could continue to be renewed as  
4 they are issued right now, the permit  
5 would be renewed or reissued as it is  
6 currently written, the disentanglement  
7 partners that we currently have could  
8 continue in the network, and new stranding  
9 agreement and disentanglement applications  
10 would be considered case by case basis as  
11 we do it today.  
12 So like I said, that would mean the  
13 network could continue to function exactly  
14 at its current level, but the problem is  
15 that we might preclude ourselves from any  
16 adaptive changes, including adding new  
17 members into the network or changing  
18 research activities or changing our  
19 operating procedures.  
20 And then alternatives that we  
21 listed in the FR that were considered but  
22 might be eliminated from further analysis  
23 include those that in some way change what  
24 the program currently does. So for

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1 instance doing only biomonitoring, research  
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activities, doing only stranding response  
and not doing rehabilitation, or responding  
to one group of animals and not another  
group. But again, these may be  
eliminated. And again, those are all the  
alternatives that were presented in the  
Register.  
So, as we were discussing this  
more, this way seemed to make a little bit  
more sense to us. And that's that we  
take their alternatives and we kind of  
subdivide them under different headings and  
the headings are the activities that we do  
under the program.  
So these six activities are up  
there because these are what we conceded  
that the program does that has the  
potential to impact the environment. And  
all of them involve health and human  
safety risks, all of them have the  
potential to involve threatened and  
endangered species, and all of them could  
have uncertain risks, some more than

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others.  
And so the first group is the  
response activities, which is actually  
getting on the beach or getting in a boat  
and responding to a stranding or entangled  
animal, and kind of all the activities  
that go on with that, including  
potentially transport or beached property;  
those kinds of things.  
The second is carcass disposal and  
euthanasia, which also has a more direct  
link to the environment, which recently  
some of our carcasses have tested, for  
large whales in particular, have tested so  
high in contaminant levels, that they are  
considered toxic waste under Federal EPA  
guidelines and must be disposed of in  
special ways.  
So the impact of our network in  
leaving those carcasses or disposing of  
them, however we do it, is one thing that  
we need to think about, and also  
euthanasia, but particularly chemical  
euthanasia. If we are chemically

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euthanizing an animal, then we know that  
we've added chemicals to it, and how we  
dispose of that carcass becomes a concern.  
Rehabilitation is again an issue  
for health and human safety, particularly  
in the volunteers who are working closely  
with those animals.  
And then also just the concerns of  
having a facility with some kind of  
effluent treatment and then potentially  
spreading pathogens between animals in that  
facility and then from that facility out  
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to the environment.  
Which brings us to release of  
rehabilitated animals. Probably the main  
concern here is for the wild population,  
that they would be introduced to something  
from that rehabilitated animal that it  
acquired while in rehabilitation that was  
not known to the wild population.  
Disentanglement, again mostly a  
health and human safety issue. And  
biomonitoring and research activities.  
So underneath each of these

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activities, we've a range of alternatives,  
and then a preferred alternative or a  
combination of preferred alternatives can  
be chosen within each activity, and we  
will go after that in great detail.  
For instance, the first activity,  
stranding response. So again, under each  
of these alternatives we're going to have  
a No Action Alternative, which is what if  
we do nothing. So in this case, we would  
allow Stranding Agreements to expire at  
some point in the future and the network  
would cease to function when that happens.  
The Status Quo Alternative would be  
that we would renew those current  
Stranding Agreements and keep the network  
at the same level.  
A third alternative could be to  
curtail response immediately and not wait  
for the expiration date on the LOAs.  
The next two I'm going to go into  
some detail, because you're going to see  
them over and over again. But it  
basically involves changing our activities

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based on what kind of animal we are  
dealing with.  
And there are two ways to think  
about this, and it goes back to how the  
Stranding Agreements or how the  
disentanglement authorization is written.  
And that's to say that in that agreement  
we could require response to one category  
of animals and make response to the other  
category of animals not required but  
optional. So that if you had the  
resources and if you had the capability,  
response would be possible.  
The second way would be to write  
those agreements such that response to  
certain animals was authorized and response  
to another category of animals was not  
authorized or prohibited, and therefore  
even if you had the resources and the  
capability, you couldn't respond to that  
second group of animals.  
And then under each of these we've  
three ways that we've kind of thought up  
Page 12

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how to divide up animals in ways that we

00030

1 might want to think about, which is  
2 Cetaceans and Pinnipeds and changing  
3 response based whether you have a Cetacean  
4 or a Pinniped.

5 The second way is whether animals  
6 are listed under the Endangered Species  
7 Act or whether endangered or threatened  
8 versus the species that are not listed.

9 And then the third way deals with  
10 the optimum sustainable population, or OSP,  
11 which is a stock assessment designation  
12 where animals whose population -- species  
13 whose populations were below the OSP would  
14 have some response, and peak species that  
15 were at or above OSP would have a  
16 different category of response.

17 And the final three alternatives  
18 that we've up here all deal with the  
19 Stranding Agreements and how they will be  
20 issued. And the first is that Stranding  
21 Agreements would be issued to any  
22 applicant once the review had been  
23 conducted by NMFS.

24 The second is to implement the

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1 criteria as they are proposed, as they are  
2 in the interim form, where only those  
3 applicants that meet the minimum criteria  
4 will be issued a stranding agreement, and  
5 then the third is to revise the criteria  
6 in some way and then implement them so  
7 that only applicants who meet the revised  
8 criteria will be issued a stranding  
9 agreement.

10 Okay. Our second activity,  
11 euthanasia, again, has a suite of  
12 alternatives under it. Again, a No Action  
13 Alternative, where Stranding Agreements are  
14 allowed to expire and therefore animals  
15 won't be responded to anymore, so  
16 therefore they're left on the beach, which  
17 takes care of carcass disposal question.

18 The Status Quo Alternative is that  
19 we continue with current Stranding  
20 Agreements and concurrent methods of  
21 carcass disposal, whatever those may be.

22 The next would be that all animals  
23 would be buried on site versus kind of an  
24 alternate is that all animals would be

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1 transported off site for some kind of  
2 disposal, whether that's landfill,  
3 incinerator, towed to sea, et cetera.

4 And then to look at the euthanasia  
5 question, to have no animals chemically  
6 euthanized so that some other form of  
7 euthanasia would have to be -- have to  
8 come up with it, or that

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9 chemically-euthanized animals would be  
10 transported off site for disposal and  
11 others could be left, buried or  
12 transported, depending on what was useful.

13 Rehabilitation. Again, we've a No  
14 Action Alternative which allows the  
15 agreements to expire and therefore there  
16 is no more rehabilitation.

17 Status Quo Alternative where we  
18 continue with current stranding agreements,  
19 and current rehabilitation activities. And  
20 immediate cessation of rehabilitation,  
21 which is to say that we would no longer  
22 have rehab facilities, so while response  
23 could continue, rehab wouldn't be an  
24 option.

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1 Again, the idea of somehow dividing  
2 our efforts, depending on the category of  
3 animal, whether it's required and optional  
4 and authorized or not authorized, and  
5 whether or not Cetaceans and Pinnipeds are  
6 ESA listed or not listed, et cetera.

7 And then the final two have to deal  
8 with the facility guidelines and whether  
9 they are implemented as they are currently  
10 proposed or if they are modified in some  
11 way and then implemented. But  
12 rehabilitation facilities would be expected  
13 to meet the minimum guidelines.

14 Release of rehabbed animals, again,  
15 no action where the stranding agreements  
16 expire so the animals would no longer be  
17 rehabilitated. The Status Quo Alternative  
18 where current stranding agreements are  
19 renewed and current rehabilitation and  
20 release activities continue exactly as they  
21 are.

22 All animals released, so that  
23 animals that are not release candidates  
24 are either not brought into rehab in the

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1 first place or euthanized.

2 Again, changing effort, depending  
3 on what kind of species it is with  
4 required versus optional and authorized  
5 versus not authorized.

6 And the last two are again the  
7 release criteria, either implementing them  
8 exactly as proposed or modifying them and  
9 then implementing them.

10 Disentanglement. The No Action  
11 Alternative would be to allow the contract  
12 and agreements to expire and there would  
13 be no further disentanglement response.

14 The status quo would be to maintain  
15 the current contract agreements and the  
16 permit as it is so there not be  
17 modifications if technology improved or  
18 members wanting to be added to the  
19 disentanglement network.

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20 And then the thought of  
21 disentangling some animals but not other  
22 animals and how we split that out.  
23 And then the last two are the  
24 disentangling guidelines and again this

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1 would be implementing them nationwide.  
2 And one way would be to implement them and  
3 require training prerequisites for  
4 participants, and the second way is to  
5 modify them in some way.  
6 And finally biomonitoring and  
7 research activities. Again no action, no  
8 permit, so all the projects would end.  
9 The status quo is renewal of the current  
10 permit and continuation of current  
11 projects.  
12 The next alternative would be to  
13 have no health assessment captures, so  
14 biomonitoring could continue to be  
15 conducted, but only on tissues from  
16 stranded animals, by catch animals and  
17 animals from subsistence.  
18 No tissue banking to eliminate the  
19 marine mammal tissue bank so that tissues  
20 can be used for immediate analyses, but it  
21 would preclude us from doing retrospective  
22 studies.  
23 And then finally the issuance of a  
24 new permit that would include current

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1 projects and also new foreseeable projects.  
2 All right. So what do we want  
3 from you, the public. There's a couple of  
4 different and relatively specific things.  
5 The first is to identify environmental  
6 concerns. So I said that those six  
7 activities are the ones that we at NMFS  
8 and the program have identified as having  
9 the potential to impact the human  
10 environment.  
11 We recognize that there might be  
12 others that we've not thought of, and so  
13 therefore we are asking you to help us by  
14 identifying anything that you can see  
15 might be an environmental concern, and  
16 that's any activity that results in  
17 environmental impact, and those can be  
18 direct impacts on the actions of the  
19 network, indirect impact or a cumulative  
20 impact, and as Sarah briefly mentioned  
21 before, it's both beneficial and negative  
22 impact on the environment.  
23 The second thing is to help define  
24 the alternatives. There are a whole lot

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1 of alternatives that just went scrolling  
2 across the screen in front of you. And  
3 we recognize that not all of those  
4 alternatives are feasible and not all of

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5 them are necessarily a good idea.  
6 So what we're asking your help in  
7 is helping us to eliminate those  
8 alternatives that are not the best and  
9 that therefore we cannot continue and do a  
10 further analysis on.  
11 And then also defining mitigation  
12 measures. If there are activities that we  
13 can identify that we know have impact on  
14 the environment, but we can also identify  
15 ways to mitigate or somehow minimize or  
16 control those impacts, that would be a  
17 great help as well.  
18 And then finally is to make  
19 necessary modifications to the interim  
20 policies. We've the policies posted again  
21 in interim form, but we are requesting  
22 comments on those as well, everything from  
23 editorial and grammar to broad, sweeping  
24 rewriting of sections. All those kind of

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1 comments are also welcome during this  
2 period.  
3 So specifically, here's the kind of  
4 questions that we hope you are thinking  
5 about as you are thinking about the  
6 comments that you are giving back to us on  
7 the EIS.  
8 And the first is, what sort of  
9 activities should be conducted on a local  
10 level, regional, national level in response  
11 to stranded, entangled, sick, injured and  
12 other marine mammals in distress.  
13 Secondly, are there critical  
14 research or management needs that we can  
15 meet by investigations into stranding by  
16 doing rehabilitation, by doing  
17 disentanglement activities, or by other  
18 health-related research and biomonitoring  
19 activities that we might be doing or that  
20 we might want to do in the future, and  
21 are we meeting those research or  
22 management needs, and if we're not, what  
23 are they, help us identify them and then  
24 help us decide what we should do in order

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1 to meet them.  
2 The level of response effort. All  
3 right. A lot of those alternatives had  
4 some kind of difference in effort or  
5 difference in activities, depending on what  
6 kind of animals it were. So the first  
7 question is, should there be different  
8 standards or level of effort for different  
9 species or groups of species.  
10 And this gets back to making the  
11 best use of our limited available  
12 resources. If you feel that there should  
13 be different standards, how should we set  
14 them, and how should we divide those  
15 species up into categories.



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16 And again, these are the three that  
17 we've -- three ways that we've thought of.  
18 If you have other options, that would be  
19 helpful.  
20 Organization and qualifications.  
21 Is the current organization of the  
22 national stranding and health assessment  
23 network adequate? And I should add that  
24 this includes the disentanglement network

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1 as well. And this is at every level,  
2 from local to national.  
3 The second is, what changes would  
4 make the organization more effective.  
5 The third, what should the minimum  
6 qualifications of an individual or  
7 organization be prior to becoming a  
8 stranding agreement holder or a participant  
9 in an disentanglement network.  
10 This goes back to the minimum  
11 criteria for stranding agreements and the  
12 disentanglement network guidelines and  
13 essentially your interpretation of those  
14 documents. But then the fourth one, what  
15 about the requirements for continued  
16 participation in the network?  
17 So we've gone about establishing  
18 what needs to be done to get a stranding  
19 agreement in the first place, but what  
20 should we be expecting or asking in order  
21 for a group or a person to maintain a  
22 stranding agreement over time.  
23 And some ideas are a certification  
24 or a licensing process or some kind of

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1 required training, continuing education  
2 class, et cetera.  
3 And then the effect of activities.  
4 Public and animal health and safety needs,  
5 and are we currently addressing them  
6 adequately.  
7 The release criteria, and are they  
8 as proposed adequate to protect wild  
9 populations from introduced diseases.  
10 Are there any potential  
11 environmental impacts that you feel we've  
12 not identified and are there any other  
13 relevant issues or data that we should  
14 consider as part of our analysis, and if  
15 so, if you could identify it and either  
16 provide it or give us a reference to it,  
17 we would appreciate it.  
18 All right. That concludes the  
19 presentation part of our scoping meeting.  
20 I should let you know this presentation  
21 will be available on our Web site some  
22 time later this week, I would assume, in  
23 case you didn't manage to scribble down  
24 everything.

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1 But now we're going to have time  
2 for oral comments. If you would like to  
3 give a comment, we ask that you signed in  
4 at the registration table. If you didn't  
5 when you came in, you are still welcome to  
6 do so.  
7 If we've multiple comments, which  
8 we do have signed up right now, we might  
9 impose a time limit on you. But I don't  
10 think that's going to be necessary. And  
11 again we're recording the meeting, so that  
12 we've an accurate record of your comments.  
13 I should say this comment period is  
14 essentially your opportunity to stand up  
15 and let us know what your thinking or  
16 impressions are on this process and on the  
17 scope and on the EIS at this point.  
18 We will not be responding to your  
19 comments today in this environment, but  
20 there will be response to them in the EIS  
21 document, most likely in an appendix or  
22 something along those lines.  
23 Your other option, if you don't  
24 feel like standing up in front of this

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1 group having oral comment, is a written  
2 comment. You can either hand in comments  
3 today if you have them prepared. We've  
4 comment sheets out at the registration  
5 table that you can take and fill out, or  
6 you can submit written comments in any  
7 form by the end of the month, either by  
8 mail, e-mail or fax, and these addresses  
9 are available on our Web site, on the  
10 handouts you've gotten in this  
11 presentation, and any other way we can  
12 think of to give them to you.  
13 Additional information. If you're  
14 curious, we do have information review  
15 available for review at public libraries.  
16 There is a set of information in every  
17 city in which we did a scoping meeting.  
18 So here it's in the downtown Boston Public  
19 Library. This includes copies of all of  
20 the draft documents. It's also available  
21 on the NMFS Web page, and we will be  
22 keeping that information updated, both on  
23 the Web page and in the libraries.  
24 And if you would like to register

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1 here, then we can make sure that you are  
2 informed whenever we add documents or  
3 change that, or you can check availability  
4 on our Web site.  
5 So we would like you to thank you  
6 for your participation.  
7 So we've four people who identified  
8 themselves as giving comments. Does  
9 anybody else who did not sign up on the  
10 sheet? Is anyone else interested in  
11 giving comments?

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12 MS. MERIGO: Is it okay to  
13 ask a clarification question?  
14 MS. WILKIN: No. So, after  
15 we finish the formal comment period, then  
16 we're going to have an informal off the  
17 record question and answer discussion  
18 session.  
19 MR. MAYO: So no formal  
20 questions? In other words, nothing on the  
21 record?  
22 MS. WILKIN: Yes. That's  
23 first, then we'll go to an independent --  
24 MR. MAYO: But I mean, can

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1 we ask questions in the formal period?  
2 MS. WILKIN: You can ask  
3 questions in the formal period.  
4 MR. MAYO: You won't answer  
5 them.  
6 MS. WILKIN: We won't answer  
7 them.  
8 All right. So we've six comments,  
9 so the first one is Kathy Zagzabski.  
10 MS. ZAGZABSKI: This is what  
11 I get for getting here first.  
12 First of all, my name is Kathy  
13 Zagzabski. It's spelled on the sheet.  
14 But I'm the executive director of the  
15 National Marine Life Center in Buzzards  
16 Bay.  
17 We are in a unique position to  
18 comment because we're hoping to become a  
19 formal part of the stranding network. So  
20 this is a great opportunity to look at the  
21 stranding network as a whole.  
22 First of all, I want to say  
23 formally that we do support the Marine  
24 Mammal Health and Stranding Response

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1 Program's proposed actions to establish  
2 policies and best practices, to issue  
3 permits as stated and to continue issuing  
4 and renewing new stranding agreements.  
5 There are a few environmental  
6 issues. Some of them of these  
7 environmental issues that you have  
8 identified, some of them are maybe not  
9 environmental issues, but there are a few  
10 that I would like the program to hopefully  
11 consider through this process.  
12 One is euthanasia and carcass  
13 disposal, as stated. The second is  
14 funding of network organizations and  
15 stranding response. The third is public  
16 display, what it means, what it doesn't  
17 mean. The third -- fourth is different  
18 standards of response among regions, what  
19 makes sense and what doesn't. And the  
20 fifth is enforcement.  
21 We've got a lot of great comments  
22 in these draft documents and how are we  
Page 19

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23 going to enforce them. So as an  
24 organization, we will submit more specific

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1 written comments by the deadline, but I  
2 did want to go on record supporting  
3 MMHSRP's proposed action at this time.  
4 Thanks.  
5 MS. WILKIN: Our second  
6 commentor is Keith Matasa, and if you  
7 could state your name and organization.  
8 MR. MATASSA: The comments  
9 have already been addressed.  
10 MS. WILKIN: Katie Touhey.  
11 MS. TOUHEY: Yeah, what she  
12 said. We just want to go on record  
13 saying the same thing. As an organization  
14 and as an individual, we totally support  
15 the effort to put the best practices and  
16 policies into action and make guidelines  
17 and/or regulations out of them. And I  
18 think that we want to commend the program  
19 for pursuing this all the way through. I  
20 know it's been a long process. It's nice  
21 to see it finally coming to fruition.  
22 We do have the same kind of issues,  
23 especially for euthanasia and disposal, and  
24 I think it's important for the program at

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1 a national level to look into the  
2 potential other options, non chemical. We  
3 talk about it, but there's not a lot of  
4 acceptable versions out there. So I think  
5 that's going to be one of the toughest  
6 things.  
7 But we do support your proposed  
8 action, and we will also be submitting  
9 more specific comments to address some of  
10 the details.  
11 But one of our other concerns would  
12 be the ability of the National Fisheries  
13 Service to actually not enforce, but to  
14 kind of administer the program as it is  
15 proposed. I mean, you guys already seem  
16 kind of stretched to the max in a lot of  
17 different ways, and we're concerned about  
18 your ability to kind of keep up with what  
19 you're saying you're going to do. So  
20 funding for that part of the program as  
21 well as for the individual organizations  
22 that are participating.  
23 MS. WILKIN: Thanks, Katie.  
24 Next is Kate Sardi.

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1 MS. SARDI: Yes. I'm Kate  
2 Sardi with the Whale Center of New England  
3 in Gloucester.  
4 I'd like to start off by just  
5 strongly supporting the John H. Prescott  
6 Marine Mammal Rescue Assistance Grant  
7 program. I think everybody who works in  
Page 20

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8 stranding response in this room couldn't  
9 be doing what we're doing now without that  
10 program. And everything that we do takes  
11 a lot of resources, and the National  
12 Marine Fisheries Service wants all that  
13 data collected and so we really appreciate  
14 having, at least part of our expenses paid  
15 for through the Prescott program. We do  
16 strongly support that.

17 We do also support current Marine  
18 Mammal Health and Stranding Response  
19 program activities, including in the field  
20 response, rehab and release, large mammal  
21 disentanglement and the unusual mortality  
22 event program.

23 Response to all marine mammals,  
24 whether they're Pinnipeds or cetacean,

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1 whether they're in a thriving population  
2 or a threatened population is of course  
3 important for scientific reasons as well  
4 as humanitarian reasons. Animals can be  
5 evidence of problems in the ecosystem.  
6 They definitely reflect ecosystem health,  
7 levels of human interaction, and certainly  
8 they have demonstrated the spread of  
9 disease in various populations. So it's  
10 important to study both live and dead  
11 animals, and we can learn more about  
12 animal themselves.

13 We do want to make sure that the  
14 entire network is collecting as much data  
15 as possible and that -- I know the  
16 National Marine Fisheries Service referred  
17 to the NMFS I think it was sponsored  
18 training programs. I think that I would  
19 encourage the National Marine Fisheries  
20 Service to have more programs that are  
21 perhaps not as abundant, things like  
22 programs on unusual mortality events data  
23 collection, for instance, so that everyone  
24 is fully prepared to collect as much data

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1 as possible from unusual mortality events  
2 and we're all collecting it in exactly the  
3 same way.

4 I'd also like to comment on the  
5 fact that although all stranding response  
6 is important, as I mentioned, I think we  
7 do have limited resources, and I do  
8 believe that there should be some  
9 prioritization in how many of those  
10 resources are put towards certain animals.

11 I would support the alternative  
12 that said that for response there are some  
13 animals that are required to be responded  
14 to and others are optional. The word  
15 "optional" is a little worrisome for me.  
16 I guess I would say encourage or expected  
17 when feasible, something more like that.  
18 But that it is required in animals that

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19 are, I would say, probably below OSP or in  
20 decline, versus animals that are -- have a  
21 really healthy population or are increasing  
22 sharply.

23 A perfect example of that is of  
24 course all the resources that go into harp

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1 seal response and rehab, only to have some  
2 of those animals hunted in Canada. Some  
3 of those resources might be better spent  
4 going towards animals that are in a more  
5 threatened population.

6 We do support the proposal to issue  
7 a policies and best practice manual for  
8 our marine mammal stranding response. We  
9 are a little worried, though, to make it  
10 completely uniform nationwide and species  
11 wide. So we would want to make sure that  
12 everything has -- takes into account  
13 regional differences.

14 There are definitely different  
15 pressures on different regions, and perhaps  
16 that would change the priorities for  
17 different regions as well. And so I think  
18 that it's important to really look at  
19 those regional differences when looking at  
20 policies and practices.

21 And we do also just want to throw  
22 in that we strongly support the regional  
23 structure of the stranding network, and  
24 this is a plug, because I'm part of the

00053

1 northeast region, and this region works  
2 really well together and we wouldn't  
3 probably be able to as much as we could  
4 without the region working as a team in a  
5 regional network.

6 A good example of that's during  
7 Mass. stranding response or during large  
8 whale necropsy, especially right whales,  
9 take a huge amount of resources and staff  
10 and working cooperatively is so important.

11 And we are going to submit more  
12 detailed comments as well. Thank you very  
13 much.

14 MS. WILKIN: Next is Stormy  
15 Mayo.

16 MR. MAYO: I'm Stormy Mayo  
17 from the Center for Coastal Studies, and I  
18 wanted just to comment on a couple of  
19 things on the disentanglement side. I see  
20 it heavily weighted, for pretty good  
21 reasons, on the stranding side of the  
22 issue, but we're generally very much  
23 supportive of, I think -- certainly I am  
24 -- of the concept that's embodied here,

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1 increasing the standards and in some ways  
2 firming up both sides of the issues you've  
3 brought.

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4 On the disentanglement side, a  
5 couple of points that may well be already  
6 planned, but we would very much like to  
7 see in place. One is the idea of  
8 national guidelines. And my executive  
9 director reminded me that the guidelines  
10 that we use internally, because we are  
11 very much -- though a network, we are very  
12 much centered in Provincetown at the  
13 present.

14 Those guidelines have resulted in  
15 probably well over a hundred  
16 disentanglements in the last 20 years, and  
17 the safety record, both for marine mammals  
18 and for the people, is virtually spotless.  
19 I haven't lost or injured any people. And  
20 though we've probably hurt a few animals,  
21 we've generally been successful.

22 And that suggests to, particularly  
23 my executive director, that some of the  
24 things we've developed are effective. And

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1 we're in the process now as a group of at  
2 last getting together on what will be  
3 something that perhaps needs to be used in  
4 those standards.

5 So one thing we want to do is to  
6 support national guidelines, because some  
7 things are happening you think on the West  
8 Coast or may develop are probably not  
9 going to benefit either whales or people.

10 Secondly, and very much hand in  
11 hand with that, we support the concept  
12 that's embodied in a national coordinator  
13 who is very much hands on approach.

14 Whenever we who have to do the work --  
15 and this may well be true of stranding,  
16 too, but certainly I think in the case of  
17 an entanglement, we have to deal in the  
18 emergency situations that we do with lots  
19 of overlapping jurisdictions without a top  
20 coordinator. We run into what are  
21 immediately threatening problems, both for  
22 the animals and for ourselves.

23 We would very much like to see that  
24 kind of coordination across the country.

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1 And in the case of entanglement, the  
2 events are few enough so that one  
3 coordinator probably can very much have  
4 hands on.

5 We very much believe that about the  
6 East Coast and hope it will expand across  
7 the country, and I think that's an  
8 appropriate approach and one that we will,  
9 I think, very strongly fight for.

10 I had a couple of questions that go  
11 back to my time when I used to do a lot  
12 of the stranding work, and one that was  
13 then an issue may not be anymore. But I  
14 noticed that you talked about release

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15 criteria scattered through the  
16 presentation, but they are always, as best  
17 I can tell, related to rehab.

18 And I feel and have felt -- some  
19 of you know I have fought, sometimes  
20 virtually fought, for criteria on the  
21 beach for the release of animals. And I  
22 would encourage, if it's not embodied -- I  
23 didn't hear it in your presentation --  
24 encourage criteria on the beach that

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1 optimize the potential for release of an  
2 animal from the beach, something that I  
3 have long felt was an important part of  
4 the whole stranding program.

5 I have little to do to with it.  
6 Some of you may already know that's off  
7 base. I would like to see some standards  
8 by which people, if you will, have narrow  
9 boundaries that require them to release  
10 animals if it's conceivable.

11 And I would last -- Well, I guess  
12 I wanted to ask one more question, and  
13 that was, you said that you were looking  
14 at information on critical research and  
15 management needs. And as we put together  
16 our written comments, what exactly do you  
17 call "critical"? There is a huge amount  
18 that can be gathered from animals  
19 entangled and on the beach that are not  
20 critical to the ESA Marine Mammal  
21 Protection Act or even conservation, but  
22 might be, by some science view, critical  
23 to general mammal research or marine  
24 mammal research.

00058

1 I would like to see -- maybe I'd  
2 like to hear from you if when you ask  
3 that question, which kind of critical you  
4 are talking about.

5 Can you -- are you prepared? I'll  
6 wait until the informal. But I think it  
7 should be important to know what kind of  
8 -- what's called critical, because animal  
9 welfare groups are prepared immediately to  
10 respond if people are doing advanced  
11 research that has something to do with  
12 human health and not with the release of  
13 animals or their well being.

14 I think that's -- I guess one last  
15 comment is that in disentanglement, there  
16 is a de facto taxonomic order that is  
17 driven by particularly the criticality of  
18 the right whale and the right whale's  
19 population. So although we may say we're  
20 going to be uniform, I think what you see,  
21 though we won't admit it, is a ramped-up  
22 effort when it comes to animals that are  
23 on the brink of extinction. Thank you.

24 MS. WILKIN: Last commentor.

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1 MS. MERIGO: I will be  
 2 providing detailed comments in writing, but  
 3 I just wanted to go on record here to say  
 4 that I support NOAA, in general, your  
 5 effort to move towards improvements and  
 6 guidelines for the Marine Mammals Health  
 7 and Stranding Response Program.  
 8 In addition, I just want to say  
 9 also thank you for supporting the John H.  
 10 Prescott Stranding Grant program, because I  
 11 think that has allowed a lot of people  
 12 here to maintain their level of support.  
 13 And judging from the numbers that you put  
 14 up earlier, strandings are certainly not  
 15 declining, and without the stranding  
 16 network, the general public would certainly  
 17 take matters into their own hands, which I  
 18 think at that point, again, without the  
 19 stranding network's participation in that,  
 20 we would really have a health and safety  
 21 nightmare on our hands. So I just wanted  
 22 to say thank you for that, and again I'll  
 23 be providing detailed comments in writing.  
 24 MR. WILKIN: Do you want to

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1 say who you are with?  
 2 MS. MERIGO: New England  
 3 Aquarium. Thank you.  
 4 MS. WILKIN: All right.  
 5 Was anyone else inspired to make a  
 6 statement? All right then. Thank you for  
 7 your comments and this is going to  
 8 conclude our presentation.

9 (On the record portion of  
 10 the Marine Mammal Health and Stranding  
 11 Response Program conference concluded at  
 12 6:15 p.m.)  
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COMMONWEALTH OF MASSACHUSETTS

1 I, AMANDA STEVENS, a Professional  
 2 Shorthand Reporter and Notary Public in  
 3 and for the Commonwealth of Massachusetts,  
 4 do hereby certify that the witness whose  
 5 deposition is hereinbefore set forth was  
 6 duly sworn, and that such deposition is a  
 7 true record of the testimony given by the  
 8 witness.  
 9  
 10

2044 response. program 021306

11

12 I further certify that I am neither  
 13 related to or employed by any of the  
 14 parties in or counsel to this action, nor  
 15 am I financially interested in the outcome  
 16 of this action.  
 17 In witness whereof, I have hereunto set  
 18 my hand and seal this 6th day of  
 19 March, 2006.

20  
21  
22  
23  
24

Amanda Stevens  
 Notary Public  
 My commission expires November 3, 2011

UNITED STATES OF AMERICA  
DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
PUBLIC SCOPING MEETING for the ENVIRONMENTAL IMPACT  
STATEMENT  
NATIONAL MARINE FISHERIES SERVICE  
ON THE ACTIVITIES OF THE NATIONAL MARINE MAMMAL  
HEALTH AND STRANDING RESPONSE PROGRAM

Friday, February 17, 2006

The meeting came to order at 2:30 p.m. at  
1301 East West Highway, Silver Spring, Maryland,  
Sarah Howlett presiding.

Present:

Sarah Howlett	Marine Mammal and Sea Turtle Division
Sarah Wilkin	Marine Mammal and Sea Turtle Division
Dr. Janet Whaley	National Stranding Coordinator

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P R O C E E D I N G S

(2:30 p.m.)

MS. HOWLETTE: We're going to begin our  
meeting today. I'd like to welcome everybody to our  
scoping meeting on the Environmental Impact  
Statements or Marine Mammal Health and Stranding  
Response Program. My name is Sarah Howlette and I'm  
with the Office of Protective Resources. Today with  
me is Sarah Wilkin and also Janet Whaley, Dr. Janet  
Whaley, the National Stranding Coordinator.

The purpose of our meeting today is to  
allow for the early public notification of a  
proposed federal action or actions, and this just  
gives the National Marine Fishery Service, or NMFS,  
the opportunity to present the action to the public  
and to repeat feedback and some input for the scope  
or the range of issues that we will be covering in  
our EIS.

This is our eighth and final meeting.  
We've had five meetings on the west coast, two in  
California, one in Hawaii, Seattle, and in  
Anchorage, and on the east coast, St. Petersburg and  
Boston.

The agenda for our meeting today is just  
to give you information on the scoping process, to  
go over a little bit on the background of the

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1 National Environmental Policy Act process, an  
2 overview of the Marine Mammal Health and Stranding  
3 Response Program, a review of the proposed actions  
4 and alternatives for our EIS, as well as a public  
5 comment period.

6 We ask that if you didn't, to please  
7 sign at the registration table, just to sign in or  
8 to sign up for our mailing lists, or if you would  
9 like to present an oral comment today. Written  
10 comments may also be turned in today. If you  
11 haven't prepared, we can take them. Also there is a  
12 written comment form at the registration that you  
13 may take as well, and today's meeting is being  
14 transcribed by a court reporter for an accurate  
15 public record. The National Environmental  
16 Policy Act, the purpose of NEPA, this is straight  
17 from the act itself is, "To encourage harmony  
18 between man and the environment, to promote efforts  
19 to prevent damage to the environment, and to enrich  
20 man's understanding of man's ecological systems and  
21 natural resources."

22 A NEPA requires a federal agency to  
23 analyze potential environment impacts of a proposed  
24 federal action, and this means just to consider  
25 environment consequences during the decision-making  
26 process to reduce, prevent, or eliminate environment

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1 damage and NEPA also requires public involvement  
2 process and key phases of the EIS process.

3 It's important to note that NEPA does  
4 not dictate the decision that is made by NMFS, but  
5 it helps to inform the process.

6 So why are we conducting an EIS? There  
7 is a list of factors that NOAA needs to look at to  
8 determine if a federal action warrants and EIS and  
9 this is just a list that we have picked out that we  
10 feel is relevant to our federal action.

11 The action may be a subject of  
12 significant public controversy based on potential  
13 environment impact, it may have uncertain  
14 environment impacts, it may establish a precedent  
15 and principle about future proposals, it may result  
16 in cumulatively significant impact and it may have  
17 adverse effects upon threatened and endangered  
18 species and their habitat.

19 The benefit of conducting this EIS, it  
20 will allow for a programmatic analysis of the  
21 MMHSRP, its current and future activities. It will  
22 allow for an assessment of cumulative impact, and it  
23 will eliminate the need to conduct individual and  
24 NEPA analysis on the program activities.

25 Why are we conducting an EIS now? The  
26 current Marine Mammal Protection Acts and Endangered

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1 Species Act permit that is issued to the MMHSRP will  
2 expire on June 30th of 2007. In order for the  
3 program to be issued a new permit, we must conduct a  
4 NEPA analysis on the activities that are covered  
5 under the permit.

6 We also have a policies and practices  
7 manual, and in order for these to be finalized into  
8 standards, we also must conduct a NEPA analysis.  
9 And both the permit and the manual will be discussed  
10 later by Sarah.

11 An EIS consists of the purpose and need,  
12 which is just a brief statement about why the action  
13 is being considered, the proposed action and  
14 alternative, the effected environment, or the  
15 resources that may be impacted by the federal agents  
16 or actions, the potential environment consequences  
17 and mitigations as well as consideration of public  
18 input.

19 This is a list of resources that are  
20 typically considered in an EIS. Those that we feel  
21 are particularly important for our EIS are protected  
22 species, including marine mammals, threatened and  
23 endangered species, water quality, human health and  
24 safety, and cumulative impacts.

25 The EIS process, we publish the notice  
26 of intent, or the NOI, in the federal register on

1 December 28th, and this began our formal scoping  
2 process. The scoping process will be concluded at  
3 the end of February and the draft EIS, once it is  
4 published, there will be a 45-day comment period and  
5 another set of public hearings in order to gain  
6 feedback. The final EIS will be published and 30  
7 days after the final EIS the record of decision, or  
8 ROD, will be issued and this just states the  
9 decision of the agency and how they came to this  
10 decision.

11 Public input activities, today you are  
12 participating in a scoping meeting. We ask that you  
13 identify any specific issues that you have and  
14 submit your comments to us. You can sign up on our  
15 mailing list to receive the draft EIS or any other  
16 information that we may be sending out about the  
17 EIS. We ask you to review and comment on the draft  
18 and also participate in a public hearing and to  
19 review the final EIS.

20 This is our tentative EIS schedule. As  
21 I mentioned, scoping will be wrapped up at the end  
22 of February. The draft EIS will be complete by  
23 September of 2006. The public comment period and  
24 public hearings will be between September of 2006 and  
25 November of 2006, the final EIS to be completed in  
26 May of 2007 and the record of decision will be



1 issued June of 2007.

2 Here is Sarah Wilkin to give an overview  
3 of the MMHSRP as our proposed action and  
4 alternative.

5 MS. WILKIN: All right. So Sarah gave  
6 you kind of the general overview of what NEPA and  
7 what it entails, and I'm here to tell you more  
8 about, specifically, the EIS for our program.

9 So just a little bit of background about  
10 the MMHSRP, or Marine Mammal Health and Stranding  
11 Response Program, which I think most of you are  
12 fairly familiar with, but it was established under  
13 Title 4 of the Marine Mammal Protection Act which  
14 was an amendment to the law that was passed to  
15 establish the program and send out three mandated  
16 goals.

17 The first is to facilitate collection  
18 and dissemination of health data about wild marine  
19 mammal populations and the second is to correlate  
20 that health data with environment parameters,  
21 including physical, chemical and biological. And  
22 the third is to coordinate effective responses to  
23 marine mammal unusual mortality events.

24 So given that charge, the National  
25 Marine Fishery Service has organized the Stranding  
26 Response Program -- Health and Stranding Response

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1 Program -- into several different components.

2 The first is the Marine Mammal Stranding  
3 Network which is an organization of various groups  
4 around the country covering most the U.S.'s  
5 coastline that respond are the first line of  
6 response to marine mammal stranding that are  
7 authorized and coordinated by the National Marine  
8 Fishery Service. Second, the Marine Mammal  
9 Disentanglement Network, which is kind of a similar  
10 network of different groups that respond to  
11 entangled marine mammals. The third, the John H.  
12 Prescott Marine Mammal Rescue Assistance Grant  
13 Program gives financial assistance in the form of  
14 grants to members of the stranding network for  
15 improving stranding response, and also to scientists  
16 who are doing research using tissues and samples  
17 obtained from stranded marine mammals.

18 The Marine Mammal Unusual Mortality  
19 Event and Emergency Response Programs uses many of  
20 the same members of the stranding network, but can  
21 also draw in outside experts including the working  
22 group on Marine Mammal Unusual Mortality Events,  
23 which is a panel of outside experts from both within  
24 and outside the government of a variety of  
25 disciplines that inform and help direct NMFS  
26 activities when an unusual mortality event occurs.

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1           The Information Management Program which  
2 is charged with the management of all of the data  
3 collected by all of these various arms of the MMHSRP  
4 including out National Level A Stranding database  
5 and the finally the Health, Biomonitoring, Research,  
6 Development and Tissue Banking programs which is  
7 kind of the catchall for the research that's  
8 conducted by the MMHSRP.

9           So as Sarah mentioned, we have interim  
10 policies that are currently available that we would  
11 like to finalize, so they are now available as  
12 interim documents for comment and the regions can  
13 choose to implement them at this time or wait for  
14 them to be finalized. And the five documents that  
15 you see here are part of these policies.

16           And the first is the Stranding Agreement  
17 Template, which is a template of language on how we  
18 propose the stranding agreements will be written  
19 with organizations to be members of the stranding  
20 network, and the second is the qualifications to  
21 obtain the stranding agreement, or in other words,  
22 what we are expecting organizations to have as  
23 qualifications prior to obtaining the stranding  
24 agreement.

25           The third is the minimum facility  
26 Guidelines for a rehabilitation facility so there

1           would be minimum standards for a facility that's  
2 going to conduct rehabilitation activities on marine  
3 mammals, and this is a joint document with the U.S.  
4 Fish and Wildlife Service, so it does cover all of  
5 the species of marine mammals.

6           The fourth is the release criteria. The  
7 release criteria is the joint document with the U.S.  
8 Fish and Wildlife Service covering all the marine  
9 mammals and it is the criteria for a rehab facility  
10 to kind of -- for a marine mammal to comply with  
11 prior to being released back into the wild.

12           And then the Disentanglement Network  
13 Guideline which are currently in use in most of the  
14 east coast and we're proposing to issue them as  
15 final guidelines for the U.S.

16           So a little bit about the permit. It is  
17 issued jointly under the Marine Mammal Protection  
18 Act and the Endangered Species Act. It's issued to  
19 the program, the Marine Mammal Health and Stranding  
20 Response Program, with Dr. Teri Rowles, who is our  
21 director as the principal investigator, and then all  
22 of the regional coordinators are listed as co-  
23 investigators along with many other scientists and  
24 stranding network participants.

25           And perhaps the most important thing  
26 that this permit does that you might or might not be

1 aware of, is that it actually provides for the  
2 response for both stranding and disentanglement  
3 response of animals that are listed under the  
4 Endangered Species Act. So this kind of compliments  
5 the authority that is given in the Marine Mammal  
6 Protection Act for nets to enter and to straining  
7 agreements, but it extends that same authority to  
8 endangered species.

9 It also permits import and export of  
10 diagnostic tissues for diagnostic sampling and also  
11 analysis on those tissues, and then it provides for  
12 health assessment captures in marine mammal  
13 populations where there's a question relating to  
14 their health or health trends.

15 So these are captures of animals that we  
16 believe, at least in theory, are healthy animals but  
17 they're in an area or part of a population that has  
18 had some kind of health issue, such as an unusual  
19 mortality event or a disease outbreak in the past.

20 Overview of the Stranding Network, these  
21 are the total U.S. strandings, or those strandings  
22 for which a Level A data sheet, which is our basic  
23 information about strandings is filled out between  
24 2001 and 2004 for the entire country.

25 So I have down at the bottom there  
26 "Cumulative Impacts." And that's one thing that we

1 are trying to keep very much in mind as we're  
2 writing this document, because it is a programmatic  
3 look at the activities of the entire Health and  
4 Stranding Response Network throughout the country.  
5 So although the impacts from a single animal or a  
6 single carcass or a couple of animals may be in your  
7 local area, you might not think would be that much.

8 When you look at it nationwide, for  
9 instance in one year, we had close to 5,000 stranded  
10 pinnipeds. So we have to try and consider the  
11 impacts of all of those animals.

12 And Silver Spring is part of the  
13 northeast region, so these are the statistics for  
14 strandings here in the northeast. These are  
15 pinnipeds. All the way on the left are those  
16 animals that stranded dead. In the middle are  
17 animals that stranded alive, and then all the way on  
18 the right are the animals that stranded alive, were  
19 taken into rehabilitation, spent at least some time  
20 in a rehab facility, and then were released back  
21 into the wild population.

22 We have all the same information for  
23 cetaceans strandings, again from 2001 to 2004. And  
24 it is important to note the scale bar on the left  
25 there is changing a little bit. But in 2004 still  
26 there were about 400 dead cetaceans here in the

1 northeast region alone.

2           So as Sarah said, an EIS starts out with  
3 a purpose and need statement, which is a plan  
4 language, simple relative statement that describes  
5 our purpose and need for doing this analysis. So  
6 the purpose for our EIS is very similar to what we  
7 envision is the purpose for the program, which is to  
8 respond to marine mammals in distress, including  
9 those that are stranded, entangled and out-of-  
10 habitat, and to answer research and management  
11 questions related to marine mammal health.

12           So therefore, these are our needs. The  
13 first is to operate the Health and Stranding  
14 Response Program effectively and efficiently by  
15 making the best use of available and limited  
16 resources. Everyone can always agree that there's  
17 not enough money to go around, and there's usually  
18 not enough people and not enough time, and therefore  
19 our challenge is to figure out how we can operate  
20 the program in the most efficient way possible to  
21 make the best use of what resources we do have.

22           And then to operate the program so that  
23 we're making sure that we're collecting the data we  
24 need on marine mammal health and health trends in  
25 order to meet the information needs of us, as an  
26 agency, for appropriate conservation and management

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1 and finally to insure that human and animal health  
2 and safety is always one of our highest priorities.

3           So this is our proposed action for the  
4 ESI, or actions. The issuance of the Policies and  
5 Best Practices Manual, which encompasses all of  
6 those five interim documents into one consolidated  
7 form, and issuing that as final guidance guidelines,  
8 and the second would be an issuance of a new permit  
9 under the ESA and MMPA to the health program.

10           Stranding agreements would continue to  
11 be issued or renewed on a case-by-case basis but  
12 this would be done implementing the new Stranding  
13 Agreement Template and the minimum criteria for  
14 Stranding Agreement holders. And then other day-to-  
15 day operations, like response, rehabilitation,  
16 release determination, disentanglement activities,  
17 etc. would continue essentially as they are now,  
18 although again, this would be implementing the  
19 standards in the Policies and Practices Manual, so  
20 rehabilitation facilities standards and release  
21 criteria and the disentanglement network guidelines.

22           So in the FR notice that was published  
23 in December, we listed a series of alternatives that  
24 we are considering. And I'll tell you right now  
25 that since December we've had more conversations and  
26 discussion and thought, and we've kind of come up

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1 with a different way of framing those alternatives.  
2 So first I'm going to present to you  
3 what was listed in the FR notice, which hopefully  
4 you're familiar with already, and then we'll do the  
5 harder part which is presenting to you our new way  
6 of thinking about alternatives.

7 So as listed in the FR are action  
8 alternatives, or alternative one, the preferred  
9 action, which is the issuance of the policies and  
10 practices, the issuance of the permit, again  
11 stranding agreements continue to be issued or  
12 renewed, and the Disentanglement Network would  
13 continue essentially as it does today.

14 NEPA requires that we consider a no-  
15 action alternative which is to say, what if the  
16 government didn't do this federal action or didn't  
17 do anything. And under a no-action alternative,  
18 therefore, we would not issue the Policies and  
19 Practices Manual so that guidance would not be  
20 available. We would also not renew or issue new  
21 stranding agreements to members of the Stranding  
22 Network. There would be no new permit issued to the  
23 program and no extension of authorizations for our  
24 partners in the Disentanglement Network, and with no  
25 permit eventually no biomonitoring or research  
26 activities.

1 So although it would take some time as  
2 disentanglement agreements and contracts expired and  
3 were not renewed, or no new ones were written, the  
4 network would essentially cease to function, so  
5 there would be no further response.

6 As I have down at the bottom, you might  
7 notice that this could conflict with some of our  
8 statutory mandates under the MMPA to collect health  
9 data. However, MMPA guidance also indicates that we  
10 should examine alternatives even if they conflict  
11 with other federal laws. And although the MMPA  
12 requires that we collect this data, it doesn't  
13 exactly tell us how we should go about doing it. So  
14 it is possible to consider a world where the MMHSRP  
15 as we know it does not continue and yet somehow the  
16 data is collected.

17 Status quo alternative is what happens  
18 if we continue doing what we're doing right now. So  
19 under this alternative, the Policies and Practices  
20 would not be issued and final, current stranding  
21 agreements would continue and they would be renewed  
22 as however they're currently issued, and the permit  
23 could be renewed or reissued as it's currently  
24 written so we could continue the research activities  
25 that are being done. Disentanglement partners will  
26 continue and new applications for participation in

1 the network would be considered on a case-by-case  
2 basis.

3 So what this allows us to do is to look  
4 at what are the impacts of the program as it's  
5 currently operating at its current level. The  
6 network would continue and to function exactly at  
7 that level. However, the worry with the status-quo  
8 alternative is that it would preclude us from making  
9 adaptive changes in the future by adding new  
10 partners, for instance, or changing techniques or  
11 our research projects.

12 And then we had a few alternatives that  
13 were considered by may be eliminated from further  
14 study, and most of these alternatives involve  
15 modifying the activities of the program in some way  
16 by reducing the activities or only doing certain  
17 activities.

18 For instance, only conducting via  
19 monitoring and research and not conducting stranding  
20 response, or only conducting stranding response and  
21 not doing rehabilitation and not doing the  
22 biomonitoring research component, response to only  
23 cetaceans, or in other words, dividing it up by  
24 species somehow, or by only responding to those  
25 animals listed under the ESA as threatened or  
26 endangered. Again, those may be eliminated from

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1 further study.

2 So I said that we had kind of thought  
3 about it a little bit more and come up with a  
4 different way of taking most of those same  
5 alternatives but framing them differently, and this  
6 is what I'm going to present to you now. And that  
7 is, dividing up the alternatives into each of the  
8 different activities.

9 So we have determined -- we have  
10 identified these six activities as being those kind  
11 of broad categories of activities within the program  
12 that we feel have the potential or actually have  
13 environment impact associated with them.

14 The first is the stranding response, and  
15 under that we include all the beach response, any  
16 kind of beach necropsy or facility necropsy,  
17 transportation of an animal, relocation of animals  
18 and immediate release.

19 And all of these activities have  
20 overwhelming concerns with human health and safety.  
21 They also all have concerns for the potential  
22 impacts to threaten an endangered species, or  
23 protected species in general.

24 Response has some additional  
25 considerations for the environment impacts of  
26 activities on beaches in particular, or coastlines.

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1 2:42 38 is carcass disposal and euthanasia and our  
2 concerns there are with what the activities of the  
3 program are putting into the environment over the  
4 course of carcass disposal activities when, for  
5 instance, we know that we have marine mammals that  
6 have levels of contaminants that already exceed EPA  
7 regulations and have them defined as toxic waste.

8 And then associated with that is  
9 euthanasia, and specifically carcass disposal issues  
10 that occur when you have an animal that you have  
11 injected chemicals into in order to humanely  
12 euthanize it but then what happens to the  
13 environment if those chemicals are released?

14 The third is rehabilitation and again,  
15 this is a concern for health and human safety,  
16 particularly for volunteers and employees in those  
17 facilities. It can also -- there can also be  
18 impacts to water quality because you have actual  
19 facilities that have some kind of affluent  
20 discharge.

21 The fourth is release of rehabilitated  
22 animals back into wild populations. And the concern  
23 there is mostly with the continued health of the  
24 wild population and whether there's the potential  
25 for disease transfer or pathogen pollution from the  
26 animals after having been in rehab.

1 The fifth is disenfranchisement activities  
2 and again, this is primarily a human health and  
3 safety concern. And then finally, biomonitoring and  
4 research activities.

5 So within each of these activities we  
6 have a range of alternatives that are proposed, and  
7 within each then, we can choose a preferred  
8 alternative or a combination of alternatives to  
9 become our preferred alternative, and we are going  
10 to go into this now in extreme detail.

11 So for instance, the first activity as I  
12 said, on stranding response. So under this activity  
13 we have a no-action alternative which is, what if  
14 we, the government do nothing and we allow stranding  
15 agreements to expire, therefore which means that the  
16 network as we know it would cease to function.

17 The second is the status-quo alternative  
18 where we continue those stranding agreements that we  
19 currently have and they continue to be renewed but  
20 it can preclude adaptive changes by adding anyone  
21 into the network.

22 The third is an immediate curtailment of  
23 response, so this would be similar to the no-action  
24 alternative but would happen on a much quicker time  
25 line.

26 The next two are both in the same kind

1 of realm of thinking, and you're going to see them  
2 over and over again, so I'll explain them now. And  
3 that is to say that we're going to change our  
4 activities based on what kind of animal or what kind  
5 of species we're dealing with.

6 And there's two ways to think about  
7 this, and they both go back to how stranding  
8 agreements are written or entered into. And the  
9 first is to say that response to some category of  
10 animals would be required by a facility, so the  
11 stranding agreement would be written to say that you  
12 are required to some animals and the response to  
13 other animals would be optional but may be expected,  
14 assuming that you had the resources to do that kind  
15 of response.

16 And the other way to think about it is  
17 that your stranding agreement would authorize you to  
18 do response activities to some animals but would not  
19 authorize response to other animals which would  
20 essentially mean the response to that second  
21 category would be prohibited because you would not  
22 be exempted from the take.

23 And then when we get to thinking about  
24 how we're going to divide up these animals as far as  
25 what we would respond to and what we would not  
26 respond to, or what we would authorize response to

1 or not authorize response to.

2 We have three groupings here that are  
3 kind of just ones we thought of. For instance,  
4 cetaceans. Response could be required but response  
5 to pinnipeds would be optional, although expected.

6 The second is that those animals that  
7 are protected by listing under the ESA would be  
8 required and those animals that are not listed would  
9 optional.

10 And the third would be dealing with the  
11 optimum sustainable population that animals that  
12 were below their OSP or had an unknown population,  
13 response would be required. Animals that were at  
14 OSP or above it would have optional response, and  
15 the same thing for authorized versus not authorized.

16 The last three alternatives have to do  
17 with the stranding agreements and how they are going  
18 to be issued. And the first is that stranding  
19 agreements would be issued to any applicant after  
20 review assuming that they met the review criteria.

21 The second, that the stranding agreement  
22 criteria would be implemented as proposed and  
23 therefore only applicants that meet those minimum  
24 criteria will be issued a stranding agreement, and  
25 this would be the basis of the review. We have to  
26 determine if their facility met the minimum



1 criteria.

2 And the last is that the stranding  
3 agreement criteria would be revised in some way from  
4 how they were given to you and then implemented and  
5 utilized.

6 Under carcass disposal and euthanasia,  
7 again a no-action alternative wherein stranding  
8 agreements would expire and therefore there's no  
9 more stranding networks so animals aren't responded  
10 to and all animals would be left on the beach.

11 The status-quo alternative, we would  
12 continue with current training agreements and  
13 therefore current methods of carcass disposal would  
14 continue, whatever those may be. It varies a great  
15 deal by facility and area -- locality.

16 Another alternative would be that all  
17 animals would be buried onsite and analyzing the  
18 impacts of that or conversely, that all animals  
19 would be transported offsite and disposed of in some  
20 other way than burial. For instance, via landfill  
21 or incinerator, towed out to sea, etc.

22 And then to deal with the euthanasia  
23 idea that animals would either no longer be  
24 chemically euthanized to prevent the release of  
25 chemicals or that chemically euthanized animals  
26 would be transported offsite for carcass disposal

1 and animals that were not euthanized chemically  
2 could be buried, left on the beach, or transported  
3 to an alternate disposal site as feasible depending  
4 on the facility.

5 Our third activity, rehabilitation.  
6 Again, a no-action alternative. Stranding  
7 agreements would expire and therefore, animals would  
8 no longer be rehabilitated. The status-quo  
9 alternative would continue our current stranding  
10 agreements and our current rehabilitation  
11 activities.

12 Another option is the immediate  
13 cessation of rehabilitation so that all stranded,  
14 live stranded animals would either be left on the  
15 beach, euthanized on the beach, or trans-located and  
16 then released.

17 Again, we focus on splitting up  
18 activities based on the different categories of  
19 animals and whether that's a required response  
20 versus an optional or expected response, or an  
21 authorized response versus and non-authorized  
22 rehabilitation, and splitting them by cetaceans and  
23 pinnipeds in two different categories by ESA listed  
24 and non-listed, or based on some other definition of  
25 their population whether OSP.

26 And the last two are that the

1 rehabilitation facility guidelines would either be  
2 implemented as proposed or they would be modified  
3 and then implemented.

4 Under release, again, a no-action  
5 alternative. As stranding agreements expire there  
6 is no more rehab and therefore no more release of  
7 animals. Status-quo alternative, we continue with  
8 the current network and the current rehabilitation  
9 and release activities.

10 All animals released is one alternative  
11 that therefore if an animal is not a release  
12 candidate it would not be taken into rehab in the  
13 first place or would be euthanized. And then again,  
14 this idea of dividing our response between some  
15 groups of animals and either optional groups or not  
16 doing other groups. So this would be that cetaceans  
17 would be released after rehabilitation and pinnipeds  
18 release could be optional.

19 And the last two deal with the release  
20 criteria, so whether they're implemented exactly as  
21 proposed or whether they're modified in some way and  
22 then implemented.

23 Disentanglement -- this should be  
24 looking familiar by now. We have a no-action  
25 alternative which is that contracts and agreements  
26 would be allowed to expire and there would be no

1 further disentanglement response. Status quo, again  
2 we continue our current agreement, the current  
3 disentanglement network, however it could preclude  
4 changes as technology improves or as other members  
5 wish to be a part of this disentanglement network.

6 The disentanglement of some animals  
7 could be authorized and other animals would not be  
8 authorized. For instance, cetaceans and pinnipeds,  
9 ESA listed and non-listed and at OSP versus not at  
10 OSP.

11 And then the last two are to deal with  
12 the guidelines whether they're implemented, and this  
13 would be implementing these guidelines nationwide,  
14 which would then have training prerequisites  
15 required before a group could become, or a person  
16 could become a part of the disentanglement network,  
17 or the modification of the guidelines and then  
18 implementations.

19 This activity via monitoring. No action  
20 would be allowing the permit to expire and by  
21 biomonitoring projects would therefore end. The  
22 status quo would be the renewal of the permit which  
23 would allow the continuation of current  
24 biomonitoring projects but no new ones.

25 Another way to limit our activities in  
26 some way, either by having no health assessment

1 captures which would then allow biomonitoring to  
2 continue but only from those animals that were  
3 stranded, by caught in fishing, or cetaceans hunted,  
4 or by eliminating the tissue bank, which would mean  
5 that tissues could still be collected and used for  
6 immediate analysis, but it would preclude us from  
7 doing retrospective studies many years into the  
8 future on banked tissues.

9 And the last alternative is the issuance  
10 of the new permit with current and new foreseeable  
11 biomonitoring and research projects.

12 All right. That covers the alternatives  
13 as we're thinking about them, and as part of our  
14 scoping process we are asking some very specific  
15 questions for input from you, the public.

16 The first question involves identifying  
17 environment concerns, so we had those six activities  
18 up and I told you what we feel that the environment  
19 impacts of those might be. However, we realize we  
20 might not have addressed or identified all of the  
21 potential activities that could result in  
22 environment impact, so therefore we are asking you  
23 if you can identify others to identify them to us  
24 and to be thinking, too, about not just the direct  
25 impacts of the activities, but also the indirect and  
26 cumulative impacts.

1 The second is to help us define  
2 alternatives and potential mitigation measures.  
3 There are a whole lot of alternatives that were just  
4 proposed and we recognize that not all of them are  
5 feasible or even necessarily a good idea. So we're  
6 asking for your help.

7 We have not, from that second group of  
8 alternatives under each activity, we have not yet  
9 identified any that we are going to eliminate from  
10 further consideration. So that is one area in which  
11 we could use feedback on, helping us define  
12 alternatives by defining those alternatives that are  
13 not feasible and should be eliminated from future  
14 consideration.

15 And then also potential mitigation  
16 measures where we have alternatives that would  
17 result in impacts to the environment, ways to  
18 minimize or mitigate those impacts.

19 And then the third area of specific  
20 information is necessary modifications to the  
21 interim policies. So we have those documents up as  
22 they're currently proposed and we are asking for  
23 your feedback on them, whether that be editorial or  
24 logistical or more general in kind of input and  
25 scope.

26 So here are some examples of some of the

1 questions that we are posing to you as the public  
2 and requesting input on. And the first is the very  
3 basic what sort of activities should we be  
4 conducting? And when you think about this, "we" is  
5 the Marine Mammal Health and Stranding Response  
6 Program, and we're talking about what sort of  
7 activities on the local or regional and the national  
8 level in response to stranded animals, entangled  
9 animals, sick, injured, and other marine mammals in  
10 distress.

11 And the second question is, are there  
12 critical research or management needs that we may  
13 meet by information obtained from stranding  
14 investigations, from rehabilitation, from  
15 disentanglement activities or health-related  
16 research by monitoring.

17 And if you have identified research and  
18 management needs, are we currently meeting them and  
19 if not, what are those needs and what should we be  
20 doing in order to meet them?

21 The next group of questions involves  
22 level of response effort and each of those  
23 alternatives we have some idea of ways to partition  
24 or differentiate our response activities, or level  
25 of activity based on species. And again, this comes  
26 back to the idea of making the best use of our

1 resources.

2 So the first question is, should -- in  
3 your opinion, should there be different standards or  
4 levels of effort for different species or groups of  
5 species and if so, how should we go about setting  
6 standards or setting limits on those efforts?

7 And the last question, how should we  
8 divide the species into different categories? And  
9 the three ways that we proposed are cetaceans and  
10 pinnipeds, ESA listed and non-listed, and then some  
11 division based on their population status. But we  
12 recognize that there are many other ways to divide  
13 species.

14 The next group of questions centers  
15 around organizations and qualifications which is to  
16 say the network members and the current networks.

17 First question, is the current  
18 organization of the National Stranding and Health  
19 Assessments Networks adequate? And this also  
20 involves the disentanglement network at the local,  
21 state, regional, ecosystem, and national levels, and  
22 what changes could we make that would help us make  
23 the organization more effective?

24 The next question revolves around the  
25 minimum criteria document and essentially whether  
26 that document as proposed is adequate. What should

1 the minimum qualifications of an individual  
2 organization be prior to becoming a stranding  
3 agreement holder or a participant in the  
4 disentanglement network?

5 And the fourth question goes beyond  
6 that, because that is to say once you have obtained  
7 your stranding agreement, what about requirements  
8 for a continued participation in the stranding  
9 network? Should there be, for instance, a  
10 certification or licensing process or what kind of  
11 training should be required so that you're not just  
12 obtaining a stranding agreement, but you're actually  
13 doing something to maintain that agreement and  
14 maintain your involvement.

15 And finally the effects of the  
16 activities. And the first question, are public and  
17 animal health and safety needs adequately addressed  
18 by the current program? Are the current release  
19 criteria as proposed adequate to protect wild  
20 populations from introduced diseases from animals  
21 that have been in rehab? Are there potential  
22 environment impacts that you can see we have not  
23 identified? And are there any other relevant or  
24 issues or data that NMFS should consider in our  
25 analysis? And we ask that if you have other issues  
26 or data if you could provide it or give us at least

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1 a reference to obtain it.

2 That concludes the presentation and now  
3 we're going to move into the oral comment time, so  
4 the oral comments is the period of time for you, as  
5 members of the public, to give your feedback on the  
6 scope of our EIS to us. We will not be responding  
7 to these comments today. They will be incorporated  
8 into the EIS and responded to that way.

9 If you are interested in giving an oral  
10 comment. If you already signed in at the  
11 registration table we have that. If you did not  
12 sign in and you would like to comment, we'll give  
13 you a chance to do so. I don't think we'll need to  
14 do a time limit and just a reminder that we are  
15 recording the meeting to insure an accurate and  
16 complete record of your comments.

17 If you don't feel like standing up and  
18 giving an oral comment, there are many other ways to  
19 still be involved by commenting. So for written  
20 comments, if you have prepared comments, you can  
21 hand them in to us today. We have comment sheets up  
22 at the registration table that you can also use to  
23 write comments on. Or you can make comments in any  
24 form by mail, email, or faxed before our deadline of  
25 February 28th.

26 Additional information on our document

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1 and especially on all the interim policies that  
2 we're proposing is available for review at public  
3 libraries. There's a copy here at the library, NOAA  
4 building 3. It's also available on our web page  
5 listed at the bottom there. And then if you're  
6 interested in receiving copies of the draft EIS or  
7 any other information that might come out, if you  
8 register here, or you can check and we will be  
9 uploading them to our website as they're available.

10 So we would like to thank you for coming  
11 and your participation in the scoping meeting and  
12 now will turn it over for oral comments, which we  
13 have one. So if you can please come up to the  
14 microphone and give your -- all right -- up to the  
15 podium and give your name and affiliation.

16 MS. MENARD: Good afternoon. I am  
17 Marilee Menard, the executive director of the  
18 Alliance Parks and Aquariums. The Alliance is an  
19 international association of marine life parks,  
20 aquariums, zoos, research facilities and  
21 professional organizations dedicated to the highest  
22 standard of care for marine mammals and to their  
23 conservation in the wild through public education,  
24 scientific study, and wildlife presentation.

25 Alliance members are also integral parts  
26 of the Marine Mammal Stranding Network.

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1 Collectively, Alliance members represent the  
2 greatest body of experience and knowledge with  
3 respect to marine mammal husbandry. Marine life  
4 parks are leaders in the effort to medically treat,  
5 rehabilitate, and return to the ocean the sick and  
6 injured dolphins and other marine mammals that  
7 strand each year on our beaches and shorelines.

8 For decades Alliance members have  
9 voluntarily dedicated time, resources, staff and  
10 equipment to these efforts and have spent millions  
11 of dollars doing so. We have gleaned extensive  
12 knowledge and experience from working with stranded  
13 marine mammals as well as animals in our parks.  
14 This knowledge and experience assures that stranded  
15 marine mammals get the very best care and have the  
16 best chance of being returned as healthy individuals  
17 to the wild.

18 The NOAA Fisheries, Marine Mammal Health  
19 and Stranding Response Program, which oversees the  
20 National Marine Mammal Stranding Network and efforts  
21 to rescue, research, rehabilitate, and release  
22 stranding marine mammals if vitally important.

23 The public supports this essential  
24 program in a Harris Interactive Poll conducted for  
25 the Alliance and released last year. Ninety-four  
26 percent of respondents supported efforts to rescue,

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1 medically treat, and rehabilitate injured wild  
2 animals and marine mammals so they can be returned  
3 to the wild. This is not a red/blue issue. This is  
4 a phenomenal percentage that clearly indicates that  
5 the public backs the activities of the Stranding  
6 Network.

7 The importance and relevance of research  
8 with stranded animals has never been more striking  
9 as experts warn today about the perils of our  
10 oceans, marine mammals in our oceans, now and into  
11 the future.

12 The collection of biological data from  
13 both stranded marine mammals that have died on  
14 beaches or those that have been rescued and  
15 rehabilitated give researchers a glimpse into the  
16 state of our oceans and rivers by studying pollution  
17 levels and diseases effecting wild animal  
18 populations.

19 As strandings and public awareness of  
20 ocean health issues increase, the pressure on the  
21 Stranding Network and its authorized partners also  
22 escalates. That pressure should not result in  
23 substandard response and care for these unique and  
24 wonderful animals.

25 Good intentions do not save a sick or  
26 injured stranded animal, nor is it able to identify

1 or monitor new threats to marine mammals health.  
2 Years of experience, research, and expertise are the  
3 ingredients that have led to the success of today.  
4 All Stranding Network partners should be evaluated,  
5 trained, and meet basic quality standards for  
6 facilities and operations. This will assure that  
7 the animals get quality care and that basic  
8 information can be collected to support the  
9 Stranding Response Program's mission to monitor the  
10 health of marine animals and their ocean habitats.

11 (Applause)

12 MS. WILKIN: All right. We have one,  
13 maybe, to come with us.

14 MS. BARCO: I'll take the podium, too.  
15 I don't have specifically written comments, so  
16 mine's going to be a little bit less professional  
17 than Marilee's. I'm Sue Barco with the Virginia  
18 Aquarium and Stranding Response Program, and I want  
19 to start off by applauding you-all for all the hard  
20 work you've done and I think the documents that you  
21 put together are incredible. And for the most part,  
22 I agree with a lot of what has been written, so I  
23 think that needs to be on the record.

24 Personally I support a lot of what you-  
25 all have recommended. I have to rethink your  
26 alternatives a little bit but as far as answering

1 some of the questions that you've asked as far as  
2 what sort of activities should be conducted, I think  
3 we ought to consider continuing to authorize all  
4 activities that have been conducted thus far under  
5 the Marine Mammal Health and Stranding Response  
6 Program.

7 I think it would be dangerous to not  
8 authorize some of those activities. Whether you  
9 prioritize them or not, I think, is largely a  
10 decision that you-all have to make knowing the  
11 limits that you have on resources, but non-  
12 authorized some activities I think could be  
13 dangerous.

14 As far as the current organization of  
15 the National Stranding and Health Assessment  
16 Networks, we have gotten the -- some of us have  
17 gotten the feeling that there is somewhat of a  
18 disconnect between headquarters and the various  
19 regions and among the various regions as far as how  
20 things are conducted and in some cases funded, and  
21 we certainly would support any efforts NMFS to  
22 mitigate those types of differences where it's  
23 feasible. Certainly in some areas, just coming back  
24 from Alaska, some of those differences are required.

25 As far as public health and animal  
26 safety needs, I think that one issue that we need to

1 really work on in the future, and I didn't see this  
2 alternative recommended, is the euthanasia issue.  
3 And I think one alternative we should explore is an  
4 alternative of a less toxic chemical euthanasia than  
5 the currently accepted euthanasia solution that is  
6 used.

7 On the beach, in some cases, it can be  
8 dangerous both to the stranding response personnel  
9 as well as to the environment and there are some  
10 less-toxic options that have been considered not  
11 humane by the veterinary associations but perhaps  
12 other combinations of that medication with something  
13 like potassium chloride with other medications that  
14 are less toxic and potentially not controlled or  
15 less controlled might give us more freedom and more  
16 safety for both the animals and the stranding  
17 responders when dealing with euthanasia.

18 Also, as far as stranding agreements and  
19 minimum qualifications, I applaud your efforts to  
20 try to raise the standards, and I think most  
21 organizations are willing to do the best they can.  
22 I do think that you should be aware that by  
23 requiring certain actions that you may be putting  
24 some people out of business and you have to be ready  
25 for that possibility, that by requiring us to do a  
26 certain level of things, yet not providing regular



1 funding for that that here are some places and some  
2 people that may not be able to continue their  
3 activities. That may be okay, it may not be okay,  
4 but it is something you should be aware of. There  
5 will be a lot more interim comments from our  
6 organization.

7 (Applause)

8 MS. WILKIN: Anyone else suitable  
9 inspired? All right then we -- thanks for your  
10 participation and the formal commentary.

11 (Whereupon, at 3:08 p.m. the  
12 foregoing matter was  
13 adjourned.)

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## **APPENDIX D**

### **COMMENTS RECEIVED DURING SCOPING PROCESS**





**Alaska SeaLife Center**

Prescott Award Program

February 28, 2006

Mr. P. Michael Payne  
Office of Protected Resources  
Marine Mammal and Sea Turtle Division (F/PR2)  
National Marine Fisheries Service  
1315 East-West Highway, Room 13635  
Silver Spring, MD 20910

**Public comments for Environmental Impact Statement (EIS) on the Marine Mammal Health and Stranding Response Program (MMHSRP)**

Dear Mr. Payne,

It is a pleasure to have the opportunity to comment on the Environmental Impact Statement (EIS) on the Marine Mammal Health and Stranding Response Program (MMHSRP). The Alaska SeaLife Center fully supports the need for stranding response and for rehabilitation of stranded Marine Mammals. We believe that this is in the best interest of the animals served the humans who share the environment and the people who use marine mammals as food items. This is a belief held by a vast majority of Americans (94%) who believe that it is important to rescue, medically treat, and rehabilitate sick or injured marine mammals. Our major concern is the management of the Prescott funding program that has been used to facilitate NMFS agendas of data gathering, and has fostered "better dead than in captivity" agendas in some organizations. In our opinion the funding has been diluted by a NMFS decision to not grant more than two awards to each organization. While that decision might have been made originally to spread the funding over a larger area, the effect has been deleterious for the very marine mammals the program is designed to protect. We believe that the Prescott funding in some regions is being used to fund salaries of competing stranding coordinators and would be better spent on building consortiums or building networks around one or two major organizations in a region (Alaska model) that could manage and coordinate the stranding activities in a region.

The Comments in the attached document are compiled from comments from and represent the comments from the Alaska SeaLife Center.

Dr. Carrie Goertz  
Dr. Pam Tuomi  
R. Lee Kellar  
Tim Lebling  
Dennis Christen

R. Lee Kellar  
Director of Husbandry

EIS COMMENTS

Specific Questions:

**• What sort of activities should be conducted on a local, regional and national level in response to stranded, entangled, sick, injured, and other marine mammals in distress?**

Our institution feels that the current level of effort should continue. Responding to both dead and live stranded marine mammals offers unique opportunities to gain insight into processes, both anthropogenic and naturally occurring, which affect individual marine mammals, their greater population, other species, and the marine environment. Dead and live animals offer different opportunities; some conditions are best detected in live animals while post-mortem testing will pick up other conditions, and so both should therefore continue. Stranded animals are not typically representative of populations but examining these animals offer advantages over examining wild caught animal; namely, the stranders are more easily 'caught' and make it easier to detect debilitating processes that may only affect a small portion of the population at present. Furthermore, in the case of responding to live animals, if there are not facilities and professional staff available to care for live animals, 'lay' people will take matters into their own hands which is not safe for the animals or the inexperienced people trying to care for them.

**• Are there critical research or management needs that may be met by stranding investigations, rehabilitation, disentanglement or health-related research and biomonitoring -activities? Are these needs currently being met? If not. What are they, how are they likely to benefit the marine mammal species, and what should be done to meet them?**

Management definitely needs to be improved, however, the government may not be in the best position to make this happen. Our institution is very intrigued by the efforts in the northeast to form a consortium. We believe that this is critical for the northeast to form a consortium in order to streamline their functions. It is our belief that one or several large stranding responders in a region is better than lots of relatively under funded response groups. The proliferation of these under funded, unqualified and understaffed organizations can be partially blamed on the Prescott funding strategy of NMFS. By awarding no more than 2 awards to an institution NMFS has ensured that there is little or no effective stranding response and that live animal response is nearly impossible to fund. This has relegated the Prescott program into a federally funded beach clean up program. The better scenario would be a centralized regional organization with one coordinator (Alaska model) and the rest of the regional funds being spent on response and rehabilitation expenses instead of paying salaries for multiple coordinators in small ineffective organizations.

**• Should there be different standards or levels of MMHSRP effort for different species or groups of species (i.e. pinnipeds vs. cetaceans; threatened or endangered species vs. increasing populations, etc.)? If so, how should NMFS set these standards or priorities?**

Standards and levels of responses should be the same regardless of species with the exception that endangered, threatened should receive priority in the face of conflicts of space or commitment. With few exceptions, there do not appear to be official priorities within NMFS. However, at times it seems that NMFS has unofficial priorities and individuals within NMFS have their own individual priorities that they try to impose on institutions. Institutions should be allowed to set their own priorities which NMFS should respect and not expect institutions to change just to suit NMFS.

**• Is the current organization of the national stranding and health assessment networks at the local, state, regional, ecosystem, and national levels adequate to meet the necessary management and research needs for conservation? If not, what changes should be implemented to make the organization more effective.**

The better scenario would be a centralized regional organization with one coordinator (Alaska model) and the rest of the regional funds being spent on response and rehabilitation expenses instead of paying salaries for multiple coordinators in small ineffective organizations.

**• What should be the minimum qualifications of an individual or organization prior to becoming a Stranding Agreement holder to ensure that animals are treated appropriately, humanely, and with the minimum of adverse impacts?**

This institution is well aware of various organizations that lack staff with appropriate maturity and depth of experience to properly assess, transport, and care for marine mammals and we are in favor of establishing minimum qualifications. In that regard, there is no substitute for continuous, full-time, hands-on experience. There are ample opportunities to intern or volunteer with established rehab institutions or zoologically institutions with captive marine mammals that are not involved with stranding or rehab. However, there needs to be a balance so that participating in the stranding program is not overly burdensome to truly quality institutions. In general the guidelines and policies that are being reviewed as part of the EIS process fail to achieve a good balance.

**• Are public and animal health and safety needs adequately addressed in the current organization and operations of the MMHSRP?**

The current process of distributing funds severely dilutes the impact that these limited funds could have. Furthermore, it should be said that 4 M per year is truly inadequate to properly fund this initiative and NMFS is getting a bargain for this price. Stranding organization have for years relied on resorting to all sorts of tricks to hide the true cost of responding to and analyzing or caring for marine mammals.

**• Are there any other relevant issues or data NMFS should consider in its analysis of activities conducted by, for, and under the authorization of the MMHSRP? If so, please provide if or a reference for it.**

NMFS should seriously consider actively soliciting input from establish organizations that are involved in the self-regulation of organizations and facilities that care for marine mammals, namely AZA and AMMPA. Institutions that are certified by these or other respected zoological groups should be rewarded by agreeing to standards that exceed those put forth in the AWA.

#### General Comments on the Documents

It is unclear how the various documents up for review work together and there remain are disconnects and potential disagreements between them. Furthermore, the legal status of each is also unclear. While the Stranding Agreement appears to be a legal document, the rest appear advisory in nature but this institution has already been 'request' to comply to items in these 'draft guidelines.'

The documents are in general overly detailed and lacking in flexibility which is required to address unanticipated situations. Furthermore, it may preclude the development of innovative novel techniques or facilities because options are not provided for in these documents.

While we recognize the need to establish standards to be able to prevent substandard facilities, some of the requirements (physical/monitoring/reporting) are overly burdensome, especially to a quality, experienced, established institution. There is little incentive for such institutions (such as one that is AZA or AMMPA accredited) to continue to participate in response and rehab.

There are a number of pre-release events, reports that are mentioned in the various documents with potentially conflicting dates which should be clarified.

The documents fail to hold NMFS accountable for prompt responses. Furthermore, it in no way limits the extent to which it can require an institution to pay additional testing.

The various documents place a lot of responsibility on the veterinarian who typically is not a fulltime employee and in fact frequently are volunteers themselves. Veterinarians frequently do not have the authority to enforce compliance. Furthermore, it is the hope that the lead husbandry staff would have sufficient experience and wherewithal to deal with many of the decisions that these documents call upon the veterinarian to deal with and know when vet staff needs to be called in. Furthermore, it is the expectation that the lead husbandry staff member have the most onsite interaction with individual animals and should have sufficient experience with the species being cared for and an understanding of normal behaviors such that they, and not the veterinarian, is the most appropriate person to sign off on behavioral clearance. In general, the roles and responsibility of the veterinarian and the lead husbandry staff member should be better balanced, for example instead of being the veterinarians decision some of these things might more appropriately be the decision of the lead husbandry staff member in consultation with veterinary staff. Nevertheless, it is interesting that there is no requirement to have veterinary involvement with animals that are immediately released or picked up and transferred to another location for release.

Will NMFS have adequate funding to perform the inspections necessary to evaluate organizations prior to authorizing stranding organizations and for follow-up inspections to ensure compliance?

Strict interpretation of USC 50 CFR prohibiting the public display of marine mammals undergoing rehabilitation should be revisited especially in light of the lack of federal funding to support these efforts and the ability of institutions to manage such viewing with no impact to the

individual animal undergoing rehab.

#### National Template Comments:

- Pg 6, Paragraph 11, third sentence is awkward, may have an extra 'should'
- Page 11, Article IV: A general comment, as part of this section authorizing response organizations should be authorized to pick up of animals without obtaining authorization for each specific event and since this is currently unequally applied across regions and even unequally applied within regions by different NMFS personnel it should be specified that organizations granted authority under this section do not need to obtain additional authorizations.
- Page 11, Section A, number 1, paragraph b: tagging methods do not include hot branding procedures. This suggests that "location only" satellite tags are the only approved tags. Does this include other monitoring tags? Does not address satellite tags used for immediate release. Page 18, paragraph f. should read "public display which affects the animals behavior or negatively impacts progress of rehabilitation".
- Page 17, paragraph c: 'Maximum holding capacity' is a nebulous and imprecise figure, not a hard/fixed number as implied by this paragraph, even when taken in context with the associated Interim Standards.
- Page 18, paragraph d: The 'contingency' plans mentioned in this paragraph are not well defined in terms of what is required in the plan.
- Page 18, number 2, paragraph a: a veterinarian is not necessary the only one that can verify an animal is behaviorally suitable for release. Husbandry coordinator or stranding coordinator should be added.
- Page 20, Paragraph 1.e: A 'facility operation plan' is required for designees but is not required for primary facilities. It is mentioned in the associated facilities document.
- Page 21, number 2: Emergency designee for remote or unusual locations should be able to be authorized.
- Page 23, Section B, number 1: Some type of reward or acknowledgement for facilities that meet high standards, such as AZA certification or AMMPA, could take the form of longer permit periods (or waiver from certain requirements set forth in the associated documentations)
- Page 24, Section B: The option of a non-punitive self closure should be added.

#### Standards for Rehabilitation Facilities:

- Comments: Standards are standards, the minimal should be removed. What are the plans for timelines to meet standards, inspections, and consequences for not meeting requirements? Overall, the regulations parallel APHIS, AWA requirements. It has been our experience dealing with neonate animals that USDA APHIS standards as written for Adult sized animals is not efficient use of space and is often counter productive to the active process used in rehab of young animals. Again recommend that leeway be given to institutions that already adhere to the higher standards established by AZA or AMMPA. Re-examine the role of the veterinarian, who is usually only part-time and sometimes a volunteer. Some areas could be combined with the role of curator or stranding coordinator. Some standards are too specific and not applicable for some species or regions and do not allow for novel approaches. Many standards are merely re-statements of APHIS or AWA requirements (such as sanitation, food prep, water quality, etc) which could lead to confusion if those regulations change. If NMFS wants those standards adopted then this document should say so and then deal just discuss variances.

- NOTE: These reviewers concentrated on the sections dealing with Pinniped facilities, many of the same concerns are present in the cetacean section
- General comment on 'quarantine,' individual true quarantine of all animals is usually not possible nor required. In most cases physical separation is sufficient, namely preventing nose to nose contact, contact with other animal's bodily fluids, and disinfection or changing gear between animals. Reading through the paragraphs this is probably the intent, however 'quarantine' is used and so implies a very high level of separation of animals and staff. Suggest substitution of physical separation where-ever possible. For example, suggest changing structurally separate facility to individual enclosures providing physical separation.
- Page 29, section 1.6: Water temperature 50-80 degrees too specific. Outdoor vs indoor areas need to be specified.
- Page 31, section 1.10: add curator and stranding coordinator as well as veterinarian.
- Page 34, section 2.2: paragraph structure should be reorganized.
- Page 36, section 3.8: change "no medical history" to "an unknown medical history"
- Page 39, section 3.7: what is meant by 'contingency plan,' does this mean that animals that are sero-positive but free of clinical signs for the listed diseases are non-releasable and that the government expects those animals euthanized
- Page 41, section 5.2: change "fish" to food for animals, formula, clams, medicine, etc.
- Page 43, section 6.1 on Veterinary Experience: the comment on contingency plan, the organization should be assigned the responsibility of having a primary veterinarian plus a contingency plan for veterinary backup which is how the AWA is structured.
- Page 45, section 7.0: In general this section requires far more than is required to do basic health assessments of animals. Namely, complete necropsy on every animal within 24 hours is not always possible. Perform histopathology on each animal is not always possible or financially reasonable. Requiring serologic assays only be done by labs approved by NMFS precludes using new tests. Perhaps a two tiered approach can be used in which basics are required and anything above that will be paid for by NMFS.
- Page 46, section 8.1 on Record Keeping: requiring holding records for 15 years is excessive.
- Page 47, section 9.0: Include "consistent with state practice act"
- Page 48: comments on public display....remote, no impact permitted

#### Standards for Release:

- Comments: There needs to be some better clarification how all the documents work together. Re-examine the role of the veterinarian. Some areas could be combined with the role of curator or stranding coordinator. Some standards are too specific and not applicable for some species or regions.
- Page 13, Section B: What will be the NMFS response time?
- Page 19, Section D, second paragraph- second to last sentence should read "determine non-releasability..."
- Page 52, Section I, Identification Prior to Release. include hot branding.
- Page 41, Guidelines for Release of Rehabilitated Pinnipeds
- Comments: Screening test should be paid for by NMFS or USFWS.
- Page 50, Number 17: within 10 days, other areas list 15 days, and others list 72 hours. This time commitment is unrealistic and should be unified. Number 13: 3mL refers to each

admission and release or total? Number 27: Earlier text refers to just antibiotics, need more specification. Number 28: "health statement can be referred to in different ways.

- Page 53; What is NMFS commitment to prompt response regarding a recapture situation? Expect 24 hour on call response.
- Appendix D is empty
  
- The release of ice seals in Alaska can be supported with release data covering 6 years of releases. Ice seals have traveled from the northwest coast, Nome, beyond the Aleutian chain well into the arctic ocean to the northern coast of Russia. These live animals are a very important part of the overall assessment of marine mammal health. The animals admitted to ASLC, have been classified as orphaned or abandoned. Although there is no indications as to the reasons other than human kindness, the ALSC has received 4 animals that are either known cesarean born pups or is a known fact that mom was harvested.

#### Disentanglement Network Guidelines:

- There needs to be a process in place for organizational growth, classes or training opportunities need to be offered on a regular basis.
- If there are no trained responders, NMFS needs to publicly take responsibility explaining why there is no response.
- More explanation needs to clarify as to why government is liable for injuries or fatalities during a large animal stranding event.
- CCS gear and techniques is not necessary applicable in all regions. Gear types, geography, and sea conditions are different in other regions.

#### Minimum Standard Qualifications for a Marine Mammal Stranding Program Agreement: (New applicants and renewals)

- General Comment: How does this fit in with the other documents, there is some duplication and some disagreement with the facility standards.
- Comments: Classifications for LOAs should clearly reflect whether it is an Article III, Article IV or both.
- Page 3, paragraph 5: timeline for sending new CVs
- Page 6, paragraph 3: Staff rations are different in other documents and are situationally dependent. For example, it should be a 3:1 ratio for staff when caring for up to 25 pinnipeds.
- Page 7, section 4 should read trained "staff and "volunteers.
- Page 7 section 4: euthanasia "protocol"

#### OVERALL COMMENTS

#### Rehab Timeline for Periods

Day	Event
0	Admit
1	Hands-on Physical Examine by Veterinarian CBC, Chem, Banked Serum Periodic assessments, hands-on physical exams by veterinarian recommended every 1-2 weeks
R-(>15)	Hands-on physical exam by veterinarian for release determination Pg 47, top
R-15	Release Request to NMFS
R-14	Start of drug withdrawal period (pg 50 Standards for Release) Not pg 47 only specifies a withdrawal period for antibiotics
R w/i 10	Veterinarian exam (pg 50 Standards for Release)
R w/i 7	Measure weight, girth, and length
R-3	Hands on physical exam by veterinarian within 72 hours of release (Pg 47)
R	Release

Required holding period following branding or application of external tags?



## ALLIANCE OF MARINE MAMMAL PARKS AND AQUARIUMS

Dedicated to Conservation through Public Display, Education and Research

June 1, 2006

Dr. Teri Rowles  
Office of Protected Resources (F/PR2)  
National Marine Fisheries Service  
United States Department of Commerce  
1315 East-West Highway  
Silver Spring, Maryland 20910

VIA E-MAIL

Dear Dr. Rowles:

This letter, submitted on behalf of the Alliance of Marine Mammal Parks and Aquariums (the "Alliance"), addresses proposed actions by the National Marine Fisheries Service (NMFS) relative to the National Marine Mammal Health and Stranding Response Program (MMHSRP). The Alliance is an international association of marine life parks, aquariums, zoos, research facilities, and professional organizations dedicated to the highest standards of care for marine mammals and to their conservation in the wild through public education, scientific study, and wildlife presentations. Collectively, the Alliance and its membership represent the greatest body of experience and knowledge with respect to marine mammal husbandry. Many of our members are long-time participants in the MMHSRP and active in first response as well as the rescue, rehabilitation, and release of stranded marine mammals.

The Alliance compliments the agency on the thoroughness and thoughtfulness of the draft documents – the stranding agreement, as well as the guidelines for release of the animals, for rehabilitation facilities, and for the disentanglement network. We are most appreciative of efforts to improve coordination and consistency between the regions and national office, and to use limited resources efficiently and effectively.

While we understand that NEPA rules call for the agency to put all options on the table in any review of a pending permit, it is clear that "Action Alternative 1" is the only viable choice as it addresses ways to improve the current system and creates a framework through which the MMHSRP can prosper in the years to come.

A Harris Interactive poll conducted for the Alliance last year shows strong public support (94%) for decades-long efforts by zoological parks and aquariums to rescue, medically treat, rehabilitate, and return marine mammals to the wild. This suggests that there is also strong public support for NMFS' MMHSRP.

### Stranding Response Alternatives

In reviewing the Stranding Response Alternatives, the Alliance recommends that, for all dead and live stranded animals, the agency establish a first response requirement stipulating the collection of minimal data such as date, location, and species. Regardless of the varying conditions of any stranding event, this information is essential. Rescue or further investigation of stranded animals would continue to be based upon the stranding circumstances, the capabilities and resources of the organization responding, and regional/national priorities. Secondly, threats to marine mammals in the wild are always changing, be they from disease, fisheries or vessels, pollution, or paucity of prey. The agency should put in place a mechanism that will assure needed flexibility to react quickly to these factors so resources can be refocused effectively. Lastly, stranding response authorizations should be used for the issuance of any new stranding agreement, and for the renewal and review of existing stranding network members.

### Carcass Disposal/Euthanasia Alternatives

Regarding carcass disposal/euthanasia alternatives, the issue of making funding available to insure proper disposal of carcasses has been a continuing problem for letterholders – especially in the face of a mass stranding or unusual mortality event. Network participants should not be responsible for the costs of disposing of carcasses. This issue deserves more scrutiny by the agency. We agree that chemically euthanized animals may need to be transported off-site to, among other concerns, assure that the chemicals are not ingested by other wildlife. Also, we recommend that the agency develop euthanasia guidelines for stranded marine mammals that consider the safety of the responders as well as carcass disposal issues in the field.

### Rehabilitation Alternatives

The Alliance understands that early decisions concerning rehabilitation must, logically, take into consideration the ability to place an animal if it appears that the stranded animal will be deemed non-releasable by the agency. To help NMFS with placement availability, the Alliance recently completed a survey of its membership, which, among other questions, asked our members to indicate space available for rehabilitation as well as long-term holding capacity for non-releasable marine mammals. The Alliance will provide this data to NMFS once it is finalized. However, preliminary review of the survey indicates that Alliance members have space for some species that are currently being euthanized. The draft section on rehabilitation alternatives should take into consideration the capabilities and resources of zoos and aquariums to provide long-term homes when making decisions regarding the disposition of live, stranded marine mammals. The public was clear on this issue in the Alliance's Harris poll. Ninety-five percent of respondents said that it is better to place a non-releasable, stranded marine mammal in a marine life park than euthanize it. Such forethought will require oversight and coordination by headquarters in helping regions to look beyond their boundaries for animal placement.

### Release Alternatives

The above comments have relevance to the agency's draft release alternatives, which state that "animals that are not release candidates are not taken into rehabilitation or are euthanized." This assumes there are no options for these animals. Certainly, Alliance members who have numerous species in their collections can, indeed, provide caring homes for many animals. Again, the Alliance survey will provide the agency with information about availability of space.

Importantly, no stranded marine mammal should be released unless agency release criteria are met. The Alliance expressed its concerns about the release of a pilot whale calf in 2003. A number of experts from Alliance member facilities were among those from whom NMFS sought advice on the releasability of five animals that had stranded. These experts told various agency officials that one of the whales, a calf whose mother was not among the stranded group, should not be considered a candidate for release under any circumstances and that other juveniles may not be able to survive a return to the wild based on their age or behavior observations. We are all aware of the unfortunate ending to this episode. Such a catastrophe should never have happened and the release guidelines should be written in a manner that will assure it will not occur again.

The Alliance strongly advocates that releasability/non-releasability decisions should be made by NMFS' headquarters staff, with emphasis given to the recommendation of the attending veterinarian. Explicit in the agency's historical review of releasability determinations has been the fundamental consideration of the extraordinarily important contributions of the attending veterinarian. Although the existing agency regulations reference the attending veterinarian's initial role in a releasability determination, they place the entire burden of demonstrating non-releasability on the veterinarian while affording the agency discretion to make the final determination without reference to any objective criteria. It is clear that the attending veterinarian is the one most familiar with an animal's condition. Establishing a more equitable framework for releasability/non-releasability determinations can be accomplished by putting headquarters staff in charge and according proper deference to the attending veterinarian (who is presumed sufficiently competent to be empowered to act to restore and preserve the animal's health).

Also, the agency should strongly emphasize and financially support post-release monitoring of rehabilitated animals. Not only is it important to understand whether the animal survived, the scientific data made available from such tracking is essential to the science accumulated to date about various marine mammal species.

### Disentanglement Guidelines

The Alliance supports the adoption of the disentanglement guidelines and advocates requisite training for small cetacean and pinniped disentanglement.

### Facility Guidelines

It is essential that rehabilitation facilities meet minimum facility, husbandry, and veterinary standards to assure the animals are well cared for and provided the optimum opportunity to be released back to the wild. And, the Alliance fully supports NMFS' effort to establish such standards. However, to be meaningful, a regimen to assure that the standards are being met must be adopted. This is not addressed in the document. While Animal and Plant Health Inspection Service – Animal Care is responsible for the inspection of marine mammals cared for in marine life parks, aquariums, and zoos, stranded animals being rehabilitated at licensed facilities are outside that agency's purview. We recommend that the agency indicate in this document how it will assure that these guidelines are being met by network participants.

### Public Viewing of Stranded Animals

As noted previously, the public is extremely supportive of efforts to rehabilitate stranded marine mammals. Children and adults should have the opportunity to view rehabilitation activities at government-authorized facilities if the attending veterinarian determines that there would be no negative effect on the animal and if done in a manner that minimizes acclimation to humans so successful release is not jeopardized. Welcoming the public to view these marine mammals provides another venue for educating the public about the need to conserve these species in the wild as well as conserve their habitats. It is also an excellent environment to teach the public about viewing marine mammals from a safe distance in our oceans and rivers, especially when an animal strands because of injuries from human activities such as boat strikes. The Alliance recommends that NMFS review the prohibition on viewing stranded marine mammals. Congress is currently looking into amendments to reauthorize the Marine Mammal Protection Act, which prohibits such activities. The MMPA requires that any public display of marine mammals be accompanied by education programming. The Alliance Education Committee would be happy to work with facilities that do not currently provide education programs and share the Alliance education standards and guidelines with facilities unfamiliar with them.

### Summary

The Alliance supports without reservation the current activities of the MMHSRP. Member facilities spend millions of dollars on their stranded marine mammals programs – and maintaining non-releasable animals that often need constant veterinary care, medications, and frequent husbandry attention from staff.

While the Alliance was integral in the establishment of the Prescott grant program, in truth, the monies available do not begin to cover the costs of stranding response, or rescuing, rehabilitating, and releasing stranded marine mammals. The Alliance has and will continue to strongly advocate for increased funding in the Prescott program. We recommend that NMFS survey participants and document the actual financial contributions of network members, including volunteer efforts and staff time.

This document could be very useful to continued Congressional support of the Prescott program.

Should the amendments to the Marine Mammal Protection Act include increased funding for the Prescott program - as the House bill reported out of the Resources Committee currently does - the Alliance recommends that NMFS rethink its current restrictions on allotting Prescott funding per facility and use any increases in Prescott funding to help facilities off-set the costs of response, rescue, rehabilitate, and release as well as support research relevant to those activities.

Lastly, the Alliance recommends that the agency review the current organizational structure of the MMHSRP. NMFS headquarters staff should be given more authority and direct management of network operations. This oversight would assure that there is consistency in decision-making; in the allotment of the limited funds available to the MMHSRP, apart from Prescott grants; appropriate training; and consistency in the issuance and renewal of stranding agreements. Potential letterholders should have the resources needed to participate in the program and be required to employ qualified individuals who have experience with marine mammals.


Alliance members bring substantial financial resources to the network, make available highly skilled marine mammal professionals, offer access to superb medical technology and state-of-the-art veterinary care, and provide homes to non-releasable animals that otherwise would have to be euthanized.

Sincerely,

[signed]

Marilee Menard  
Executive Director

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From "[Bauer, Gordon](mailto:bauer@ncf.edu)" <[bauer@ncf.edu](mailto:bauer@ncf.edu)> 

Sent Tuesday, February 7, 2006 11:57 am

To [mmhsrpeis.comments@noaa.gov](mailto:mmhsrpeis.comments@noaa.gov)

Cc

Bcc

Subject

Attachments [\[1779-1789\].cbi\\_246.pdf](#) 1.7MB

Re: EIS on the MMHSRP

To Whom It May Concern:

I had several observations on the proposed policies for training and extinction of behaviors. I think these policies present good opportunities for flexibility, potentially beneficial to the releasable animals. However, I do have several suggestions.

- 1) For environments in which the animals will be hand fed, which I expect will be most, I think the default policy should be that the animals be trained. The reason is that the strongest associations between humans and animals will be developed with non-contingent feeding (i.e., feeding in which the animal is required to do nothing). Weaker associations with humans will be developed when performance is contingent upon a behavior cued by specific signals or equipment, as occurs in training situations.
- 2) Extinction procedures should target extinction to humans, not to specific signals or equipment used during training. The reason for this is that for trained animals learning about signals and equipment will overshadow learning about humans. If the learning about signals and equipment is extinguished, the previously overshadowed learning about humans will be enhanced. Also, extinction will probably not be necessary under most release circumstances since it transfers poorly between contexts. If it is necessary, it should be done in the release environment, not the training environment in order to enhance extinction.
- 3) There is conflicting support for the statement from the EIS text: "Behavioral conditioning of cetaceans must be done for the shortest time necessary to achieve rehabilitation goals..." This statement is supported by the desirability of returning animals to the wild as soon as possible. However, within a training context, more time may allow for a clearer discrimination of the training contingencies, and reduce associations with people.

The scientific support for these arguments is presented in the attached document, Bauer, G.B. (2005). Research training for releasable animals. *Conservation Biology*, 19, 1779-1789. Of course, the training should be rigorously pursued and should not present an opportunity for gratuitous play interactions with the animals.

I would like an electronic copy of the final EIS. If hard copies of the attached document are needed, please let me know and I will mail them.

Sincerely,

Gordon B. Bauer  
 Professor, Psychology  
 Peg Scripps Buzzelli Chair in Psychology

Division of Social Sciences  
 5700 North Tamiami Trail  
 New College of Florida  
 Sarasota, FL 34243

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## Research Training for Releasable Animals

GORDON B. BAUER

Division of Social Sciences, New College of Florida, 5700 North Tamiami Trail, Sarasota, FL 34243, U.S.A., and Mote Marine Laboratory, Sarasota, FL 34236, U.S.A., email bauer@ncf.edu

**Abstract:** *Restrictions on training potentially releasable animals such as those undergoing rehabilitation care or wild-caught captives have limited our understanding of sensory processes, cognition, and physiology important for conservation of species. It is common practice among several U.S. federal agencies to limit training of animals available for release. The behavioral argument justifying this practice is that training habituates subjects to people and conditions them to associate people with rewards such as food; habituation to and positive associations with people will lead animals into dangerous situations after their release. If under special circumstances research training is permitted, all trained behaviors must be extinguished before release because behaviors will transfer to the natural setting. Research on animal learning and memory indicates that these may not be accurate scenarios. A review of the literature on habituation, classical and instrumental conditioning, and compound conditioning suggests that learning within a research setting does not add to learning that already occurs in procedures associated with basic feeding and care. In fact, animals probably learn less about people in a training setting. Furthermore, context-specific effects on memory limit behavior transfer from captive to natural settings. Extinction is strongly susceptible to context effects, which suggests that extinction does not effectively transfer to the postrelease setting. Counterintuitively, extinction of responses to experimental stimuli under some circumstances may enhance undesirable learning about humans. Under those circumstances in which isolation from human contact is difficult or undesirable, behavioral research can present an ideal format for minimizing learning about humans and provide biological information important for conservation.*

**Key Words:** animal learning, animal memory, animal release, policy

Investigación para el Entrenamiento de Animales Liberables

**Resumen:** *Las restricciones para el entrenamiento de animales potencialmente liberables, como los que están en cuidado de rehabilitación o criados en cautiverio, han limitado nuestro entendimiento de procesos sensoriales, cognición y fisiología importantes para la conservación de especies. La limitación del entrenamiento de animales disponible para liberación es una práctica común en varias agencias federales de E.U.A. El argumento conductual que justifica a esta práctica es que el entrenamiento habitúa a los sujetos a personas y los condiciona a asociar personas con recompensas, como alimento; la habituación a y las asociaciones con personas conducirá a los animales a situaciones de peligro después de su liberación. Si se permite el entrenamiento bajo circunstancias especiales, todas las conductas entrenadas deberán extinguirse antes de la liberación porque las conductas serán transferidas al medio natural. La investigación sobre el aprendizaje y memoria animal indica que estos pueden ser escenarios incorrectos. La revisión de literatura sobre habituación, condicionamiento clásico e instrumental y condicionamiento compuesto sugiere que el aprendizaje en un ambiente de investigación no se agrega al aprendizaje que ocurre en procedimientos asociados con alimentación y cuidado básicos. De hecho, los animales probablemente aprenden menos sobre personas en un ambiente de entrenamiento. Más aun, la transferencia de conducta de ambientes de cautiverio a naturales está limitada por efectos de contexto específico sobre la memoria. La extinción es altamente susceptible a los efectos de contexto, lo que sugiere que la extinción no se transfiere efectivamente al ambiente posterior a la liberación. Contraintuitivamente, la extinción de respuestas a estímulos experimentales bajo algunas circunstancias puede reforzar el aprendizaje sobre humanos no deseado. Bajo esas circunstancias en las que*

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1779

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*el aislamiento del contacto humano es difícil o indeseable, la investigación sobre conducta puede presentar un formato ideal para minimizar el aprendizaje sobre humanos y proporcionar información biológica importante para la conservación.*

**Palabras Clave:** aprendizaje animal, liberación de animales, memoria animal, política

### Introduction

Animal regulatory agencies in the United States restrict behavioral research on many captive, releasable species. Although pre- and postrelease training for purposes of reintroduction (Kleiman 1989) or veterinary care may be permitted, training for basic biological research is frequently not. For example, National Oceanic and Atmospheric Administration (NOAA) regulations (2003) and guidelines for release of stranded marine mammals including cetaceans, pinnipeds, otters, and manatees (U.S. National Marine Fisheries Service [NMFS] and U.S. Fish and Wildlife Service [USFWS] 1997) discourage human interactions, including the training necessary for many types of research with captive, releasable animals. A NOAA regulation (50 CFR 216.27) states that “marine mammals undergoing rehabilitation or pending disposition... shall not be trained for performance...” The NMFS and USFWS guidelines for release (1997: 38) state, “In order to prevent the acquisition of unnatural behaviors, interactions with humans should be kept to a minimum, and limited to such activities as force-feedings, treatments, etc.”

The behavioral justifications for minimizing contact and training may be summarized as follows: Humans constitute a major threat to animals in their natural habitat, for example, through provisioning with inappropriate foods, death and injuries from boat strikes, death in fishing nets, and willful killing. If animals are habituated to humans in captive settings and associate humans with rewards, they will be likely to approach or at least not actively avoid humans in natural settings. Attraction to humans or failure to avoid them in the wild is ultimately a threat to animal health and survival. Because experimental, behavioral research in captive settings involves close contact between humans and animals, it should be discouraged.

Restrictions on behavioral experimentation have serious consequences because they minimize opportunities for studies on animal sensory processes, cognition, behavior, and physiology which in turn limit development of important knowledge necessary for protecting animals in the wild. For example, the Florida Manatee Recovery Plan (U.S. Fish and Wildlife Service 2001) identifies objectives that require laboratory studies for thorough explication. Objectives such as minimizing deaths due to boat strikes and water control structures require the careful analysis of sensory processes such as hearing and touch that only controlled study in a laboratory can provide. Studies demanding frequent measurement from captive manatees

trained to provide blood and urine several times a week allowed Manire and colleagues (2003) to model some of the physiological effects of release, another recovery-plan objective. More such studies are needed.

Several recent reports suggest an absence of transfer of trained behavior from captivity to natural settings, a finding inconsistent with the need for restrictions on animal training. Gales and Waples (1993) and Wells et al. (1998) both report that released bottlenose dolphins (*Tursiops truncatus*) did not demonstrate behavioral transfer despite extensive training in captivity. In the former example, behaviors explicitly trained in captivity for use in the wild were not expressed after release. Similarly, Fellner et al. (2005) report that manatees failed to exhibit behaviors trained in captivity after they had been released.

The justification for minimizing behavioral experimentation with releasable animals is based on hypotheses that have not been tested empirically. They would be difficult to test because of the problem of implementing the appropriate factorial experimental design and establishing baseline levels of relevant behavior of appropriate control groups in natural settings. The hypotheses can, however, be evaluated through consideration of the laboratory-based experimental literature that addresses how animals learn and remember. Although studies of rats, pigeons, and to a lesser extent rabbits are most frequently reported in this literature, the rules of learning show considerable generality across both invertebrates and vertebrates (reviews in Macphail 1982; Pearce 1997; Papini 2002; Domjan 2003). The diverse aspects of learning have not been comprehensively studied comparatively across all species, but the similarities of learning phenotypes that have been studied are striking (Macphail 1982; Papini 2002).

I review only a small part of the relevant, but enormous, literature on animal learning. The argument I make is that the training necessary for conducting research on captive animals would not meaningfully affect behavior compared with the contact they normally have in the captive environment. In fact, the impact would probably be less than that resulting from nonresearch interactions with humans. Moreover, the transfer of associations to humans from captive to natural settings is likely to be weak for many behaviors because of contextual influences on memory.

To give this argument proper perspective it is important to describe the types of human contact that exist with releasable animals in captivity outside of any behavioral

research context. I have selected two marine mammals, bottlenose dolphins, a predatory species, and West Indian manatees (*Trichechus manatus*), an herbivorous grazing species, as examples, and because of similarities in learning processes across species, the arguments should apply to other animals. Bottlenose dolphins demonstrate similar associative learning characteristics to other animals (Schusterman 1980). Manatees have been studied less, but initial reports suggest learning consistent with that of other animals (Gerstein et al. 1999; Colbert et al. 2001).

Capture of marine mammals in the United States is restricted by the Marine Mammal Protection Act and Amendments (review in Baur et al. 1999), so dolphins and manatees likely to be released are brought into captivity because of illness, injury, or stranding through rescue programs (Wilkinson & Worthy 1999; U.S. Fish and Wildlife Service 2001). Those animals that survive are rehabilitated and frequently returned to the wild. While in captivity animals have frequent interactions or associations with people during feeding, habitat maintenance, veterinary care, and in some cases public display. They are typically fed by people and/or eat food in the presence of people. What are marine mammals likely to learn in such environments? The answer to this question involves a basic understanding of the core processes of learning (habituation, classical conditioning, and instrumental conditioning, including the concept of stimulus control) and the more complex processes of context-specific memory and its experimental model, compound conditioning. The general principles of learning are briefly reviewed in Griffin et al. (2000) and more extensively described in a variety of texts (e.g., Mackintosh 1974; Dickinson 1980; Pearce 1997; Domjan 2003).

Although not every manatee or dolphin facility follows exactly the same procedures, most share two critical features for learning. The first feature is a frequent exposure of animals to humans (in the absence of explicit research training), which supports habituation. The second is a high correlation of human presence and reinforcement (i.e., food is present and eaten when humans are present, and food is absent and therefore not eaten when humans are absent). If people are present when food is available and not present when food is absent, then the probability increases that people and food will become associated. (Dickinson [1980] and Pearce and Bouton [2001] provide thorough discussions on the development of associations.)

To appreciate more fully the relevance of learning processes to human interactions with captive marine mammals, it is important to understand that in habituation and conditioning, contiguity and covariation among various stimuli and behaviors are important for learning. Correlations between stimuli and behaviors (e.g., people and eating-related behaviors, environments and eating-related behaviors) as well as stimuli and stimuli (e.g., environments and food, people and food, people and pain) strongly influence what is learned.

## Habituation

In a captive situation an animal might initially make various orientation responses toward people or suppress ongoing behaviors in their presence. With repeated exposure to people these behaviors will habituate. Habituation can be defined as a reduced response to repeated stimulation not attributable to fatigue or sensory adaptation (Domjan 2003). It has been studied in a variety of response systems, behavioral and physiological, but the phenomena most relevant to released animals are orientation and suppression responses. No specific behavioral training such as might occur during research procedures is necessary to generate habituation. The regular presence of humans through animal care procedures and viewing by the public and staff will produce it. Exposure to humans in the natural environment apparently leads to habituation in wild dolphins (Lockyer 1990).

Of substantial importance to the release issue is the fact that habituation of orientation and suppression is context dependent (Evans & Hammond 1983; Lovibond et al. 1984; Jordan et al. 2000). When a response habituates in one context, it dishabituates (i.e., returns toward prehabituation levels) in a new context. For example, Peeke and Veno (1973) conducted an experiment in which three-spined sticklebacks (*Gasterosteus acleatus*) displayed aggressively toward intruding conspecifics. Repeated exposure to the same individual resulted in habituation of display when subjects were tested with the same individual in the same location or exposed to the same individual in a new location dishabituated, although not completely (i.e., they resumed aggressive displays, but at a lower rate than the initial level). When exposed to a new fish in a new location, which increased the differences in context, the level of aggressive display returned to or exceeded the original level of response.

In general, whatever habituation of orientation and suppression responses do occur in the captive setting can be expected to dishabituate in the wild because of the substantial differences in context. Furthermore, the phenomenon of spontaneous recovery—the return of a response toward prehabituated levels following the simple passage of time (review in Fantino & Logan 1979)—should further contribute to the attenuation of habituation between a captive and natural environment.

## Classical Conditioning

In classical conditioning a neutral stimulus, the conditioned stimulus (CS), becomes associated with a primary stimulus, the unconditioned stimulus (US), through repeated pairings. For example, in the classic Pavlovian model illustrated in most introductory texts, a biologically significant stimulus, food (US), elicits an unconditioned

response (UR) such as salivation. When an initially neutral stimulus, a bell (CS), is paired with the US, it comes to elicit salivation, the conditioned response (CR). Psychologists have tended to focus on the CS-US relationship in this model. Over the last 30 years some of the most powerful models of learning have been derived from these stimulus-stimulus relationships.

One can use the classical conditioning model to understand what marine mammals learn in the standard free feeding format typically used in captivity. For example, food can be considered a US, and to the degree that a human presence predicts food, it becomes a CS. Hand feeding of foods presents a close temporal-spatial association (contiguity) and correlation between human presence and food consumption. In the case of captive dolphins all feeding is correlated with human presence—this is a particularly strong presence because the food is delivered by humans. Manatees present a slightly less-correlated pattern because they are grazers and large amounts of food are placed in their tanks and are available for eating throughout the day, when humans are not always present. Initial delivery by people is paired with food reward, however, and to the extent that during the day oceanarium viewers and staff are present most of the time, eating is done primarily in the presence of humans. Critically, because food is not made available at night in many facilities, there is an extended period when a “no food, no humans” association is developed. For both dolphins and manatees these feeding patterns mean food and eating occur almost completely in the presence of humans and rarely in their absence. Under such circumstances human presence is predictive of food, a rewarding situation, which learning theory suggests would lead to a strong, excitatory association between humans and food reward (cf. Rescorla 1968).

Training situations present a different pattern of relationships between conditioned stimuli and unconditioned stimuli. In the training situation specific stimuli such as the trainer's whistle or a correctly selected experimental stimulus become associated with food. By pairing the whistle (CS) with food (US), it becomes an effective predictor or substitute for food. Similarly, a rewarded stimulus in a detection or discrimination task becomes associated with food. For example, in a light detection task, the presence of a light becomes associated with food because food is delivered after presentation of a light and is correlated with it. The human trainer is not the predictor of food in these cases; experimental stimuli are. Hence, associations should not develop between humans and food.

## Instrumental Conditioning

Associations are developed between behaviors and stimuli in instrumental conditioning procedures. Animals learn which behaviors are followed by rewards or pun-

ishments and which are not. When rewards (reinforcements) or punishments are only available under specific stimulus conditions, the behavior will be differentially exhibited when these conditions are present. Another way of saying this is that specific, antecedent stimuli called discriminative stimuli ( $S^D$ ) come to determine the performance of a behavior (R, for response). When a behavior is determined by these discriminative stimuli it is said to be under stimulus control. A variety of associations may develop within the instrumental conditioning model, but one that has special importance for understanding my arguments on the effects of training is the stimulus-stimulus association, the association between the discriminative stimulus ( $S^D$ ) and a reinforcing stimulus ( $S^R$ ) such as food. These stimulus-stimulus relationships are essentially classically conditioned associations embedded in the instrumental conditioning framework (Hull 1931; Spence 1956; Rescorla & Solomon 1967).

The delivery of food ( $S^R$ ) in most nontraining interactions at oceanaria is strongly contingent on the presence of humans (i.e., humans are the discriminative stimuli), although depending on reward contingencies items such as food pails or sounds of opening gates may also attain stimulus control. In the research training situations behaviors are brought under the control of specific, experimental discriminative stimuli such as lights, sounds, and trainers' hand signals. Therefore, in the experimental research setting food is not contingent on the mere presence of a person; it results only when a specific behavior is performed in response to a specific discriminative stimulus.

The basic processes influencing an animal's behavior in training circumstances relate to discrimination learning. Subjects have to learn over many trials to discriminate between the specific training stimuli (i.e., experimental stimuli and signals) and the many other irrelevant stimuli, including human-related stimuli. Basically, they come to learn which stimuli predict reward and which do not. This is reflected in increasing numbers of correct responses in the presence of discriminative stimuli that predict reward and decreasing responses to stimuli that do not predict reward. In the behavioral research setting, humans predict reward most frequently when they are signaling and/or when they are accompanied by the paraphernalia associated with experimental research (e.g., targets, manipulanda, audio speakers, and stationing platforms). Unlike the standard, free feeding maintenance condition, humans alone (not signaling or accompanied by research paraphernalia) do not predict reward.

Simple instrumental or classical conditioning, however, is not a fully adequate model to predict the results of more complex human interactions in animal training. Under many research regimens humans are clearly present in conjunction with trainer signals and experimental stimuli. These cases are best considered within the framework of compound conditioning, occasion setting, or contextual effects.

### Compound Conditioning: Elemental and Configural Approaches

Complex context effects can be investigated using a simplified classical conditioning model with a compound CS. For example, humans plus signals or experimental stimuli can be considered compound stimuli, a fact that brings an additional learning process—overshadowing—into play (Rescorla & Wagner 1972; Pearce & Bouton 2001). Overshadowing occurs when one stimulus (CS<sub>1</sub>) interferes with learning about a simultaneously presented stimulus (CS<sub>2</sub>). In general, a more salient stimulus will overshadow a less salient one. For example, within a training procedure humans predict reward at a lower probability level than signals do because when humans are present in the training situation they provide rewards infrequently (or never) when signals are not being given, whereas rewards are provided at a high frequency when a signal (e.g., hand signal, target) is given followed by a correct behavior. Hence signals are more salient than nonsignaling humans. Under a training regimen the subjects learn that the mere presence of humans does not predict reward reliably; only signaling humans predict reward (i.e., learning about humans alone as a predictor of food is overshadowed by learning about signals). The human-food association would be substantially attenuated within this scenario.

Furthermore, under some circumstances overshadowing results in a phenomenon called conditioned inhibition in which the associability of the overshadowed stimulus is actually inhibitory. For example, if humans are out of sensory range during a testing procedure when food reinforcements are provided, then the association between experimental equipment and food will be strong. If humans are then present to remove equipment after completion of a training session when no food is available (i.e., equipment + humans = no food), then humans are likely to form an inhibitory association with food. An inhibitory association is characterized by difficulty in learning a human-food association in the future. Analyzing humans and their signals as separate components of a compound is based on the Rescorla-Wagner model of associative learning (1972), perhaps the most influential theory in learning over the last 30 years. It treats compound stimuli as separable elements, some of which will form excitatory associations with the US, in this case food, and some of which will form inhibitory associations.

Herman et al. (1990) presented an example of the ability of animals to separate manual gestures from the actual human signaler. Two bottlenose dolphins had previously been trained to perform specific behaviors in response to discrete hand signals. The experimenters presented the dolphins with video images of successive degradations of the human hand signals, first by eliminating the head and torso, then the arms, ultimately leaving only images of two flat spots of light moving in black space. Even when

provided with only the spots of light on a video screen, the dolphins were able to interpret the signals correctly.

Testing with successive degradations may have allowed the dolphins to practice separating human gestures from the humans themselves. In a situation that did not entail intentional training, D. Kleiman (personal communication) reports that field assistants carried backpacks containing food, which they distributed throughout the postrelease habitat of golden lion tamarins, and tamarins associated the sound of the backpack zippers with food but did not associate the humans with food. This observation may be explained by the fact that zippers were more reliable predictors of food than humans (i.e., the sound of zippers overshadowed learning about humans).

An influential alternative to the elemental interpretation of learning such as the Rescorla-Wagner approach is the configural model (Pearce 1987). According to this model animals learn about the overall configuration of a compound stimulus rather than the separate elements. Over trials the animal learns the association between a compound CS and a US such as food. If the stimulus compound is altered in some way the associations between CS and US are weakened as reflected in a weaker response. For example, if an animal learns to associate a signaling human with food, then a nonsignaling human will manifest a weaker association because the learned configuration has been altered. In the configural model we predict some initial generalization from signaling human to nonsignaling human based on the similarity of the predictor stimuli. Over time generalization becomes more limited, and the subject clearly discriminates the two different types of stimuli. The implication for training animals is that discrimination between nonsignaling and signaling humans would increase with longer training and generalization would decrease.

Although there is still active discussion among researchers about how learning about stimulus compounds occurs, it is not necessary to analyze that debate here. Sometimes compounds are treated as configural wholes and at others as separable elements (Fanselow 2000; Pearce & Bouton 2001). In either case, the evidence itself and the implications for animal training are clear. Explicit research training of animals should lead to weaker associations between humans and food rewards than that which develops in free-feeding situations in the captive environment. Moreover, under some circumstances associations between nonsignaling humans (the state in which we normally find them) and food are actually inhibited by previous training.

### Compound Conditioning: Modulation

Sometimes an element of a stimulus pair may not form an association with a US, but it does play a role in modulating associations (Holland 1985). In classical conditioning,

modulators are called occasion setters, and they inform the organism that when stimulus A is present stimulus B will be followed by a US. For example, a sound (CS) will predict food (US) when an overhead light is on but not when it is off. In the animal training context, experimental stimuli (CS) predict food (US) when humans are present (occasion setter). If humans are not present, the equipment does not predict food. Within the occasion-setting model a human does not become associated with food but only predicts the CS-US contingency.

The modulator itself does not predict food. It predicts that a stimulus-food or response-food contingency is in effect. This is in sharp contrast to the free feeding situation typically encountered in captive settings where humans become directly associated with food. Or still worse, if human feeders are not careful, they may reinforce a direct approach by providing food when the animal moves toward them. This is a strong learning paradigm in which the human acts as a discriminative stimulus signaling the subject that it will be fed if it approaches the trainer.

### Context-Specific Memory

There is a broader issue than training versus nontraining that affects how one should think about learning in all captive circumstances: the influence of the environment in which a behavior is learned on performance of that behavior in a new environment. Habituation is attenuated in new environments. Why? The answer lies in combining two theories, opponent process theory (Solomon & Corbit 1974; Solomon 1980) and Rescorla-Wagner theory (Rescorla & Wagner 1972).

There is a substantial body of research demonstrating that conditioned responses are not exactly the same as unconditioned responses; in fact, under some circumstances they are the opposite. For example, drug tolerances are frequently mediated by classical conditioned processes in which the physiological response of the organism to a drug is the opposite of that to cues (CSs) predicting the drug (e.g., Siegel 1999). In other words, the CSs set up an opponent process that dampens the effect of the drug. A similar situation occurs in the case of habituation. A response is generated by a CS that is opposite to that generated by the US and eventually cancels the response. For example, the orienting response (UR) to a novel object (US) may quickly habituate over multiple exposures because of an opponent CR. But what is the CS?

Rescorla and Wagner (1972) provide an answer to this question by drawing attention to the important role of context in CS-US learning. The Rescorla-Wagner model explains habituation by positing that the environmental context could function as a CS and become associated with the US. In the absence of a specific CS, a US such as a novel object becomes associated with the context. This model provides an explanation for dishabituation in

new contexts. For example, if an animal were to become habituated to a stimulus such as a human presence in a captive context, it would reflect the development of a CS (captive context)-US (human) association. The opponent process CR would damp the orienting response. However, if the CS were not present in opposition to the US, such as would occur in a new environment, then the initial UR, the orienting response, would occur. Occasion setting and other learning processes probably contribute to the role of context as well, but the general conclusion of context specificity remains the same.

Substantial deficits in other types of learning result when animals are tested in environments different from where learning occurred (review in Gordon & Klein 1994). The greater the dissimilarity of environments, the less retention there will be. Interestingly, removing contextual elements reduces transfer but adding elements does not (González et al. 2003).

Context effects are most consistently apparent for inhibitory responses such as extinction (Bouton 1993) in which a previously existing behavior is reduced in frequency. Substantial evidence indicates that changes in context attenuate appetitive (e.g., food rewarded) conditioning (Riccio et al. 1966; Steinman 1967; Chizar & Spear 1969; Rescorla et al. 1985; Hall & Honey 1989; Peck & Bouton 1990). The picture is not, however, entirely consistent on the transfer of appetitive learning between environments. Several researchers have reported no effect of context changes (e.g., Bouton & Peck 1989; Kaye & Mackintosh 1990; Peck & Bouton 1990).

Given some inconsistent data on the effect of context on appetitive conditioning, it is helpful to return to the case studies of appetitive responses of released marine mammals to see what actually occurred under conditions of release. Although most studies of released dolphins and manatees have been insufficiently documented to allow for evaluation of the transfer of learning, these three exceptions provide informative examples of context effects.

Gales and Waples (1993) trained a group of 10 captive and wild-born Indian Ocean bottlenose dolphins, including a calf and three juveniles, for release from a public display facility where they had lived for up to 10 years. The animals had been trained in both exhibition and husbandry behaviors throughout their captivity, including recall to an underwater signal. Before release they were transferred to a large open-water pen for 3 months, where they were trained to ride the bow and wake of a boat and to approach the underwater recall signal. Despite excellent performance in the pen environment, they did not respond to the underwater signal in the open sea. A few approached the observation boat but not consistently. The lack of response to the underwater signal in the open sea and sporadic approach to an observation boat despite previous food-reinforced training suggest the effects of context change on performance.

In a carefully designed study Wells et al. (1998) provide another example of the lack of transfer between contexts.

They observed and recorded the behavior of two male Atlantic bottlenose dolphins before capture, during 2 years of captivity, and after release. In captivity the subjects were trained using appetitive conditioning for husbandry, behavioral enrichment, and cognitive studies of echolocation. Three to 5.6 years after release, they exhibited no interactions with humans not typically found among wild dolphins and they did not adversely influence social patterns of the host population. The evidence from these two case studies of dolphins supports the argument that dolphins can be trained in captivity without transferring nonadaptive captive learning to the wild.

In another controlled release study, Felner et al. (2005) used appetitive conditioning procedures to train two Florida manatees in a captive setting to perform a variety of behaviors for food rewards, including approaching a trainer in response to a signal, over a 5-month period. Extinction procedures in the captive setting were then applied to the behaviors (i.e., behaviors that previously had been followed by food reward were no longer rewarded). For administrative reasons the animals were released before extinction was complete. Subsequently, trainers visited the manatees in the field and signaled them to perform the previously trained behaviors. Neither manatee demonstrated any of the captive behaviors in response to signals. Although the extinction procedures cannot be ruled out as contributing to the failure of signals to elicit a response in the field, the strong context dependence of extinction suggests alternative causes. A more likely explanation is that the original training was under tight context control, and the dramatic change in environment from captivity to the wild prevented performance transfer.

### Extinction

There is another important implication of research on compound conditioning and context for public policy. When permits are extended by U.S. agencies for training, extinction of trained behaviors at the end of a study is frequently required before release. This means CSs are presented alone rather than in CS-US pairings. For example, a training whistle, typically preceding food, would be presented without the food US. In instrumental conditioning paradigms, previously rewarded behaviors such as paddle presses are no longer rewarded. As I noted in the discussion of context effects, extinction is strongly context dependent (Bouton 1993). This means that whatever extinction training is done in a captive setting before release is likely to be attenuated by the change to the natural environment.

Of greater concern is the implication of a study by Matzel et al. (1985) that shows that extinguishing the response to an overshadowing stimulus can attenuate overshadowing. If associations with humans are overshadowed in a training situation by experimental stimuli, then

extinguishing the response to those stimuli post-training and, consequently, extinguishing the  $S^P$ - $S^R$  association, will increase the association with humans.

Under those circumstances where positive associations with humans might be expected to persist after release (e.g., open-water training of a dolphin, where the captive and wild environments are similar), aversive conditioning might be a more effective method for discouraging undesirable behavior such as approach to boats after release. Unlike behaviors generated by inhibitory or appetitive processes, fear-related behaviors are resilient to changes in environment (e.g., Bouton & King 1983; Lovibond et al. 1984; Kaye et al. 1987; Hall & Honey 1989). Aversive conditioning, in which undesirable behaviors are followed by a punishing stimulus, would be more likely to discourage orientation toward humans than extinction. The difficulty of appropriate application and collateral effects of punishment such as stress and emotional responding, however, suggest caution in the utilization of aversive techniques.

### Discussion

The clearest way to ensure that animals learn nothing about humans while in captivity is to isolate them completely from any sensory cues of human existence. Such complete isolation, however, is likely to be rare. Captive animals are typically exposed to humans through medical and husbandry procedures, facilities maintenance, and in some cases public display. It would be difficult to totally isolate many species from humans, and not necessarily desirable. Mellen and colleagues (Mellen 1991; Mellen et al. 1998) observed that felids derive notable benefits from interactions with caretakers, including enhanced reproductive success and reduced stress-related behaviors (e.g., pacing). Dierauf (1990) identifies social isolation as a potential risk factor in herd-oriented animals such as many marine mammal species. Providing a stimulating environment also suggests the desirability of research training. Goldblatt (1993), in a review of literature on captive animal stress, concluded that understimulating environments were associated with stress responses in a wide range of animals, including marine mammals. He also concluded that training was the best way to attenuate that stress.

For reasons of practicality and animal welfare, interactions in captivity between many species and humans are likely to remain the norm. As long as animals are going to be in captivity, interacting with humans, it is beneficial to find out something useful for protecting them and their habitats. Many of the characteristics of animals relevant to their conservation, such as what they sense, how they process information, and how they respond physiologically, require behavioral training.

Various researchers have contributed modifications or alternatives to the elemental, configural, and occasion-setting theories I have described (review in Pearce &

Bouton 2001), but they lead essentially to the same conclusion concerning training releasable animals: Associations between humans and pleasurable consequences are less likely to occur in a research-training setting, where animals are brought under stimulus control, compared with other captive interactions such as those associated with free feeding, care, and general viewing. Research on context effects predicts that many of those associations that do develop between humans and pleasurable consequences undergo attenuation when the marine mammals' environments are changed from oceanaria enclosures to natural settings. The notable difference between environments suggests that the attenuation would be substantial. This prediction is supported by the three case studies with marine mammals that have been documented carefully.

It is important to be clear about what is and is not being suggested in my argument. I do not claim that animals learn nothing about humans in behavioral research settings. I suggest that they probably learn no more nonadaptive information about humans than they learn in other circumstances in the captive setting. In some cases research training may attenuate potentially dangerous associations between humans and reward, although it will not always reduce undesirable learning from outside the experimental setting. For example, if people free feed animals, the biological significance of humans as a CS is enhanced considerably. Under such circumstances other CSs such as experimental stimuli may not overshadow humans, even if they are more predictive of reward within the experimental setting. (See Miller and Matute [1996] for a discussion of the effects of biological significance on learning.) This is not a problem of research training; it is a problem of the associations developed outside of research.

It is also important to recognize areas in which the arguments I present may not apply or would at least have to be modified substantially. Training animals in natural settings (e.g., training marine mammals in open water) increases the similarity between training and natural contexts and therefore is more likely to be generalized unless efforts are clearly made to define the research context precisely (i.e., establish tight stimulus control). Lockyer (1990) reviews the case of Dolly, an open-water-trained bottlenose dolphin that was released because of her unpredictable behavior. After release she played with people and allowed them to touch her, behavior ostensibly inconsistent with the arguments for dishabituation and limited transfer of behaviors learned in captivity. Training, however, occurred in the same environment in which they were displayed. In addition, unpredictable behavior by definition indicates a lack of good stimulus control. Therefore it was not surprising that habituation was maintained and behaviors were transferred.

I have not addressed the issue of learning during sensitive periods such as infancy. Animals born and/or reared

in captivity may form abnormal attachments to people because of the strong learning that sometimes occurs during sensitive, early periods in development. These attachments in conjunction with a lack of normal learning experiences about the natural environment may adversely affect release. This would not, however, be exacerbated by behavioral research.

Within the laboratory setting investigations need to be made on the effects of humans as conditioned or discriminative stimuli. In addition we should conduct carefully controlled experiments to examine the extent to which training of releasable animals in captivity affects their behavior after release. The complex interactions and continuous flow among stimuli and responses in natural environments might generate relationships unpredictable from carefully controlled laboratory studies in which experimental stimuli are frequently discrete and limited in number. Perceptual, motor, motivational, and perhaps higher cognitive factors might interact with basic learning to generate unexpected outcomes. Species and individual characteristics might differ in ways that would affect the salience of key variables. For example, the biological significance of humans may differ among species and certainly will vary depending on individual learning history. The principles of learning are quite stable, although not without some variability (reviews in Shettleworth 1972; Domjan 1983).

Until field experiments can provide direct evidence of training effects, policy concerning human interactions with releasable animals should be based on available empirical evidence. The experimental laboratory evidence suggests that the following practices should be used: (1) Feeding should always be contingent on the presence of distinctive stimuli and animal responses uncorrelated with a human presence. Positive reinforcement uncorrelated with humans minimizes associations between humans and reward. Feeding contingent on human presence alone should be avoided because it conditions animals to associate people with food (Fig. 1). (2) The number of humans interacting with the animals on a noncontingent basis should be limited because it enhances generalization to all humans. (3) Feeding contexts should be made as different from natural contexts as possible. Because removing objects from the learning environment reduces transfer (González et al. 2003), the context should include many different stimuli that will not be present in the natural environment. (4) Extinction may be superfluous because of the behavioral attenuation that would be expected to occur between captive and natural environments, but if it does prove necessary, it should be done in the natural environment. Extinction should also target responses to humans, not to experimental stimuli, because the latter practice might remove overshadowing effects and enhance responses to humans.

Ironically, current practices that limit behavioral research may inadvertently facilitate association of humans



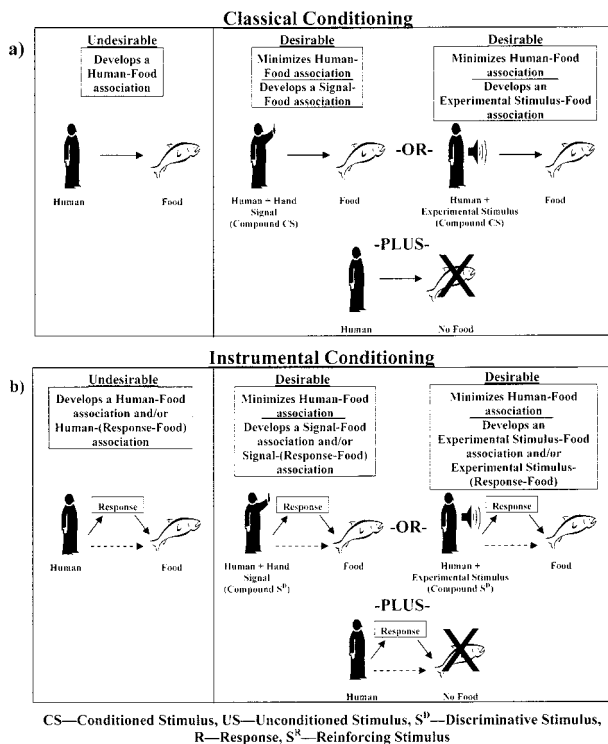


Figure 1. Training methods for minimizing associations between humans and food. Presenting humans in compounds with other stimuli reduces the association between humans and food. If in addition humans are present when no food is given, the association will be further minimized and under some circumstances may be inhibitory.

with food, the very characteristic that federal policy is meant to discourage. Animals learn about their environments, including people, with or without explicit training. A critical objective in caring for animals in captivity is that they not learn responses that will transfer to the wild and endanger them. Behavioral training of releasable animals, such as that associated with assessment of sensory processes, cognition, and many types of physiological research, provides an excellent solution to the problem of minimizing undesirable associations with people, providing environmental enrichment, and adding knowledge of species important for their conservation.

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**Subject: Written Comment (EIS)**

**Date:** Tue, 28 Feb 2006 06:50:25 +0000

**From:** bart bottoms <bartholomule@hotmail.com>


**To:** mmhsrpeis.comments@noaa.gov

Dear Mr. Payne,

Please see one of the attached articles for my written comment. I know that whale entanglement is such a small part of what you do, but this experience has been branded in my mind. I feel that the California coast needs more trained responders and that at a minimum, they should have the proper gear for disentanglement.

Thank you,

Bartholomew B. Bottoms, DVM  
 231 Evergreen St.  
 Santa Cruz, Ca 95060  
 C: (831) 227-6030

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January 29, 2006

## Bartholomew B. Bottoms: Entangled whales need ready rescuers

I was recently involved in a marine turtle research effort as the veterinarian on board a boat in Monterey Bay. Along our way, we unexpectedly came upon a humpback whale entangled in heavy polypropylene fishing line. The whale was a juvenile about 40 feet long and was caught by the tail with spotted prawn fishing gear a couple of miles off Moss Landing.

Exhaustive efforts were made to contact help by phone. No one in the National Marine Mammal Stranding Unit was able or close enough to respond in time, not even the Marine Mammal Center in Sausalito approximately 2 to 3 hours drive.

Our research team did not have the proper equipment, training or support. Furthermore, the humpback was very feisty, constantly diving and thrashing and uncooperative to say the least. We were ultimately unsuccessful in untangling the whale in the six hours before dark.

The next morning, there was no sign of the whale or the fishing gear buoys, line and has been none since. The assumed outcome was that the animal drowned struggling.

This was one of the most depressing events I have witnessed in my life. Why did I experience this? How can I help prevent it from happening again? These are the questions going through my mind. Create awareness. Educate people. Make it known where the deficiency lies. Ask for help.

Humpback whales are listed as an endangered species and "protected" by the U.S. government under the Endangered Species Act. Before commercial whaling, the global population was thought to be in excess of 125,000 animals. Between 1805-1907, an estimated 28,000 humpbacks were killed in the North Pacific alone. There has been a prohibition on taking humpback whales since 1966. Sadly enough, the 2004 minimum population estimate of the Eastern North Pacific Stock California, Oregon and Washington was 681 animals.

Whales and other marine mammals will become entangled in fishing gear as long as current fishing practices continue. These animals may need our assistance from time to time, but not always according to our schedules or availability. Whale entanglement is challenging to deal with. It takes specific training, equipment and most importantly, people. Even to the seasoned veteran, the work can prove to be most dangerous at times. People have died trying to untangle whales.

What we really need, aside from smarter whale-friendly fishing tackle, are more marine mammal emergency response teams that are trained and equipped along the central and northern California coast. There are simply not enough dedicated individuals with boats, training and equipment who can respond at any given moment. There are teams in San Diego, Los Angeles and Santa Barbara, but the Marine Mammal Center in Sausalito is the only group between San Luis Obispo and Crescent City, near the Oregon border. They are a great team, but that is a huge stretch of coast to cover for one team.

As a local veterinarian, waterman and global citizen, I am deeply concerned. I can only tell the story and hope that some will understand. It is all of our responsibility to improve the health of our oceans. The whales continue to show us that their health and welfare is endangered. If there was ever an opportunity to push for recognition of the need for more official disentanglement teams on the California coast, it seems that now is the time.

If you have any questions, comments or contributions regarding this issue, please contact me or Joe

Cordaro, California regional stranding coordinator for the National Oceanic and Atmospheric Association — National Marine Fisheries Service at: National Marine Fisheries, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. He alone has an amazing potential and will be instrumental in solving this staffing problem.

I was sparked to write this because of the recent success story in San Francisco. My hat goes off to all those at the Marine Mammal Center and to the military divers who risked their lives to untangle the adult female humpback wrapped in 30 to 60 crab traps 6 miles east of the Farallon Islands. Thank you for continuing to lead the way in marine mammal health and stranding response.

*Bartholomew B. Bottoms is a Santa Cruz veterinarian.*

 Print Article

You can find this story online at:

<http://www.santacruzsentinel.com/archive/2006/January/29/edit/stories/05edit.htm>

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Posted on Sun, Jan. 29, 2006



## ENDANGERED GIANTS

Awareness, resources needed to save ocean's humpback whales

By BARTHOLOMEW B. BOTTOMS  
Guest commentary

I was recently involved in a marine turtle research effort as the veterinarian aboard a boat in the Monterey Bay. Along the way, we unexpectedly came upon a humpback whale entangled in heavy polypropylene fishing line.

The whale, a juvenile about 40 feet long, was caught by the tail with spotted prawn fishing gear a couple of miles off Moss Landing.

Exhaustive efforts were made to contact help by phone. No one in the National Marine Mammal Stranding Unit was able or close enough to respond in time. The Marine Mammal Center in Sausalito, approximately two to three hours away, also couldn't help.

Our research team didn't have the proper whale disentanglement equipment, training or support, and the humpback was feisty, constantly diving and thrashing. It was uncooperative, to say the least.

We were ultimately unsuccessful in freeing the whale in the six hours before dark. The next morning there was no sign of it or the fishing gear, and there has been none since.

The assumed outcome was that the animal drowned, struggling.

This was one of the most depressing events I have ever witnessed. Why did it happen? How can it be prevented from happening again? These are the questions going through my mind.

The apparent answers are to create awareness, educate people. Make it known where the deficiency lies. Ask for help.

Humpback whales are an endangered species, "protected" by the U.S. government under the Endangered Species Act.

Prior to commercial whaling, the global population was thought to be in excess of 125,000 animals. Between 1805 and 1907, an estimated 28,000 humpbacks were killed in the North Pacific. There has been a prohibition on taking humpback whales since 1966. Sadly, though, the 2004 minimum population estimate of the Eastern North Pacific Stock (California, Oregon and Washington) was 681 animals.

Whales and other marine mammals will become entangled in fishing gear as long as current fishing practice continues. These animals may need our assistance from time to time, but not always according to our schedules or availability. Whale entanglement is challenging to deal with, it takes specific training, equipment and, most importantly, people. Even to the seasoned veteran, the work can prove extremely dangerous. People have died trying to disentangle whales.

What we really need, aside from smarter, whale-friendly fishing tackle, are more marine mammal emergency response teams trained and equipped along the Central and Northern California coasts. There are simply not enough dedicated individuals with boats, training and equipment to respond at any given moment.

There are teams in San Diego, Los Angeles and Santa Barbara, but the Marine Mammal Center in Sausalito is the only group between San Luis Obispo and Crescent City. The Marine Mammal Center and military divers recently risked their lives in a successful effort to disentangle an adult female humpback that was wrapped in 30 to 60 crab traps east of the Farallon Islands. It's a great team, but has a huge stretch of coast to cover.

As a local veterinarian, waterman and global citizen, I am deeply concerned. I can only tell the story and hope that some will understand. It is all of our responsibilities to improve the health of our oceans. The whales continue to show

us that their health and welfare is endangered. If there was ever an opportunity to push for recognition of the need for more official disentanglement teams on the California coast, it seems that now is the time.

If you have questions, comments or contributions regarding this issue, please contact me at [bartholomule@hotmail.com](mailto:bartholomule@hotmail.com), or Joe Cordaro, the California regional stranding coordinator for the National Marine Fisheries Service, at 501 W. Ocean Blvd. Suite 4200, Long Beach, CA 90802-4213.

Bartholomew B. Bottoms of Santa Cruz is a traveling veterinarian specializing in horses with a part-time focus on wildlife, including condors, otters, mountain lions and leatherback sea turtles. He grew up in Santa Barbara and the Big Sur back country and holds degrees from Cal Poly and the University of Prince Edward Island.

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**The Cape Cod Stranding Network, Inc.  
P.O. Box 287  
Buzzards Bay, MA 02532**

27 February 2006

P. Michael Payne, Chief  
Marine Mammal and Sea Turtle Division  
NMFS 1315 East-West Highway  
Silver Spring, MD 20910-3226

Dear Mr. Payne,

I am writing in response to the proposed actions of NMFS to continue to coordinate and operate the National Marine Mammal Health and Stranding Response Program (MMHSRP) for response to stranded marine mammals and research into questions related to mammal health, including causes and trends in marine mammal health and the causes of strandings, of the Marine Mammal Protection Act. I support NOAA Fisheries' efforts to standardize the program through the implementation of Policies and Best Practices. Specifically, I support the MMHSRP's proposal to (1) issue policies and best practices for marine mammal stranding response, rehabilitation, and release, and establish required minimum standards for the national marine mammal stranding and disentanglement networks; (2) issue MMHSRP permits allowing response activities for endangered species, entanglement activities, biomonitoring projects, and import and export of marine mammal tissue samples; and (3) continue to issue and renew stranding agreements (formerly LOAs) on a case-by-case basis as necessary. The MMHSRP provides a critical public service by facilitating response to stranded marine mammals and by promoting research into questions related to ocean health, including causes and trends in marine mammal health and causes of strandings. I believe that NMFS has not only a need, but also an obligation, to develop standards for the national marine mammal stranding and disentanglement networks, in order to operate the MMHSRP effectively and efficiently while making the best use of the limited resources available.

Generally speaking, the documents put forth as the Policies and Best Practices as a part of the EIS/NEPA process are impressive. It is obvious that the National Stranding Coordinator and the MMHSRP staff have put a great deal of effort into these final drafts. With the exception of some minor comments, the Stranding Agreement (SA) template, the SA minimum criteria, Rehabilitation Facility Guidelines, Release Criteria and Disentanglement Guidelines are well written and will serve both the MMHSRP program and the network members well as guidelines for proper response to and care for stranded marine mammals.

While I agree with the overall need to strive for the establishment of at least minimum standards for the work that we do, some of the proposed actions/alternatives presented at the scoping meeting are troubling. Breaking the MMHSRP work into program activities for the purposes of the EIS process will help us to be more precise in shaping the program, but requires some real analyses of the options. Below are comments regarding the general proposal of the EIS, the proposed options for each programmatic activity, answers to the specific questions posed in the scoping documents, and comments on the Policies and Best Practices documents.

**General Comments:**

- I support the proposed action to issue Policies and Best Practices for Marine Mammal Stranding response, Rehabilitation, and Release. I also support the issuance of MMHSRP

MMHSRP EIS Comments  
Cape Cod Stranding Network, Inc.

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ESA/MMPA permit; the issuance and renewal of SA's on a case by case basis and the continuation of other day-to-day operations of the stranding network.

- I do not support the No Action alternative or the Status Quo alternative. It is essential that we establish at least minimum standards for stranding response, rehabilitation, release and disentanglement. These Policies and Best Practices have been a long time coming and are in the best interest of the animals, both from an individual animal strand point as well as at the population level. The documents will help all network members advance their work and will help NOAA Fisheries and NMFS to gradually raise the bar on performance. Eventually, we need to consider making more of these regulations in order to make them enforceable and give the program some real teeth when absolutely necessary.
- I agree that the "Alternatives that may be Eliminated" should not be considered. They are too limiting and will not allow the MMHSRP to achieve its goals or fulfill its MMPA mandates.

**Alternatives by Activity**

Obviously, the Status Quo, No Action, and Response Curtailed Immediately options are not reasonable alternatives for any of the activities of the program. In order to fulfill MMPA and ESA mandates, NOAA Fisheries/NMFS must implement the MMHSRP. Furthermore, the baseline data collected from stranded and rehabilitated animals has already proven invaluable in understanding and protecting these species. In addition, the potential to utilize marine mammal as sentinels of the marine environment could play a vital role in human health issues as well. Bearing that in mind, I have addressed each individual program activity and its proposed alternatives:

**Stranding Response**

I would agree with a combination of the last two proposed alternatives. I would implement the SA Criteria with very minimal revisions (see below), issuing SAs only to those institutions meeting minimum criteria. I am wary of the alternatives that "require" or "authorize" response only to some groups of animals. The reality is that Level A data are the only legally required data that must be collected. It is not too much to ask to have Level A data collected from every animal. It may, however, be useful to prioritize Level B and C data collection based on the national, regional and local needs and questions that must be answered. These priorities should be established annually (or more frequently as needed) by the National Stranding Coordinator in conjunction with the head of the MMHSRP and in consultation with the regional coordinators and stranding responders.

**Carcass Disposal/Euthanasia**

These need to be treated as separate activities. Although related, disposal of non-euthanized carcasses is also a major issue. NOAA cannot require that all animals be buried on site. There are too many other environmental and legal issues that must be considered (e.g. private property, erosion issues, other protected species, etc.) Nor is it reasonable to require the removal all carcasses. The stranding networks are not salvage operations or garbage collectors. Strandings are a natural event and some responsibility for clean up must be placed on the land owners or local/state municipalities and agencies.

The idea of prohibiting all chemical euthanasia hardly seems possible at this time. Until a legal, humane, and logistically feasible alternative is identified, chemical euthanasia is our only option. So much of our work is in response to animal welfare concerns of the public. Humane euthanasia must remain an option. None of the proposed alternatives are optimal. The final alternative to remove chemically euthanized animals is the best; however, we need to have some accommodation for large whales and mass strandings. The volume of euthanized animals in these cases can be great and the costs for removal prohibitive. Currently, we

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attempt to remove or otherwise secure euthanized carcasses from scavenging. I think this is a reasonable goal.

#### *Rehabilitation*

I support the alternative to implement the Rehabilitation Guidelines with minimal modifications. I believe that NOAA/NMFS should develop spatial and temporal rehab/release priorities based on species, population or group, age class, health status, etc. Requirements/guidelines/priorities for live animal response, rehab and release (species, population or group, age class, condition) and data collection (diagnostic tests, behavioral and physical assessment, etc.) should be dynamic and directed by NOAA/NMFS HQ with input from the regional coordinators and SA holders. Requirements and guidelines could be issued annually and more specific protocols, based on regional disease threats, UMEs, and other events, could be issued on an as-needed basis. Whenever possible, active, post-release monitoring of rehabilitated animals should be strongly recommended or required.

#### *Release*

The proposed Release Criteria should be implemented with minimal modifications if any. Also, there needs to be clarification of criteria for immediate release, relocation and release, and post-rehabilitation release. For example, mass stranded animals may be deemed appropriate for release after health assessment and blood work. The criteria for release at the stranding site or for relocation to a more appropriate site for release would obviously be quite different than the criteria after rehabilitation. This distinction should be articulated in the SAs as well as in the Rehabilitation and Release Guidelines. I fundamentally agree with the 'All animals released' alternative if the release guidelines are adopted as is or with minimal changes and the recognition that there may be times and places where release of a successfully rehabilitated animal is not authorized to ensure protection of the environment and/or human safety.

#### *Disentanglement*

I agree with the "Implementation of Disentanglement Guidelines, training prerequisites for Disentanglement Network Participants" alternative. From what I have read, the Disentanglement Guidelines/roles and training levels do not state that they refer only to large whales. I think there needs to be a distinction between disentanglement efforts involving large whales, small cetaceans and pinnipeds. A similar, but less restrictive certification/training process should be established for stranding network members that often respond to entangled dolphins, porpoises and seals.

#### *Biomonitoring*

I support the Issuance of New Permit with current and new (foreseeable) projects alternative.

#### **Specific Questions put forth in the Scoping Documents**

*What sort of activities should be conducted on a local, regional and national level in response to stranded, entangled, sick, injured, and other marine mammals in distress?*

- We support all current activities of the MMHSRP including prevention, response, rehabilitation, release and research of marine mammals that are stranded, entangled, sick, injured, or otherwise in distress, and public education about strandings.

*Are there critical research or management needs that may be met by stranding investigations, rehabilitation, disentanglement, or health-related research and biomonitoring activities? Are these needs currently being met? If not, what are they, how are they likely to benefit the marine mammal species or the ecosystems in which they live and what should be done to meet them?*

- Headquarters and Regional staff should work with SA holders to identify these needs on a regular basis. To address these needs, as well as many of the other aspects of the Policies and Best Practices, such as identifying key species for rehabilitation, a working group should be established. A group similar to an SRG, comprised of SA holders, MMHSRP staff, veterinarians, etc could serve the MMHSRP by shaping the portions of these guidelines that really need to be dynamic in order to be effective. Obviously, the most pressing issues identified today, may not be the same ones we identify next year. In order to be effective, we must be flexible and a group such as this with a balanced representation of members of network members, NOAA, NGOs etc would serve this purpose well.

*Should there be different standards or levels of MMHSRP effort for different species or groups of species (i.e. pinnipeds vs. cetaceans; threatened or endangered species vs. increasing populations, etc.)? If so, how should NMFS set these standards or priorities? How should the species be divided?*

- To the extent that it is practical and legal, I do not believe that there should be different standards of stranding response for different species or regions, regardless of status. Valuable information may be gathered from both pinnipeds and cetaceans, and from endangered and non-endangered species. There needs to be a minimum set of standards that all network members are required to meet. However, given the differences in species and other regional issues, Headquarters should work with each region to prioritize their response based on regional conservation and research priorities and network resources. I also understand that stranding response levels or standards must be fluid documents, able to incorporate new information as we gather it in order to continue to provide the best stranding response and investigation possible. Again, I reference the SRG-like group detailed above.

*Is the current organization of the national stranding and health assessment networks at the local, state, regional, ecosystem, and national levels adequate to meet the necessary management and research needs for conservation? If not, what changes should be implemented to make the organization more effective?*

- I believe that the current disconnect among the NMFS regions and between the regions and NMFS headquarters is hindering the development of consistent, standardized policies and procedures nationally. There are two fundamental elements that seem to be inhibiting this process. The first is that regional stranding programs operate independently, without direct supervision/connection to headquarters. This prohibits consistency in both program and policy. The second element is that the regional structure of the marine mammal programs varies greatly among the regions. Aside from the Regional Coordinator, there are no parallel positions. In some regions, NMFS employees are paid to respond to strandings, while in others and in other areas within the same regions, NMFS does not contribute to stranding response. Other inconsistencies also contribute to the problem:
  - Stranding response is governed by the regional office control in NER, but under the control of science centers in other regions.
  - Funding for NMFS appears to vary significantly regionally and annually. We would like to see regional NMFS allocation of stranding response funds divided more equally among regions, if possible, from Headquarters.
  - We are aware that MMHSRP funding has been (unfairly, in our opinion) earmarked for specific organizations and states. Anything that can be done to protect and increase the small amount of funding allocated to the MMHSRP is vital. We believe all MMHSRP funding should go towards program goals, and that funds available for dispersal should be equitably divided among stranding network participants through competitive awards and fair direct allocations.

- The NMFS Regional and local stranding staff should have an equal or higher level of experience than is expected from the network members. If this experience is not present, representatives from NMFS should be required to train with each facility under their charge. This training would help to alleviate the lack of understanding of differences within our regions and facilitate an understanding of how each organization functions.
- I believe that Regional Coordinators should be experienced in all aspects of marine mammal stranding response in order to better serve the network members. Regional Coordinators should be directly answerable to the National Stranding Coordinator.
- The role of the Regional Administrators is puzzling (as noted in the SA). It places great responsibility on individuals who, in most cases, have little to no marine mammal experience of any kind. It would seem both prudent and logical to utilize the appropriately trained individuals within the NMFS system to make decisions regarding these policies.

*What should the minimum qualifications of an individual or organization be prior to becoming an SA holder or disentanglement participant?*

- Staff of any potential SA holder are required to have hands-on experience and/or comparable training from a facility or organization currently holding a NOAA/NMFS SA or similar international agreement. Written documentation from previous supervisor(s) should be required to ensure that appropriate experience was obtained. The minimum qualifications proposed should be implemented as written.

*What should the requirements be for continued participation in the networks? Should there be a certification or licensing process? What training should be required?*

- Facilities or organizations should be required to maintain 'good standing' status by following guidelines established in the minimum standards/qualifications and SA template. We agree with the conditions described in the SA National Template. In the future, as the network continues to develop and as resources within NMFS allow, a training and/or certification process should be implemented to help SA holders better achieve their goals. Training in human interaction evaluation, large whale stranding response, euthanasia, mass stranding response and UME coordination should be required in order to achieve a certification.

*Are public and animal health and safety needs adequately addressed in the current organization and operations of the MMHSRP?*

- No, we continue to be concerned about issues surrounding euthanasia. Specifically, we would like to pursue a solution that is both humane and less toxic. The toxicity of euthanasia solution presents a disposal problem and makes it unwise to leave carcasses on uninhabited beaches where they may be consumed by scavengers. Additionally, use of the commonly-prescribed euthanasia solution can be dangerous to personnel when dealing with a struggling animal. It would also allow a broader range of disposal options for euthanized carcasses.

*Are there any other relevant issues or data NMFS should consider in its analysis of activities conducted by, for, and under the authorization of the MMHSRP? If so, please provide it or a reference for it.*

- I strongly support the continuation and advancement of the John H. Prescott Stranding Grant Program. The support provided by the program is vital to our efforts. However, it must be noted that the activities we are both allowed and required to perform under the current and proposed stranding agreements are in no way fully funded by the Prescott Program. NMFS must recognize the true costs of the Marine Mammal Stranding Network and be prepared for the possibility that without appropriate, annual, non-competitive funding,

organizations may not be able to fulfill the goals of the MMHSRP. This is especially true as NMFS moves toward standardizing its marine mammal programs. Additional or more detailed requirements in response, rehabilitation and research may lead to additional costs which must be taken into account.

#### **Proposed Policies and Best Practices**

Below are more detailed comments regarding the Policies and Best Practices documents. SA minimum criteria, Standards for Release, and Disentanglement Guidelines are acceptable as written.

#### *Stranding Agreement:*

Article I, 3. The inclusion of geographic boundaries within the SA is a great addition to the LOA model.

#### Article II

B.6. Training for network members needs to be made a priority and additional resources must be allocated within the MMHSRP to accomplish this goal.

B.8. It is inappropriate for NMFS to presume to assign an Incident Commander for all mass stranding events. While I realize that this would be useful and may even be necessary in certain regions, it would be counter productive in the NER. In Massachusetts we have an established and experienced ICS team (more experienced than most/all NMFS representatives in the region). It would actually be disruptive to change the system already in place. If the headquarters staff / national stranding coordinator feel that this is a necessary step in certain regions, then it should be articulated regionally or within individual SAs. This is a perfect example of where a certification and training program would serve the MMHSRP well. In this way, I have no doubt that the Cape Cod Stranding Network and New England Aquarium, already experienced in a coordinated ICS mass stranding response for over four years, would be certified and NER Coordinator would have no need to assign an Incident Commander as one would already be in place.

C. 3. I would add to this statement:..." shall be subject to the direction of a QUALIFIED designated employee representing the NMFS. For all of the training and certification proposed for the SA holders, the same or greater level of experience, and training should be REQUIRED of NMFS staff. Too many times experienced network members are forced to take direction from less experienced federal employees.

C.10. NMFS needs to supply the list of diseases.

#### Article III

B.1.a. See above (Article II, B.8.) regarding Incident Command issues.

B.1.b. Need to make sure this works in conjunction with the final guidelines/alternative for euthanasia/disposal activity.

B.2.d. Level B and C data are proprietary. Submission to NMFS makes them FOIA material and provides an opportunity for inappropriate use of data. It would be better to specify that summary data, not raw data would be requested, thus providing a built in safe guard.



B.3.a. This is an unrealistic requirement. The National Database should be altered to allow the entry of multiple samples on one page. The current system required new data entry screens for each type of sample, requiring much more time and effort in data entry. Furthermore, the transfer of archived samples would be hard if not impossible to enter on OLD records, no longer available for editing. The SA holder must be able to locate and document and transfer of parts at any time when requested by NMFS. This is reasonable, as most of us have internal sample tracking databases.

#### Article IV

A.1. line 2 should read " for the protection OR welfare of the marine mammal".

A.1.b. It is unclear whether the more invasive tagging procedures require regional approval on a case by case basis. This seems like overkill. These more invasive (satellite tags, etc) already require a research permit. So long as that permit is in place, the SA holder and responders should be the ones determining the appropriate candidates for such tags. It would be inappropriate and too time consuming to require approval on a case by case basis.

A.1.c. Euthanasia of stranded marine mammals is a difficult subject. The wording here seems well articulated to suit the needs of stranding response. Thank you for addressing this critical need.

A.1.d. There is a significant omission here. I think the need for relocation and immediate release should be addressed here: "Transporting live stranded marine mammals for relocation and immediate release (e.g. removing pinnipeds from busy beaches, or relocating mass stranded animals to appropriate release sites) or for rescue and rehabilitation ...."

B.1.a. See previous comments regarding the assignment of an Incident Commander.

B.1.c line one: should read: shall tag any animals that are immediately released to their..."

B.2.b. Is there a time limit for what is considered temporary holding? It seems unnecessary for an institution holding an animal for fewer than 48hrs to submit the Rehab Disposition Report.

B.2.f. See comments above regarding level B and C data. These are proprietary.

B.3.a. See previous comments.

#### Article V

A.1. This is unclear. Does anyone who intends to transfer an animal to rehab need a rehab permit? I'm guessing not, but that needs to be more clearly articulated.

#### Article IX

B. Excellent. These ramifications are exactly what the program needs to encourage/enforce adherence to the new standards.

#### Standards for Rehabilitation Facilities:

##### Chapter 1

pg 5, section 1.3 - Minimum standards should take temporary holding into consideration (e.g. triage for 24-48 hours); dark/light periods should be considered

pg 24, section 8.2 - Address carcass disposal if euthanized or not

A great deal of effort has clearly been put forth in the development of these documents and in the preparation for the EIS and NEPA review. The implementation of the Policies and Best practices, with modifications as noted, will help to make the MMHSRP and all stranding response organizations more efficient and effective in our work. However, many of the comments and suggestions made here will require additional support from NOAA OPR and Headquarters. Additional resources, personnel and funding must be allocated to the MMHSRP in order to accomplish these goals. I fully support all efforts to expand the program at a national level and to support each region in its efforts.

In addition, for the National Marine Mammal Stranding Network to function effectively and efficiently, many decisions about levels of response, rehab, release and disentanglement would be best made with the input of experts in stranding response. We suggest the formation of a National Stranding Advisory Group, similar to an SRG as described above, to provide input to HQ for important decisions and policies. Members should include senior biologists and/or veterinarians from stranding response organizations in each region as well as experts on pinniped and cetacean rehab, large whale necropsy and disentanglement.

All considered, we are impressed with the effort and detail that has been presented with the EIS, and we are pleased to be a part of this important process.

Sincerely,

Kathleen Touhey  
Director  
Cape Cod Stranding Network, Inc.



COMMONWEALTH of VIRGINIA

W. Taylor Murphy, Jr.  
Secretary of Natural Resources

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January 10, 2006

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Mr. P. Michael Payne  
Chief, Marine Mammal and Sea Turtle Division  
Attn: MMHSRP EIS  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway, Room 13635  
Silver Spring, Maryland 20910

RE: National Marine Mammal Health and Stranding Response Program

Dear Mr. Payne:

This is in response to your recent notice of intent to prepare an Environmental Impact Statement, which appeared in the Federal Register on December 28, 2005 (Volume 70, Number 248, pages 76777-76780, hereinafter cited as "the Notice"). The Environmental Impact Statement (EIS) would evaluate cumulative impacts of the activities of the National Marine Fisheries Service's (NMFS) Marine Mammal Health and Stranding Response Program as contemplated after June 30, 2007, which is when an existing permit, issued by the Permits, Conservation, and Education Division of NMFS, expires (Notice, pages 76778-76779). The Notice indicates that NMFS is considering the following alternatives (page 76779, right):

- *Alternative 1, Proposed:* Publish a Practices and Protocols Handbook, showing minimum standards for stranding and disentanglement networks, response activities, bio-monitoring, and other research projects; get a renewed permit (for after the June 2007 of the existing permit) from the other piece of NMFS;
- *Alternative 2, No Action:* Continue current activities without a handbook publication; let the Stranding Agreements expire (these get the partner entities out from under Endangered Species prohibitions; see page 76778, center); and let the permit lapse;

Mr. P. Michael Payne  
Page 2

- *Alternative 3, Status Quo:* keeping up the Stranding Agreements but not having new ones for entities that are not part of the existing network. In this case, the permit could be reissued.

The roles of the Virginia Department of Environmental Quality (DEQ) in relation to the project under consideration are as follows. First, DEQ's Office of Environmental Impact Review (this Office) will coordinate Virginia's review of any environmental documents prepared pursuant to the National Environmental Policy Act (NEPA) and comment to NMFS on behalf of the Commonwealth. A similar review process will pertain to the federal consistency determination that must be provided pursuant to the Coastal Zone Management Act (CZMA).

Environmental Review and Scoping

While this Office does not participate in scoping efforts beyond the advice given herein, other agencies are free to provide scoping comments pertaining to resources under their jurisdiction to assist in the preparation of the NEPA documents for the proposed project. Therefore, we are sharing the Notice with selected Virginia agencies, which are likely to include the following (note: starred (\*) agencies administer one or more of the Enforceable Policies of the Virginia Coastal Resources Management Program; see "Federal Consistency....," below):

- Department of Environmental Quality:
  - Office of Environmental Impact Review
  - Tidewater Regional Office\*
- Department of Game and Inland Fisheries\*
- Department of Conservation and Recreation:
  - Division of Natural Heritage
  - Division of Planning and Recreation Resources
- Marine Resources Commission\*
  - Virginia Institute of Marine Science (marine science advisor to the Commission, above).

Federal Consistency under the Coastal Zone Management Act

Pursuant to the Coastal Zone Management Act of 1972, as amended, federal activities affecting Virginia's coastal resources or coastal uses must be consistent, to the maximum extent practicable, with the Virginia Coastal Resources Management Program (VCP) (see section 307(c)(1) of the Act and the Federal Consistency Regulations, 15 CFR Part 930, sub-part C, sections 930.30 through 930.46). NMFS must provide a consistency determination which involves an analysis of the activities in light of the Enforceable Policies of the

Mr. P. Michael Payne  
Page 3

VCP (first enclosure), and a commitment to comply with the Enforceable Policies. In addition, we invite your attention to the Advisory Policies of the VCP (second enclosure). The federal consistency determination may be provided as part of the NEPA documentation. If the federal consistency determination is included as part of the NEPA document, there can be a single review taking 60 days as allowed by the Federal Consistency Regulations (15 CFR Part 930, section 930.41(a)). We recommend this approach to save time and extra effort for NMFS as well as for the Commonwealth. Section 930.39 of the Federal Consistency Regulations and Virginia's Federal Consistency Information Package (see below) give content requirements for the consistency determination.

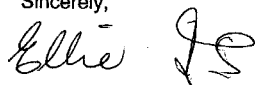
The Federal Consistency Information Package is available on DEQ's web site, <http://www.deq.virginia.gov>. Select "Programs" on the left, then scroll to "Environmental Impact Review/Federal consistency" and select this heading. Select "federal consistency reviews" on the left. This gives you access to the document.

In order to ensure an effective coordinated review of the EIS and the consistency determination, we will require 9 copies of the document when it is published.

If you have questions, please feel free to call me (telephone (804) 698-4325) or Charles Ellis of this Office (telephone (804) 698-4488).

I hope this information is helpful to you.

Sincerely,



Ellie L. Irons  
Program Manager  
Office of Environmental Impact Review

enclosures

cc: Harold J. Winer, DEQ-TRO  
Andrew K. Zadnik, DGIF  
Scott Bedwell, DCR  
Tony Watkinson, MRC  
David O'Brien, VIMS



## COMMONWEALTH of VIRGINIA

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

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### Attachment 1

#### Enforceable Regulatory Programs comprising Virginia's Coastal Resources Management Program (VCP)

- a. Fisheries Management - The program stresses the conservation and enhancement of finfish and shellfish resources and the promotion of commercial and recreational fisheries to maximize food production and recreational opportunities. This program is administered by the Marine Resources Commission (VMRC); Virginia Code §28.2-200 to §28.2-713 and the Department of Game and Inland Fisheries (DGIF); Virginia Code §29.1-100 to §29.1-570.

The State Tributyltin (TBT) Regulatory Program has been added to the Fisheries Management program. The General Assembly amended the Virginia Pesticide Use and Application Act as it related to the possession, sale, or use of marine antifoulant paints containing TBT. The use of TBT in boat paint constitutes a serious threat to important marine animal species. The TBT program monitors boating activities and boat painting activities to ensure compliance with TBT regulations promulgated pursuant to the amendment. The VMRC, DGIF, and Virginia Department of Agriculture Consumer Services (VDACS) share enforcement responsibilities; Virginia Code §3.1-249.59 to §3.1-249.62.

- b. Subaqueous Lands Management - The management program for subaqueous lands establishes conditions for granting or denying permits to use state-owned bottomlands based on considerations of potential effects on marine and fisheries resources, tidal wetlands, adjacent or nearby properties, anticipated public and private benefits, and water quality standards established by the Department of Environmental Quality (DEQ). The program is administered by the Marine Resources Commission; Virginia Code §28.2-1200 to §28.2-1213.
- c. Wetlands Management - The purpose of the wetlands management program is to preserve wetlands, prevent their despoliation, and accommodate economic development in a manner consistent with wetlands preservation.

(1) The tidal wetlands program is administered by the Marine Resources Commission; Virginia Code §28.2-1301 through §28.2-1320.

(2) The Virginia Water Protection Permit program administered by DEQ includes protection of wetlands --both tidal and non-tidal; Virginia Code §62.1-44.15:5 and Water Quality Certification pursuant to Section 401 of the Clean Water Act.

Attachment 1 continued

Page 2

- d. Dunes Management - Dune protection is carried out pursuant to The Coastal Primary Sand Dune Protection Act and is intended to prevent destruction or alteration of primary dunes. This program is administered by the Marine Resources Commission; Virginia Code §28.2-1400 through §28.2-1420.
- e. Non-point Source Pollution Control – (1) Virginia's Erosion and Sediment Control Law requires soil-disturbing projects to be designed to reduce soil erosion and to decrease inputs of chemical nutrients and sediments to the Chesapeake Bay, its tributaries, and other rivers and waters of the Commonwealth. This program is administered by the Department of Conservation and Recreation; Virginia Code §10.1-560 et seq.  
  
(2) Coastal Lands Management is a state-local cooperative program administered by the DCR's Division of Chesapeake Bay Local Assistance and 84 localities in Tidewater (see i) Virginia; Virginia Code §10.1-2100 –10.1-2114 and 9 VAC10-20 et seq.
- f. Point Source Pollution Control - The point source program is administered by the State Water Control Board (DEQ) pursuant to Virginia Code §62.1-44.15. Point source pollution control is accomplished through the implementation of:
  - (1) the National Pollutant Discharge Elimination System (NPDES) permit program established pursuant to Section 402 of the federal Clean Water Act and administered in Virginia as the Virginia Pollutant Discharge Elimination System (VPDES) permit program.
  - (2) The Virginia Water Protection Permit (VWPP) program administered by DEQ; Virginia Code §62.1-44.15:5 and Water Quality Certification pursuant to Section 401 of the Clean Water Act.
- g. Shoreline Sanitation - The purpose of this program is to regulate the installation of septic tanks, set standards concerning soil types suitable for septic tanks, and specify minimum distances that tanks must be placed away from streams, rivers, and other waters of the Commonwealth. This program is administered by the Department of Health (Virginia Code §32.1-164 through §32.1-165).
- h. Air Pollution Control - The program implements the federal Clean Air Act to provide a legally enforceable State Implementation Plan for the attainment and maintenance of the National Ambient Air Quality Standards. This program is administered by the State Air Pollution Control Board (Virginia Code §10-1.1300 through §10.1-1320).
- (i) Coastal Lands Management is a state-local cooperative program administered by the DCR's Division of Chesapeake Bay Local Assistance and 84 localities in Tidewater, Virginia established pursuant to the Chesapeake Bay Preservation Act; Virginia Code §10.1-2100 – 10.1-2114 and Chesapeake Bay Preservation Area Designation and Management Regulations; Virginia Administrative Code 9 VAC10-20 et seq.

Attachment 2

Advisory Policies for Geographic Areas of Particular Concern

- a. Coastal Natural Resource Areas - These areas are vital to estuarine and marine ecosystems and/or are of great importance to areas immediately inland of the shoreline. Such areas receive special attention from the Commonwealth because of their conservation, recreational, ecological, and aesthetic values. These areas are worthy of special consideration in any planning or resources management process and include the following resources:
  - a) Wetlands
  - b) Aquatic Spawning, Nursery, and Feeding Grounds
  - c) Coastal Primary Sand Dunes
  - d) Barrier Islands
  - e) Significant Wildlife Habitat Areas
  - f) Public Recreation Areas
  - g) Sand and Gravel Resources
  - h) Underwater Historic Sites.
- b. Coastal Natural Hazard Areas - This policy covers areas vulnerable to continuing and severe erosion and areas susceptible to potential damage from wind, tidal, and storm related events including flooding. New buildings and other structures should be designed and sited to minimize the potential for property damage due to storms or shoreline erosion. The areas of concern are as follows:
  - i) Highly Erodible Areas
  - ii) Coastal High Hazard Areas, including flood plains.
- c. Waterfront Development Areas - These areas are vital to the Commonwealth because of the limited number of areas suitable for waterfront activities. The areas of concern are as follows:
  - i) Commercial Ports
  - ii) Commercial Fishing Piers
  - iii) Community Waterfronts

Although the management of such areas is the responsibility of local government and some regional authorities, designation of these areas as Waterfront Development Areas of Particular Concern (APC) under the VCRMP is encouraged. Designation will allow the use of federal CZMA funds to be used to assist planning for such areas and the implementation of such plans. The VCRMP recognizes two broad classes of priority uses for waterfront development APC:

  - i) water access dependent activities;
  - ii) activities significantly enhanced by the waterfront location and complementary to other existing and/or planned activities in a given waterfront area.

**Advisory Policies for Shorefront Access Planning and Protection**

- a. Virginia Public Beaches - Approximately 25 miles of public beaches are located in the cities, counties, and towns of Virginia exclusive of public beaches on state and federal land. These public shoreline areas will be maintained to allow public access to recreational resources.
- b. Virginia Outdoors Plan - Planning for coastal access is provided by the Department of Conservation and Recreation in cooperation with other state and local government agencies. The Virginia Outdoors Plan (VOP), which is published by the Department, identifies recreational facilities in the Commonwealth that provide recreational access. The VOP also serves to identify future needs of the Commonwealth in relation to the provision of recreational opportunities and shoreline access. Prior to initiating any project, consideration should be given to the proximity of the project site to recreational resources identified in the VOP.
- c. Parks, Natural Areas, and Wildlife Management Areas - Parks, Wildlife Management Areas, and Natural Areas are provided for the recreational pleasure of the citizens of the Commonwealth and the nation by local, state, and federal agencies. The recreational values of these areas should be protected and maintained.
- d. Waterfront Recreational Land Acquisition - It is the policy of the Commonwealth to protect areas, properties, lands, or any estate or interest therein, of scenic beauty, recreational utility, historical interest, or unusual features which may be acquired, preserved, and maintained for the citizens of the Commonwealth.
- e. Waterfront Recreational Facilities - This policy applies to the provision of boat ramps, public landings, and bridges which provide water access to the citizens of the Commonwealth. These facilities shall be designed, constructed, and maintained to provide points of water access when and where practicable.
- f. Waterfront Historic Properties - The Commonwealth has a long history of settlement and development, and much of that history has involved both shorelines and near-shore areas. The protection and preservation of historic shorefront properties is primarily the responsibility of the Department of Historic Resources. Buildings, structures, and sites of historical, architectural, and/or archaeological interest are significant resources for the citizens of the Commonwealth. It is the policy of the Commonwealth and the VCRMP to enhance the protection of buildings, structures, and sites of historical, architectural, and archaeological significance from damage or destruction when practicable.

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**MMHSRP EIS Scoping Process Comments, 24 February 2006**

Subject: Photo documentation of strandings  
(Collection and dissemination of data, MMHSRP Information Management Program)

From: Pieter A. Folkens (member, AK Marine Mammal Stranding Network)

MMHSRP would benefit from encouraging photo documentation of all strandings and by establishing guidelines for photo and video documentation to best facilitate subsequent analysis. Written reports cannot garner all details of a stranded animal. Photographs preserve information that can be overlooked in written reports. The information acquired in photos may be of interest to disciplines other than that of the responder. Guidelines need not be complicated or technical. Simple guidelines regarding the most important images and how to capture them are all that is needed.

The vast majority of images captured at strandings that I have seen are simply "snap shots" with little or no regard for the utility of the photos. Flat-field images (as opposed to wide angle shots) taken along the body axis of the specimen are important to provide the best opportunities for subsequent analysis. Unusual mortality events in particular need good photo documentation. The analysis of such events will benefit immensely from comprehensive and well-thought-out images—especially if involving NOAA Enforcement is contemplated.

Real-world examples of the importance of good photo documentation: 1) A stranding near Sitka last year was attributed to a ship strike, but the photo taken of the animal did not support (even contradicted) the conclusion. The animal was lost to a tide before a complete analysis could be made. 2) A whale struck by a ship near Admiralty Island in Frederick Sound was photographed across the bow. The mechanics of injury (MOI) was initially described as the whale being struck on the top of the head. Subsequent analysis of the photo concluded that the whale was struck on the side of the head and then rode up on the bow bubble. 3) I know of two other strandings attributed to a ship strike where inadequate images confounded efforts to precisely establish the MOI.

The guidelines could include what images are most important to many researchers. For example:

- Lateral full body perpendicular to the axis (both sides if possible).
- Dorsal full body perpendicular to the axis (if possible).
- Venter (if exposed); detail of genital/mammary slits.
- Lateral detail of the head (both sides).
- Dorsal fin detail (at least left lateral, both sides if possible).
- Ventral fluke pattern (if possible, or dorsal view of trailing edge).
- Context (several wide views of the entire animal and the surrounding area).

Additional recommended shots might include:

- Details of scars, injuries, and potential trauma sites suspected of being caused by human activities, wide views (for context) as well as close ups.
- Parasites, Eye and Baleen detail shots.
- Detail of the necropsy, paying attention to the orientation of parts to the axis.
- Flipper (perpendicular to the broad surface).
- Anterior and posterior views.

The guidelines could include guidance on how to take the photos:

- Use mid-range focal lengths instead of wide angle if possible (wide angle lenses distort proportions); 70mm to 105mm lenses are ideal in 35mm photography; pocket digital camera equivalent is typically about 105mm at the maximum end of its telephoto range (cameras with 3x zoom).
- Use a flash if the image desired is shadowed.
- In digital photography, save important images in tiff file format rather than jpeg.
- When in doubt, take photos at different camera settings.

Advanced images might also be suggested:

- During the necropsy take photos of anterior, posterior, inferior, superior views of parts removed (especially if important evidence in a UME); be mindful of the orientation of the point of view when photographing the carcass at least to right angles off the body axis, i.e., the sagittal, transverse, and coronal planes (example: sagittal dissection of the crania, caudal is right, dorsal is up).
- Take multiple photos of the physical context of the stranding.
- In mass strandings, dispersion of the pod may be important information.

It is also important to instruct stranding network members to archive the images on non-magnetic media such as CDs, DVDs, and Magneto-Optical drives. Hard drives, flash drives, and tape media are magnetic media and degrade over time (usually as short as seven years). The marine mammal curators at the Smithsonian also encourage the creation and archiving of hard copies of key stranding documents.

MMHSRP could poll National Marine Mammal Stranding Network members regarding types of shots that are important to them and include the ideas in a list of advanced images to take. A statement regarding limits regarding the use of images should be included in a photo guidelines document. This includes copyright and academic rights issues as well as evidentiary concerns where NOAA Enforcement in a UME might occur.

The digital image revolution is perfectly suited to the MMHSRP and network members. Inexpensive cameras and storage media coupled with proper guidance could produce an incredible wealth of additional scientific information about marine mammals and strandings.

**MMHSRP EIS Scoping Process Comments, 24 February 2006**

Subject: Species-based response criteria in disentanglements  
(Alternate standards, Marine Mammal Disentanglement Program)

From: Pieter A. Folkens  
Alaska Whale Foundation (member, AK Marine Mammal Stranding Network)

Efforts to disentangle whales in the Atlantic and Pacific Oceans during the past three decades suggest there may be species-specific differences in the way whales react to and tolerate such efforts. Colleagues in the Atlantic possess a healthy respect for entangled right whales, citing an aggressive streak in these whales and their propensity to become agitated and take swats at the disentanglers. Notable and successful disentanglements of humpback and gray whales suggest these animals are more passive towards disentanglers, including divers in the water.

This behavioral difference between right whales and other whales prone to entanglements supports the notion that different standards of response are warranted to affect the highest degree of successful disentanglements while ensuring overall safety off the endeavor. This idea is bolstered by a history of successful disentanglements utilizing persons in the water to cut gear from gray and humpback whales.

Although divers in the water is contrary to the present protocol for disentangling efforts, the record contains several successes that relied on gear cutters in the water with no incidents of injury to the divers. For example: The unusual thirty-year history of essentially benign close contact between humans and gray whales includes a successful disentanglement near the Channel Islands (southern California) that involved a diver in the water to cut away gear badly wrapped around the peduncle and flukes. Early stories of disentangling humpback whales off eastern Canada included remarkable accounts of disentanglers in the water with small knives working from within the mouth of a humpback whale. As recently as last December, a humpback whale was successfully disentangled by a small team of volunteer divers under the direction of a stranding network veterinarian off the central California coast.

I recommend that the National Marine Mammal Disentanglement Network seriously consider including divers in the official protocols for disentangling gray and humpback whales. This protocol should limit “diving on” an entangled whale to only trained and certified divers. The diving community has an official “rescue diver” certification. This should be required along with specific training in evaluating an entanglement, planning an approach, species and age-class identification, and understanding behaviors of large cetaceans prone to entanglement. As with protocols for other types of search and rescue teams, MMDP protocols should also include robust requirements towards the absolute safety of the disentanglers including the size and hierarchy of the team based on the nature and requirements of a particular situation. Recommendations for such protocols might best come from those with experience working closest to the species designated, particularly those with Level IV disentangling experience.

As an aside . . . There are four levels of response or “types” designated in Urban Search and Rescue protocols (SAR) with Type 1 being the highest requiring the most training and certification. The Department of Homeland Security is standardizing this typing of responses across the country. At present, the typing of a response in the marine mammal disentanglement protocols is inverted with Type IV being the highest. Since SAR responders will always be more numerous than marine mammal responders, NMFS may want to consider following the DHS national standard for typing rescues with Type 1 being the most demanding of the four.

**MMHSRP EIS Scoping Process Comments, 24 February 2006**

Subject: Documentation of strandings and effective response to unusual mortality events  
(Alternatives, MMHSRP Information Management Program)

From: Pieter A. Folkens  
Alaska Whale Foundation (member, AK Marine Mammal Stranding Network)

Marine mammalogists would benefit from a MMHSRP Marine Mammal Stranding Report–Level A Data Form that incorporated meaningful morphological data. If government reporting needs for the MMSR–Level A form cannot accommodate morphological data, the form should at least link to another official form for the measurements. Also, considering the convenience of downloadable PDF forms, it may be appropriate for different Level A forms for cetaceans, pinnipeds, and sirenians considering the different nature, issues, and challenges of strandings involving these groups.

In the past, data acquired from marine mammal strandings were largely the purview of comparative anatomists, taxonomists, morphologists, and others interested in life history data. The straight forward Cetacean Data Record (CDR) developed at the Smithsonian was widely used for decades. The concept was adapted and refined by Leatherwood, Stewart, and Folkens in 1987 for the Channel Islands National Marine Sanctuary (NOAA/NMFS). In the later quarter of the last century, interest in soft tissue analysis, genetics, and population health issues grew as an important part of the data set. The Smithsonian CDR (SI-2367) was revised to include more soft tissue specimen collection and sampling. However, the recent official Marine Mammal Stranding Report – Level A Data (NOAA Form 89-864 (rev. 2004)) limited morphological data to one length measurement in a small box. (Charley Potter of the Smithsonian and I lamented this fact to the attendees at the National Marine Mammal Stranding Network Conference in early 2005.) Other requested data on that form ask for precise conclusions in areas many stranding responders would not be able to determine with certainty (for example: four levels of decomposition; determination of human interaction and type; and disposition information that becomes known well after the initial data is taken).

A fundamental purpose of a primary stranding report form should be to guide responders in acquiring as much information as is practical so that qualified reviewers are able to make confirmations of the original conclusions and precise determinations after the event. Also, life history and morphological data (in the classical sense) are lost to history if not acquired early after the discovery of a stranding. Responders are not likely to record this data if not guided to do so from the primary report form.

In my opinion, it is possible to devise a Level A data reporting form that covers the necessary data found in the present form as well as morphological data important to comparative anatomists, morphologists, and other disciplines. Such a revised form could direct responders to a subsequent form for documenting additional information where appropriate for particular concerns such as unusual mortality events and the rare stranding such as beaked whales and extra-limital events.

The MMHSRP may want to consider a different standard of data recording on its primary data form — one that focuses on more empirical morphological data. With this comment I am providing a two-sided working data sheet for large cetaceans that incorporates most of the Level A data (large cetacean relevant) from NOAA Form 89-864 and adds most classical morphological data points. (However, it is lacking in soft tissue data.) This form is designed to guide the responder in recording good anatomical measurements. This form is not presented as the end-all perfect data form, rather it is an idea that may integrate the interests of nongovernmental research disciplines with official reporting requirements.

Cetacean Data Record—large cetacean

Cat. # \_\_\_\_\_

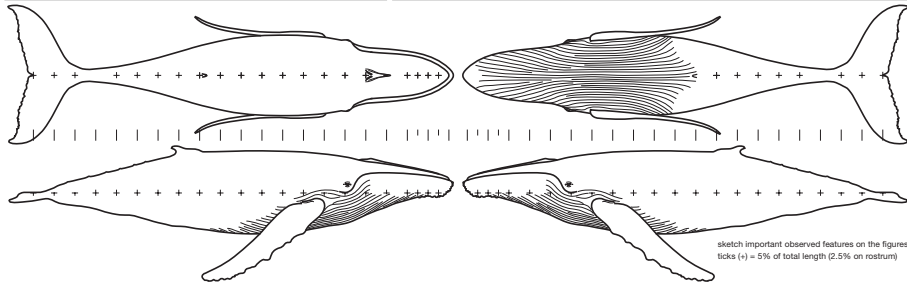
field #: \_\_\_\_\_ ID: \_\_\_\_\_ alt. ID: \_\_\_\_\_ NMFS regional #: \_\_\_\_\_ NMFS use \_\_\_\_\_ MMHSRP #: \_\_\_\_\_ NMFS use \_\_\_\_\_  
 species: \_\_\_\_\_ date found (yy-mm-dd): \_\_\_\_\_ date of data: \_\_\_\_\_  
 examiner(s), affiliation(s): \_\_\_\_\_ authorization: \_\_\_\_\_  
 address(es): \_\_\_\_\_ phone(s): \_\_\_\_\_

**LOCATION** or UTM Coordinates

latitude: \_\_\_\_\_ N \_\_\_\_\_ W  
 longitude: \_\_\_\_\_ W \_\_\_\_\_ N  
 actual  estimated source:  GPS  Map  
 body of water: \_\_\_\_\_  
 general location: \_\_\_\_\_  
 state: \_\_\_\_\_ county: \_\_\_\_\_  
 details: \_\_\_\_\_

**INITIAL OBSERVATION**

first observed:  beached  floating  swimming or "grounded"  
 condition:  live  fresh dead  moderate decomposition  
 advanced decomposition  mummified/bones  unknown  
**CONDITION AT EXAMINATION**  
 unable to examine  alive  fresh dead  moderate decomp.  
 advanced decomp.  mummified/bones  unknown  
 details: \_\_\_\_\_



sketch important observed features on the figures  
 ticks (+) = 5% of total length (2.5% on rostrum)

**Morphological Data** sex: ♂ ♀ ? age class:  adult  subadult  yearling  calf/YOY  unknown  
 straight length (tip of rostrum to median notch): \_\_\_\_\_ flipper length: \_\_\_\_\_ fluke span: \_\_\_\_\_ meters | actual  
 photos or video taken:  yes  no disposition of images: \_\_\_\_\_ feet | estimated

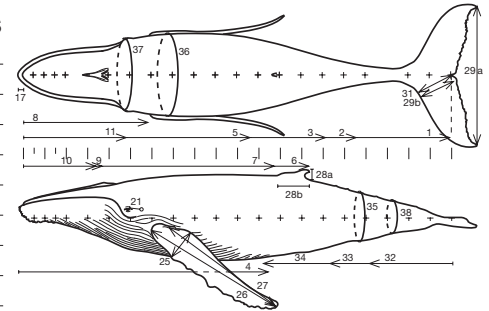
Evidence of unusually mortality event (UME), unusual marks including net marks and contact injuries (blunt force trauma), and/or pigmentation/scars (sketch on images above and describe here): \_\_\_\_\_

**Condition/Determination:**  sick  injured  out of habitat  deemed healthy  orphaned  inaccessible  
 hazardous location  to animal  to public  unknown/cbd  other/comments: \_\_\_\_\_

**Necropsied?**  no  yes date \_\_\_\_\_ by: \_\_\_\_\_ filed: \_\_\_\_\_

**LEVEL B MORPHOLOGICAL MEASUREMENTS**

1. tip of rostrum to median notch \_\_\_\_\_
2. tip of rostrum to center of anus \_\_\_\_\_
3. tip of rostrum to center of genital slit \_\_\_\_\_
4. tip of lower jaw to end of ventral grooves \_\_\_\_\_
5. tip of rostrum to center of umbilicus \_\_\_\_\_
6. tip of rostrum to top of dorsal fin \_\_\_\_\_
7. tip of rostrum to anterior dorsal fin limit \_\_\_\_\_
- 8.a. tip of rostrum to anterior flipper insertion (rt) \_\_\_\_\_  
 b. tip of rostrum to anterior flipper insertion (lft) \_\_\_\_\_
9. tip of rostrum to center of bowholes \_\_\_\_\_
10. tip of rostrum to anterior edge of blowholes \_\_\_\_\_
- 11.a. tip of rostrum to center of eye (right) \_\_\_\_\_  
 b. tip of rostrum to center of eye (left) \_\_\_\_\_
- 12.a. tip of rostrum to auditory meatus (right) \_\_\_\_\_  
 b. tip of rostrum to auditory meatus (left) \_\_\_\_\_
13. tip of rostrum to angle of gape \_\_\_\_\_
14. rostrum maximum width \_\_\_\_\_
15. maximum length of ventral grooves \_\_\_\_\_
16. number of ventral grooves across at flipper \_\_\_\_\_
17. projection of lower jaw beyond rostrum \_\_\_\_\_
18. center of right eye to center of left eye \_\_\_\_\_
- 19.a. length of eye opening \_\_\_\_\_  
 b. length of eye slit \_\_\_\_\_
- 20.a. center of eye to angle of gape (right) \_\_\_\_\_  
 b. center of eye to angle of gape (left) \_\_\_\_\_
- 21.a. center of eye to auditory meatus (right) \_\_\_\_\_  
 b. center of eye to auditory meatus (left) \_\_\_\_\_
- 22.a. center of eye to center of blowhole (right) \_\_\_\_\_  
 b. center of eye to center of blowhole (left) \_\_\_\_\_
23. blowhole slit length \_\_\_\_\_
24. blowholes width anterior/posterior \_\_\_\_\_
- 25.a. flipper maximum width (right) \_\_\_\_\_  
 b. flipper maximum width (left) \_\_\_\_\_
- 26.a. flipper length, tip to anterior insertion (right) \_\_\_\_\_  
 b. flipper length, tip to anterior insertion (left) \_\_\_\_\_
- 27.a. flipper length, tip to axilla (right) \_\_\_\_\_  
 b. flipper length, tip to axilla (left) \_\_\_\_\_
- 28.a. dorsal fin: maximum height \_\_\_\_\_  
 b. dorsal fin: length of base \_\_\_\_\_



- 29.a. fluke: span \_\_\_\_\_ b. maximum width \_\_\_\_\_
30. depth of fluke (median) notch \_\_\_\_\_
31. fluke notch to nearest point on leading edge \_\_\_\_\_
32. fluke notch to center of anus \_\_\_\_\_
33. fluke notch to center of genital aperture \_\_\_\_\_
34. fluke notch to umbilicus \_\_\_\_\_
35. girth at anus \_\_\_\_\_
36. girth at axilla \_\_\_\_\_
37. girth at eye \_\_\_\_\_
38. girth \_\_\_\_\_ cm in front of fluke notch \_\_\_\_\_
- 39.a. blubber thickness a. —middorsal \_\_\_\_\_  
 b. —lateral \_\_\_\_\_ c. —mid ventral \_\_\_\_\_
40. head width at post-orbital process of frontals \_\_\_\_\_
41. baleen rack counts (right) \_\_\_\_\_ (left) \_\_\_\_\_
42. longest baleen plate \_\_\_\_\_
43. mammary slit length (right) \_\_\_\_\_ (left) \_\_\_\_\_
44. genital slit length \_\_\_\_\_
45. anal slit length \_\_\_\_\_

note: not all measurements are possible or necessary. Take and record what time and circumstances allow. Straight line (parallel to body axis) is assumed for most torso measurements. Indicate if measurements are taken on the arc or an angle. Measurements are arranged for convenience starting from the head.

**additional remarks:** \_\_\_\_\_

**CARCAS STATUS:**  abandoned  buried  rendered  
 sunk or  towed to: lat. \_\_\_\_\_ lon. \_\_\_\_\_  
 transferred to:  landfill  other facility \_\_\_\_\_  
**SPECIMEN DISPOSITION:**  scientific collection  
 education collection  split/other \_\_\_\_\_  
 where: \_\_\_\_\_



Comments on the Scoping for the Environmental Impact Statement for the Marine Mammal Health and Stranding Response Program (MMHSRP)

James R. Gilbert, Ph.D.  
Department of Wildlife Ecology  
University of Maine  
Orono Maine 04469-5755  
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I appreciate the opportunity to comment on the EIS for the Stranding Response Program. I have examined materials available on the Protected Species Website in addition to other information and publications. I am a pinniped biologist; I have studied harbor seal populations in New England for 25 years and gray seal populations in the same area for 12 years.

Your solicitation proposes an action and two alternative actions, as well as several alternatives that may be eliminated from further study. You ask seven questions. I would like to comment on some of these actions and questions.

- A. The questions are about the stranding program, and not about the purposes of the MMHSRP. Section 401 of the Marine Mammal Protection Act states that the purposes of the MMHSRP are to: 1) facilitate collection and dissemination of reference data on the health of marine mammals and health trends of marine mammal populations in the wild, 2) correlate the health of marine mammals and marine mammal populations, in the wild, with available data on physical, chemical, and biological environmental parameters, and 3) coordinate effective responses to unusual mortality events by establishing a process in the Department of Commerce in accordance with Section 404.

Because wild marine mammals are emphasized in Section 401, it would be logical to make collection of information from populations in the wild first, with information from strandings being a backup for those species and populations where information is not readily available. I propose that the efforts of the MMHSRP under the first two purposes of Section 401 be

integrated with other marine mammal research efforts that are working with wild populations. There are many field efforts that involve tissue collection for stock identification, etc. Coordinating health assessments with these efforts would be more scientifically valid than relying on information from stranded animals. (I recognize that for some species, stranded animals are our only source of information.).

In Appendix E of the Marine Mammal Commission's Report on Future Directions in Marine Mammal Research (2004), Dr. Teri Rowles outlines a marine mammal health research program that integrates studies of 1) marine mammal ecology, 2) field based health studies, 3) development of methods and tools, and 4) risk assessment and monitoring. If this alliance were to include the Protected Species Programs in the Regions and Science Centers of the National Marine Fisheries Service, as well as a wide array of other agencies, universities and organizations, it would come closer to achieving the first two purposes of the MMHSRP as stated in Section 401 of the Marine Mammal Protection Act. Additionally, this integration would come closer to assisting NMFS to achieve "ecosystem-based management" objectives of NOAA.

- B. One of the questions asked is if there should be any priority for levels of effort for particular groups of Marine Mammals. Because of limited funding for response, there has to be some prioritizing process. Species and populations that are increasing and are not endangered, threatened, or depleted should receive higher priorities. Of the other species and populations, I additionally recommend that strandings of neonate and weaned pinniped pups that offer little information on health be given much lower priority for rehabilitation. Even the distribution of strandings of neonate and weaned pups is not indicative of either pupping distribution or numbers. I present the following as an example.

The harbor seal population in Maine has increased since at least 1981 to a population size of 99,740 individuals in 2001, including an estimated 23,722 pups (Gilbert, *et al.* 2005, Marine Mammal Science). In field work during the pupping season, we regularly observe underweight, starving pups that either were weaned early or were separated from their mothers by storms and other causes. If, as is common in most phocids, mortality due to these causes was on the order of 20 percent, there would be each year some 4,600 harbor seal pups that could be rescued. Past rescue efforts for harbor seal pups have been concentrated in Southern Maine (Figure 1), while some 75% of the pupping occurs in greater Penobscot Bay (Figure 2). Most of the abandoned and underweight pups never reach the mainland, and therefore are not reported.

C. The Interim Best Practices for Marine Mammal Stranding Response, Rehabilitation and Release address only release. For pinnipeds, best practices for assessing whether an individual would need stronger guidelines. Harbor seal pups that are found on shores of Maine exhibit a variety of body conditions. Some are completely emaciated, others are only small. The decision of whether or not to rescue an individual is subjective. We have observed normally weaned pups that weigh less than normal that do survive in spite of their low weaning weights.

D. The guidelines for the MMHSRP should be coordinated with the efforts to design a protocol for non-lethal deterrence of pinnipeds being developed elsewhere in Protected Species.

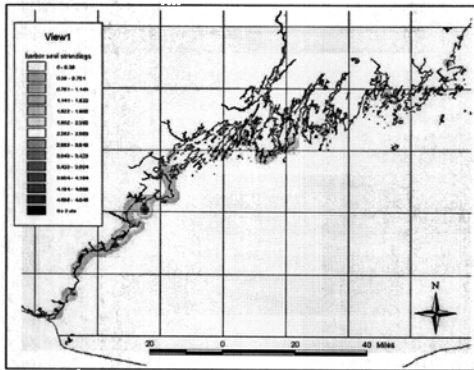


Figure 1. Distribution of harbor seal strandings reported in 2004 (from Greg Early)

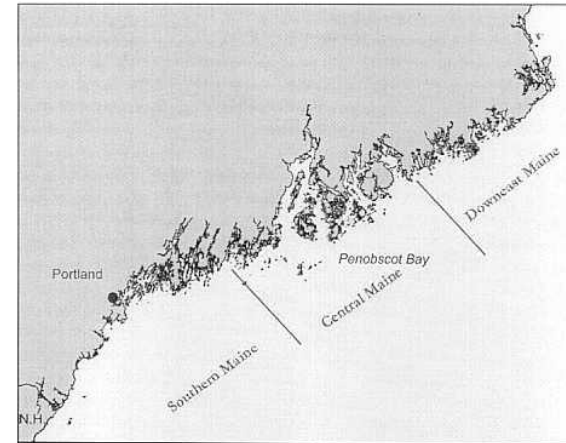


Figure 2. Distribution of harbor seal pupping sites in Maine (from Gilbert *et al.* 2005).

From [Peter Hamilton <lifeforcesociety@hotmail.com>](mailto:Peter.Hamilton@lifeforcesociety@hotmail.com) ►  
 Sent Friday, January 20, 2006 12:31 pm  
 To [mmhsrpeis.comments@noaa.gov](mailto:mmhsrpeis.comments@noaa.gov)  
 Cc  
 Bcc  
 Subject Stranding Response Program

Attachments [Oil and Chemical Resistant Whales Final.pdf](#) 146K [Lifeforce Orca Conservation Program Final.pdf](#) 314K [ARE WE PREPARED FOR EMERGENCIES.doc](#) 24K

**Re: The National Marine Fisheries Service (NMFS) Environmental Impact Statement (EIS) on the activities of the Marine Mammal Health and Stranding Response Program (MMHSRP).**

The recommendations by Lifeforce are included in the attachments Oil and Chemical Resistant Whales, Lifeforce Orca Conservation Programs and article "Are We Prepared for emergencies?"

In summary:

1. Need for conservation of marine mammals:  
 There is an increasing need for more actions to conserve endangered marine mammals. For example, the Southern Community orcas could be subjected to an oil spill or other pollution at any time while there are no organized response methods. I have developed methods that can attract orcas away from such hazards.
2. Types and Levels  
 There must be Wildlife Emergency Response Teams (WERT) funded to be on permanent standby.
3. WERT Locations  
 He teams must be strategically placed in both Canada and the US since there are many transboundary species.  
 Lifeforce has volunteered to cover an US/Canada area that includes Pt. Roberts that has not been covered in the stranding network. We should be hired.  
 There are too many levels, too little money, and too many changing policies. The system must be streamlined because by the time I can contact the "right" person animals have died.
4. The cumulative harmful impacts of MMHSRP activities on marine mammals and the environment can be mitigated with further education work in problem areas.  
 Education can reduce any unnecessary pick up of animals. The myth that if mom touches the baby she won't take it back still has to be clarified to the public.

Please info this email and the attachments as part of the comments for the Environmental Impact Statement (EIS) on the activities of the Marine Mammal Health and Stranding Response Program (MMHSRP).

## "Oil and Chemical Resistant Whales, Otters and Birds?"



© Lifeforce/Peter Hamilton

**Lifeforce Foundation  
 March 2005**

# “Oil and Chemical Resistant Whales, Otters and Birds?”

Peter Hamilton, Lifeforce Foundation

## Introduction

Can endangered marine wildlife, such as whales, otters and birds, evolve to a biological state of being resistant to the harmful effects of oil and chemical contamination? No magic bullets on the horizon but essential methodologies can be developed to help wildlife “resist” travelling in polluted waters.

While some deterrents have been developed to scare birds out of polluted areas there is no consistent, permanent approach to protect these and other species because species-specific considerations must be explored further and volunteer availability must be permanent. Decisions to employ such methods should be based on species’ behaviour and designated to knowledgeable persons/organizations who have permanent standby status.

Employing sounds as “attractors” and “deterrents” can be implemented to protect all species that could be exposed. This would include endangered orcas. Populations of orcas in the Pacific Northwest are facing extinction as a result of human impacts.

First, methods must be developed and/or refined to be species specific. Secondly, there should be training and task designation. A WERT (Wildlife Emergency Response Team) should be part of the chemical/oil response efforts to prevent wildlife exposure. A committee of related organizations could organize the development of these programs. They must be contracted in order to be able to provide ongoing services. Funding may be stipulated under Federal legislation such as the Canada Shipping Act. Other funding sources could include company sponsorships.

## Lifeforce Foundation Background

I founded the Vancouver-based Lifeforce Foundation in 1981 to raise public awareness of the interrelationship of human, animal and environment problems. I have studied the behaviour of numerous species and have published papers on enriching the environments of captive animals.

For over two decades Lifeforce has been campaigning to protect orcas such as the endangered Southern Orca Community. In 1982 we helped stop the last capture attempt at Peddar Bay, BC. An estimated 48 orcas were taken from the Southern Community in the late 60s and 70s. These captures not only have resulted in the loss of the 48 orcas but has also created a very low birth rate. The abnormal age and sex ratio will take decades to return to normal.

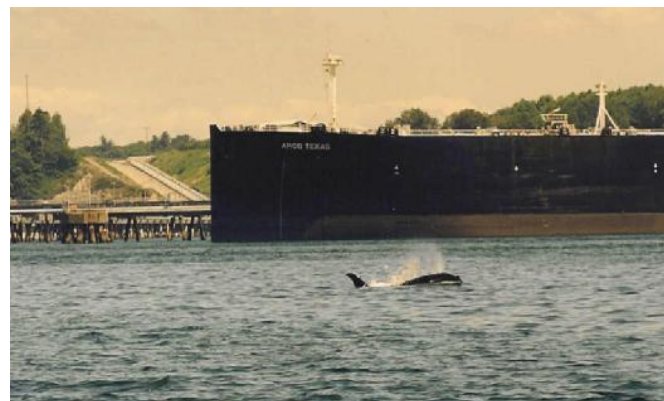
For the past 12 years, Lifeforce has been conducting a monitoring program called Lifewatch Boater Awareness Program. We distribute whale watch guidelines to boaters and report violations to the authorities.

I have studied the behaviour and travel patterns of the Southern Community under a Canadian Department of Fisheries and Oceans (DFO) research permit. Based on my

research Lifeforce has developed “Orca Trails” to promote land-based whale watching. We can notify Marine Park Managers when the orcas are expected to pass by.

In 2002, Lifeforce worked with government researchers to help prevent any harm to orcas when seismic tests were conducted in the San Juan Islands and BC. Lifeforce advised the researchers when the orcas and other marine wildlife would be close to the test sites. The researchers would then shut down the underwater air guns. The US team contacted Lifeforce every day in order to determine the location of the orcas. They would then choose test sites where they would not be near the orcas.

The ongoing accidents involving oil spills reinforces the need for immediate emergency plans to protect the endangered orcas travelling in these waters. The Lifeforce Foundation has been developing methodology to protect orcas and other wildlife from these life-threatening hazards.



© Lifeforce/Peter Hamilton

Cherry Point, WA

## Oil Spill History

On June 26, 1999, I was in Point Roberts, WA when some orcas passed by. It was all of J and K pods. The next morning the media reported an oil spill at Cherry Point where the orcas were heading. The Arco Texas had spilled 300 gallons of crude oil from Valdez, AK. Most of the oil had spread north towards Point Whitehorn, WA and Boundary Bay, BC. When I heard about the spill location I thought that it was highly likely that these orcas went right through it because they frequently take Rosario Strait when they head south. Unfortunately, they did pass through the oil spill area. I confirmed that the orcas were in Rosario Strait the next morning.

One exposure to oil and other such hazards could result in long lasting health problems and/or fatalities. The 2000 orca census found historic low numbers in J and K pods that could have been associated with this 1999 exposure. Shocked that there were no plans in place to prevent such a tragedy, I started looking at possible methods to “warn” orcas of such dangers.

An oil or chemical spill could affect a major part of the home ranges of marine wildlife. There have been several accidents in the Southern Georgia Strait that is a temporary home range of endangered orcas.

When the Exxon Valdez oil spill first occurred, an orca pod was seen surfacing in the oil slick. In 1988, this AB pod consisted of 36 members. 14 were missing over the following three years, down to 22. The orcas probably died from inhaling the oil and were sickened from eating oil-coated prey.

From 1995 to 2003 there have been nine oil spill hazards in the Cherry Point/Ferndale and Rosario Area (as listed in Washington Oil Spill Resource Damage Assessments 1991 to 2003). On December 30, 2003 there was a large oil spill in Puget Sound. There was approximately 4800 gallons of heavy fuel oil accidentally dumped in Puget Sound near the Chevron facility in Point Wells. Since then, two other spills have occurred in October 2004 and January 2005.

There are reports of numerous other "minor" accidents. For example, on June 6, 2000 at 11:45 AM the "Axios" spilled an undisclosed amount of hydraulic oil as reported by ARCO at Cherry Point. J pod was present. I was with J2, "Granny", at the site at approximately 12:32 PM.

### Methods to Alter Courses

Over the years, both planned and serendipitous events have led me to believe that it is possible to use benign, low-level sounds to attract cetaceans. In so doing, I could alter their courses to direct them away from environmental hazards.

Lifeforce has been conducting field studies utilizing existing, refined and new methods discovered through our previous wildlife protection work and scientific literature searches. Sounds, that attract animals to them and that deter animals away from them, are being explored.

Some of the methodologies can also be applied to terrestrial animals that are vulnerable to exposure to oil and chemical spills.

During one Lifeforce test the orcas were heading south and, when they heard our playbacks of orca communication, all three pods dramatically reversed direction to head north towards the sound source. They continued to travel north even when the sounds were turned off.

On another occasion, when a researcher was recording orca communication he accidentally played back the recordings and the orcas rushed towards his boat.

Lifeforce is hoping to complete studying these methods and implement our findings during emergency situations over the next few years. We hope to coordinate our programs with government, business, NGOs and others who are trying to protect marine wildlife.

### Expected benefits to the environment

The Lifeforce studies directly benefits orcas and other wildlife that could be exposed to oil spills and other environmental hazards. Our work contributes to efforts to protect marine ecosystems for all life. Orcas are high on the food chain and are bio-indicators of marine pollution – both orca and human survival is interrelated.

Studies have placed polychlorinated biphenyls (PCBs) levels in orcas of the Pacific Northwest as among the highest measured in marine mammals anywhere in the world. Toxic chemicals can affect their growth, reproduction and immune systems.

In orcas, studies have shown that adult females may transfer up to 90 percent of their PCBs and other contaminants, such as DDT, to their first-born calf. This most likely causes major harm to the female orcas' reproductive cycles as well as young orcas' development.

In a 2004 study by Dr. Peter Ross, DFO, 23 chemicals, mainly pesticides, were listed that could have effects similar to those of PCBs. One of the most common is 2,4-D, which kills dandelions.

### Study Activities

Lifeforce would:

1. Develop and/or refined methods to be species specific in order to prevent wildlife contact with contaminants.
2. Work with individuals, organizations and government to determine species-specific behaviours.
3. Work to resolve any industry related conflicts to preserve wildlife habitats.
4. Continue to have discussions with oil spill response companies regarding task designation in the event of any oil/chemical spill(s).
5. Provide any training (written and/or verbal) that is necessary to perform all such wildlife protection work.
6. Work with BC Ministry of Water, Land & Air Protection, Canadian Wildlife Service and all other related government response agencies to be part of the chemical/oil response efforts for the protection of species at risk.
7. Conduct field studies as follows:
  - a) Determine if sound deployment could be used as a conservation tool to remove terrestrial wildlife from contaminated areas.
  - b) Determine if sound deployment could be used as a conservation tool to prevent exposure of threatened fish stocks to contamination/prey.
  - c) Determine if sound deployment could be used as a conservation tool to reduce any bird and waterfowl exposure to hazardous spills.
  - d) Continue to develop innovative methodology to reduce the harm to orcas caused by anthropogenic activities. Lifeforce proposes to look at the responses from Orcinus orca to safe levels of novel sound stimuli. The purpose is to:
    - i. Determine if benign, novel sound stimuli can be used to alert and/or change the direction of endangered orcas to stop exposures to hazards such as oil/chemical spills.
    - ii. Determine if lone orcas can be reunited with the family pod by using methodologies such as lead sound signals.
8. Gather data for a report on the development and applications of the methodologies. This will include photograph and video documentation.

## Conclusion

Methodologies can and must be developed to be species specific. These techniques to prevent wildlife exposure to oil and chemical spills can be applied to both marine and terrestrial species.

A WERT (Wildlife Emergency Response Team) should be part of the chemical/oil response efforts. This team would be trained and be responsible for designated tasks. They will deploy humane attractors and deterrents to prevent wildlife exposure.

The WERT and the development of prevention methods could be organized by a committee of related organizations. All participants would be contracted in order to maintain a permanent WERT. Funding may be stipulated under Federal legislation such as the Canada Shipping Act and/or money could be provided through company sponsorships. The onus must not be on the WERT to raise donations because the responsibility lies within the government and responsible businesses.

Faced with the lack of action and funding opportunities, Lifeforce is concerned that orcas and other wildlife are being treated as if they were resistant to oil and chemical spills. I helped lobby the Canadian and US governments to designate orcas as being endangered. In view that orcas are facing extinction, I hope that there will be immediate, direct action to protect them and other marine wildlife.



Cherry Point, WA

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## Donations Gratefully Accepted and Acknowledged

Lifeforce would gratefully accept donations and sponsorships towards equipment, operating costs and field studies.

Financial support could be acknowledged in many exciting ways. This would include signage on our research vessel and/or on our wildlife rescue unit. Lifeforce supporters would also receive a lot of great publicity through media coverage of our programs.

Please Contact:

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Box 3117, Vancouver, BC, V6B 3X6  
(604) 669-4673

[lifeforcesociety@hotmail.com](mailto:lifeforcesociety@hotmail.com)

We all know that it will happen again.  
We all know that we must be prepared.  
Whales, otters and birds are not resistant  
to oil and chemicals.  
Simply put:  
**Orcas and Oil Don't Mix.**



© Lifeforce/Peter Hamilton

## Lifeforce Foundation Orca Conservation Programs



**Photo Captions: Start Top left Clockwise**

1. Over fishing and entanglement in fishing nets and other debris is a threat to orcas.
2. Boaters should be aware of and adhere to whale watch guidelines.
3. Boat noise interrupts foraging, navigating, rest and communication.
4. Pollution such as PCBs and dioxins affect immune and reproductive systems.  
BC orcas are the most toxic of all animals worldwide.

### **Lifeforce Foundation**

Lifeforce Founder Peter Hamilton has worked in the field of ecology and animal behaviour since 1978. He has designed various methods to enrich the lives of captive animals by mimicking the species' natural environment. He published two peer-reviewed papers on this subject. His studies of "The Behaviour and Travel Patterns of *Orcinus Orca* (Southern Community Killer whales)" have been conducted under research permits from the Canadian Department of Fisheries and Oceans (DFO). Research findings from this study were reported in Lifeforce's Orca Field Guide.

In 1982 Lifeforce helped stop another capture of the Southern Community near Victoria, BC. An estimated 48 orcas in these families had been taken in the late 60s and 70s. These captures not only resulted in the loss of the 48 orcas but has also created a very low birth rate. The abnormal age and sex ratio will take decades to return to normal.

Mr. Hamilton wrote a book entitled "Orca - A Family Story" in 1993. Methods of orca transport were discussed in this book and could be used in the plan to reunite Luna with his family. In 1997 Mr. Hamilton design and wrote the "Whale Watching Guidelines for Southern BC and Washington" in consultation with DFO and NGOs.

Lifeforce has been conducting Marine Life Programs for over twelve years. Our programs increase our knowledge of orcas and contribute to the development of strategies for Orca Recovery Plans.

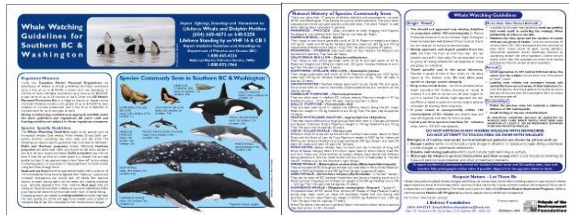
### **Lifeforce Foundation's Contribution to the Orca Recovery Process.**

Many of Lifeforce's Marine Life Program objectives are to conduct programs in cooperation with government plans to mitigate any harm to the Southern Resident Orca Population and their habitats.

### **Disturbance due to vessel traffic**



- **The Lifewatch Boater Awareness Program** was the first in Southern BC to conduct monitoring activities to stop vessel traffic disturbances. We distribute **Whale Watch Guidelines** for compliance among commercial and recreational boaters. This was the first area specific one developed through consultation with government and others. We are helping to mitigate boat harassment by education and reporting whale watch guidelines violations to appropriate agencies.



- Liferforce has been developing standard operating practices and data collection under a **Marine Wildlife Monitoring and Enforcement Policy**. In 2003, we organized a meeting of monitoring organizations.
- Liferforce is developing **technology and methodology** to reduce harm to wildlife caused by boat traffic. For example, we have tested the use of an arrow bar to stop and direct boats approaching orcas.
- Liferforce provides a **Whale and Dolphin Hotline** for public involvement in reporting sightings, stranding and harassment.



Saturna Island, BC

- Liferforce is implementing **Orca Trails Whale Watching** to encourage land-based whale watching in marine parks. As part of this program we will also look at the possibility of using boats to take people to the parks. Marine Protected Areas could incorporate such drop off points and various types of tourism related businesses could be developed.
- Liferforce has created an **Orca Field Guide** to educate everyone about the behaviour of orcas for understanding and safe vessel operation.



- Liferforce is conducting studies:
  - a) **"The Behaviour and Travel Patterns of Orcinus Orca (Southern Community Killer whales)"**  
To collect data regarding boat traffic impacts on behaviour and travel patterns in order to secure **No-Whale-Watch zones, marine protected areas, improvements in commercial whale watching activities and improvements in marine mammal protection regulations.**



False killer whale following Liferforce boat.

- b) **"The Behaviour and Travel Patterns of a Lone False Killer Whale"**  
To collect data that will contribute to our knowledge of lone dolphin behaviour.

- Liferforce hopes to work with others to develop a **Model Whale Watching Plan**. This feasibility study would look at changing the face of present whale watching activities. It would replace the haphazard, prolonged presence of commercial boats with organized Whale Watching Zones and No Whale Watching Zones. The travel patterns of the Southern Community are very predictable and would support the creation of designated water zones for whale watching. These zones would be marked by GPS and land coordinates. The zones would be approximately 2 miles apart. Commercial boats would wait within the zone for the orcas. The number of boats would be limited and the number of zone visits restricted. This model would also incorporate **Ethical Ecotourism Standards** by training and licensing operators. Land-based whale watching would also be urged and promoted.

### Disturbance due to contamination by anthropogenic activities







- Lifeforce provides a fully equipped **Marine Wildlife Rescue Mobile Unit** and service for stranding and other emergencies. Our equipment includes cetacean pontoons to refloat dolphins.
- Lifeforce is conducting studies:
  - a) **Orca Reaction to Benign, Novel Sound Stimuli: Implications for Reuniting Orcas and Developing Strategies to Prevent Exposure to Environmental Hazards**  
 This study looks at the development of innovative methodology to reduce the harm to orcas caused by anthropogenic activities. Lifeforce proposes to look at the responses from *Orcinus orca* to safe levels of novel sound stimuli. The purpose is to:
    1. To determine if orcas, such as Luna and L pod, can be reunited by using methodologies such as boat following and lead sound signals.
    2. To determine if benign, novel sound stimuli can be used to alert and/or change the direction of endangered orcas to stop exposures to hazards such as oil/chemical spills.

#### Disturbance due to noise by anthropogenic activities

Lifeforce helps **mitigate impacts of seismic studies**. In May 2002 there were 24-hour seismic tests in Southern Georgia Strait. The test areas range from Pt. Grey, BC to Lummi Island, WA. In order to avoid any harm to the endangered Southern Orca Community, Lifeforce advised the researchers when the orcas and other marine wildlife would be close to the test sites. The researchers would then shut down the underwater air guns. The US team contacted Lifeforce every day in order to determine the location of the orcas. They would then choose test sites where they would not be near the orcas.



**For Further Information:**  
**Peter Hamilton, Lifeforce Foundation**  
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 Lifeforce, Box 3117, Vancouver, BC, V6B 3X6  
**Phone:** (604) 669-4673  
**E-mail:** [lifeforcesociety@hotmail.com](mailto:lifeforcesociety@hotmail.com)

## **ARE WE PREPARED FOR EMERGENCIES? NO!**

Presently pets, wildlife and even people would not be guaranteed protection in the event of a major emergency. The protection of pets and wildlife must be included in emergency plans. We are not prepared for major earthquakes, hurricanes, fires, floods, environmental hazards and other life threatening situations.

Every pet owner must be prepared with transport cages and food to take their animal companions with them - the animals must not be abandoned. Government plans must not force owners to leave them behind. Evacuating both people and animals would eliminate problems in attempting to reunite them afterwards. In some cases governments must provide on site temporary shelters so stranded or lost animals are not transported to other states, provinces and countries.

For the past eight years, Lifeorce has been collecting equipment to help wild and domestic animals. Lifeorce is on standby with our Wildlife Rescue Unit and boat. We were ready to set up an animal rescue post at the recent fire in Burns Bog, Vancouver, BC.

Lifeorce has been urging government agencies to set up a permanent, paid Wildlife Emergency Response Team. This team will address various emergency situations. Lifeorce must be supported to be able to implement our methods in emergency situations and to train others to use the species-specific methods.

### **Marine Wildlife Rescue**

Lifeorce has developed methods to keep orcas and other marine wildlife away from oil/chemical spills because nothing is presently planned to stop such exposures. Orcas have been subjected to oil spills in Southern Georgia Strait. We submitted our paper "Oil and Chemical Resistant Whales, Otters and Birds?" to the Puget Sound Georgia Basin Research Conference March 29 - 31.

### **DFO Still Not Prepared**

On April 26, 2005 a 3-year-old female Grey Whale was stranded in Boundary Bay, Canada. Fire fighters supplied equipment and started the rescue while the Vancouver Aquarium arrived later. And where was the Department of Fisheries and Oceans who told me years ago that they were setting up a response team?

The fire fighter who first saw the whale called the Vancouver Aquarium and he was told to leave it alone. He told them that the whale should be saved. He had to "scramble" for equipment. He got a water pump, tent etc. and started to save the whale with the aid of other fire fighters and the public.

The aquarium reported that the whale only had 5% - 10% chance of survival. They said that the whale was emaciated and sick. However, blood tests revealed no such health problems. They said that the whale was too large to move to the aquarium. Lucky for her. The whale left when the tide came in. The aquarium spin doctors took most of the credit when it was actually private people who organized it.

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February 22, 2006

**Comments for Scoping on the Environmental Impact Statement on the Activities of the National Marine Mammal Health and Stranding Response Program**

**(1) *Types of activities.* What sort of activities in response to stranded marine mammals or outbreaks of disease in marine mammals should be conducted on a national level? Are there critical research needs that may be met by stranding investigations, rehabilitation, biomonitoring, disentanglement, and other health-related research activities?**

**If so, are these needs currently being met? If there are additional needs, what are they, how are they likely to benefit the marine mammal species, and how should they best be met?**

Animals strand for two reasons, one is a natural response to disease, disorientation, predation events, or behavioral actions. The second reason is because of some effect of human interaction, such as pollution, entanglement, boat strikes, and disturbance events. Stranding investigations can be used to determine the relative incidences of these reasons and thus help understand the biology behind natural strandings, and initiate proactive responses in events associated with human caused strandings.

The critical research needs of this program should focus around the protection of wild populations and not on the recovery of single live animals that come onto the beach. The national response should focus on scientific information including the assessment of disease, biomonitoring, and a proactive approach to reducing human interactions that result in strandings. The taking of live stranded animals into captivity should only be used in rare circumstances where there is a clear set of scientifically designed criteria for the reasons for doing so.

One aspect of the stranding program that is not well supported in present national priorities is the education of the general public, and members of organizations that are responsible for beach use policies, about stranded animals. This represents an opportunity to increase the public's understanding of stranding issues, influence public opinion, and engender support for the actions of the stranding networks from people and agencies that are present on the beach. The Oregon stranding response team has paid particular attention to this aspect of their mission and as a result has focused on public education about strandings, and reducing the interaction between stranded animals and humans on the beach. This has allowed the Oregon stranding network to educate both the general public, and state and local agencies responsible for beach activities and, as a result, maintain a no rehabilitation policy for almost all animals.

**(2) *Level of response effort.* For example, should there be different standards or levels of effort for different species or groups of species (i.e. pinnipeds vs. cetaceans; threatened or endangered species vs. increasing populations, etc.)? How should NMFS set these standards or limits?**

With respect to stranding all species should be investigated, however the level of effort should not, in most instances, be standardized amongst species or regions. Standards that convey a similar concept to that of adaptive management are ones that might be

considered that take into account status of populations and situations associated with a stranding event. As one example, it is not cost effective to investigate the reason for the stranding of every *Zalophus* in the northeast Pacific there are however, times when a disease outbreak in this species will argue for a much larger effort.

The level of response regarding live strandings, rehabilitation and subsequent release is one example however, where national standards may be appropriate. This is an area where regional differences in policies can have unintended effects. A recent example from the Oregon network was the "rehabilitated" *Zalophus* from California that swam into Oregon waters where it re-stranded and sought human contact in the state park picnic grounds and adjacent housing, necessitating a huge effort and expense to deal with the situation. While such an example is but an isolated incident it points out how conflicts in stranding groups' policies and efforts would benefit from a review at the national level.

As we move to an ecosystem-based management for our oceans it is imperative that we consider the management of marine mammals in the larger context of the environment in which they live. The activities of the stranding networks should be measured in this broader context. One example of this ecosystem-base approach would be that the expansion of northeast Pacific pinniped populations and the northwest Atlantic harp and gray seal populations argues for an immediate halt in rehabilitation efforts for these species.

NMFS should set standards with the health and welfare of wild populations as the premier criteria.

**(3) *Organization and qualifications.* How should the national stranding network be organized at the local, state, regional, eco-system, and national levels? How should health assessment research be coordinated or organized nationally? What should the minimum qualifications of an individual or organization be prior to becoming an SA holder or researcher (utilizing samples from stranded animals) to ensure that animals are treated successfully, humanely, and with the minimum of adverse impacts?**

The coastal regions of the US are diverse both with respect to their geography, the density of humans, and the size and diversity of marine mammal populations. This suggests that a "one size fits all" stranding network is not the appropriate model to pursue, and regional flexibility, based on some sound guiding principles, should be paramount in determining the structure of the stranding network. Currently state boundaries are problematic with respect to the discrepancies in stranding policies, particularly with rehabilitation and consideration might be given to managing strandings using a more ecosystem are approach.

Some features of the stranding network are appropriate for a national effort. Training initiatives (euthanasia protocols, disentanglement etc.) are obvious candidates. In those instances where live animals are taken from the beach animal welfare should be paramount and the NMFS should consider establishing national guidelines along the lines of Institutional Animal Care and Use Committees used by research institutions.

**(4) Effects of activities. NMFS will be assessing possible effects of the activities conducted by, for, and under the authorization of the MMHSRP using all appropriate available information. Anyone having relevant information they believe NMFS should consider in its analysis should provide a complete citation or reference for retrieving the information.**

The current policy of facilitating the rehabilitation and subsequent release of stranded animals has the potential for numerous unintended effects that can seriously impact wild populations. The EIS should consider these impacts. As we learn more about the population structure of marine mammals there are an increasing number of studies that indicated that certain populations, although they may have near-continuous distributions, consist of a series of discrete subpopulations that seldom exchange individuals (e.g. for harbor seals see Lamont et al. 1996, Härkönen and Harding 2001, O'Corry-Crowe et al. 2003 ). This argues that the reintroduction of potentially less fit individuals (by virtue of their stranding status) has likely genetic consequences. This could be significant especially in regions where large numbers of rehabilitated animals are released.

There is also a concern for the effects of released rehabilitated animals on wild animal health. This ranges from the release of animals that are not fully treated that have the potential to infect wild populations, through to subtler and more difficult to measure and control effects that have resulted from treatment. Examples such as the alteration of pathogen populations as a result of treatment with antibiotics are well known in human biology and it is not unlikely that similar events could occur in marine mammals treated in captivity. Animals that are brought into captivity may also have undetected sub clinical infections that may go untreated and be reintroduced into the wild population as a result of release of stranded animals.

I would appreciate receiving a copy of the Draft EIS in paper format.

Yours sincerely,

Jan Hodder  
Associate Professor  
LOA Holder – NW Region

#### References

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CELEBRATING  
FOUR  
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## Fax Cover Sheet

**TO:** Mr. P. Michael Payne  
Office of Protected Resources  
Marine Mammal and Sea Turtle Division (F/PR2)  
National Marine Fisheries Service  
1315 East-West Highway, Room 13635  
Silver Spring, MD 20910

**FAX:** 301-427-2584

**FROM:** Dr. Pamela Yochem  
Hubbs-SeaWorld Research Institute  
2595 Ingraham Street  
San Diego, CA 92109

**DATE:** 28 February 2006

**SUBJECT:** Comments on the proposed National Marine Fisheries Service  
Environmental Impact Statement (EIS) to analyze the environmental  
impacts of the activities of the Marine Mammal Health and Stranding  
Response Program in the waters of the United States

**PAGES:** 3 (including cover sheet)



CELEBRATING  
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28 February 2006

Mr. P. Michael Payne  
Chief, Marine Mammal and Sea Turtle Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway Room 13635  
Silver Spring, MD 20910-3226

Dear Mr. Payne,

The purpose of this letter is to provide written comment on the National Marine Fisheries Service request for public input on an Environmental Impact Statement on the activities of the National Marine Mammal Health and Stranding Response Program. Hubbs-SeaWorld Research Institute scientists have been studying free-ranging marine mammal populations in California for over 30 years. The results of this research are made available to the public via the peer-reviewed scientific literature, popular articles in magazines such as *Natural History* and *Discover*, presentations to scientists and the general public and through newsletters and websites. Our scientific studies in the Southern California Bight include research on the sensory ecology, physiology, population biology, foraging ecology and health of cetaceans and pinnipeds, including gray whales, killer whales, pilot whales, bottlenose dolphins, common dolphins, northern elephant seals, California sea lions, harbor seals, northern fur seals and Guadalupe fur seals. Much of this research involves collaboration with NOAA scientists from the Southwest Fisheries Science Center and the National Marine Mammal Laboratory (Alaska Fisheries Science Center).

The opportunity to work collaboratively with members of the California Marine Mammal Stranding Network to obtain data and samples from live- and dead-stranded marine mammals has greatly informed our research on free-ranging animals and has provided information critical to our understanding of the interactions between humans and living marine resources. Live and dead stranded animals have provided high-quality samples and valuable information on infectious and non-infectious diseases affecting wild populations. Morphometric data and samples collected from live and dead stranded animals have been used by us and our collaborators in studies on a wide range of topics, including marine mammal demography, functional anatomy, diving physiology, population genetics, immunogenetics and epidemiology. Live stranded animals have served as 'platforms of opportunity' for field technique development and refinement (e.g., improvement of telemetry instrument design and attachment and 'ground truthing' of satellite position data).

Live stranded marine mammals also have been important to the success of several research programs (some of them funded by NOAA/NMFS) designed to address conservation issues facing wild populations. For example, in order to determine why some species and age classes of marine mammals are more likely than others to become entangled in fishing gear, we designed a number of experiments to evaluate the responses of stranded pinnipeds to novel objects in their environment. We obtained an MMPA research permit for this project and worked with SeaWorld San Diego and the National Marine Fisheries Service to conduct studies with rehabilitating pinnipeds: this provided us with a large enough sample size to evaluate the

relative influence of factors such as group size and motivation (e.g., hungry vs. just-fed). It also provided a source of animals in the younger age classes (pups and yearlings), which are uncommon in zoological or research institution collections. We also have worked with stranded harbor seals, sea lions and elephant seals prior to their release to develop and test protocols to measure pinniped hearing, again under an MMPA research permit.

The rescue and rehabilitation of a gray whale calf by SeaWorld San Diego in 1997-1998 resulted in a rare opportunity to study baleen whale biology and physiology and resulted in a collection of papers (special issue of *Aquatic Mammals*) by scientists from several universities (University of California Los Angeles; Grossmont College; University of Alaska, Fairbanks; Moss Landing Marine Laboratories), the U.S. Navy Marine Mammal Program, the Russian Academy of Sciences, SeaWorld San Diego, the Natural History Museum of Los Angeles County and Hubbs-SeaWorld Research Institute.

The marine mammal stranding response program continues to improve our knowledge of the status and health of marine ecosystems, including interactions between humans and marine life. We recommend strongly that the program continue and that responses not be limited to cetaceans only, live animals only, or to endangered/threatened species only. As illustrated by the examples listed above, live and dead stranded pinnipeds (whether from increasing, stable or threatened/endangered populations) are a valuable resource for advancing marine mammal science and conservation.

Sincerely,



Pamela K. Yochon, MS, DVM  
Executive Vice President and Senior Research Biologist

cc: DeFreese  
Kent  
Hogarth

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# THE HUMANE SOCIETY OF THE UNITED STATES

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P. Michael Payne, Chief  
Marine Mammal and Sea Turtle Division  
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National Marine Fisheries Service  
1315 East-West Highway, Rm. 13635  
Silver Spring, Md. 20910

February 28, 2006

RE: MMHSRP EIS

Dear Mr. Payne,

On behalf of the more than 9 million members and constituents of The Humane Society of the United States (The HSUS) I am submitting the following comments on the Notice of Intent to prepare and Environmental Impact Statement on the activities of the National Marine Mammal Health and Stranding Response Program. We commend the National Marine Fisheries Service (NMFS) for its proposal to release national protocols to standardize marine mammal stranding and disentanglement response around the country while retaining flexibility within regions. In our experience, the qualifications and resources of local stranding response groups varies widely and thus the response, and level of evaluation and treatment of stranded or entangled marine mammals, varies widely.

With some qualification, we wish to support the proposed action alternative (alternative 1), which would result in the publication of the Practices and Protocols Handbook and the establishment of required minimum standards for the national marine mammal stranding and disentanglement networks. While we believe that NMFS must analyze other alternatives, adopting any of the other alternatives that are presented would significantly hamper high quality response to stranded or entangled marine mammals.

The Notice of Intent (NOI) provides a number of areas in which NMFS is seeking comments. We address each area below.

### (1) Types of Activities

We believe that coordination, overall responsibility for management, setting standards for response to stranding and disentanglement, and the declaration of Marine Mammal Unusual Mortality Events, should take place at the national level, but with input from regions. Oversight at the national level facilitates equitable and



Comments of the HSUS on MMHSRP EIS—page 2

proper distribution of resources and assures that standards are not discrepant from one region to another.

The NMFS has asked a variety of questions pertaining to the types of activities taken in response to stranded marine mammals. One of these questions addresses the issue of critical research needs. Data and information obtained from stranded marine mammals can inform the public of threats to public health (e.g., domoic acid, toxic chemicals). They may also alert the public and managers to an increased likelihood of disease outbreaks in marine mammal populations that may have implications for management (e.g., phocine distemper) or growing threats to vulnerable species of marine mammals (e.g. increased entanglement in certain fishing gear, increased effects resulting from intense noise). Thus, it is important that stranding response focus on two main areas: returning relatively health animals to the sea as quickly as possible and thorough examination of carcasses to ascertain information on morbidity and mortality.

In either instance, it is important that stranding responders be trained in proper collection of a variety of samples that can, among other things, reveal trauma (e.g., acoustic-related impacts, indications of entanglement). Holders of LOA/SA should be required to have specified protocol (and appropriate equipment) for proper collection, documentation and storage of samples. They should individually, or via the NMFS, have established facilities for analysis and/or archiving of samples.

We believe that the primary objective of stranding response for live animals should be to quickly ascertain the animal's condition and, wherever possible, return it to the water immediately. While it is important to assess the animal and take samples for analysis, the likelihood of a cetacean being successfully returned to the water declines the longer it lies on a beach. Thus, the NMFS should encourage expeditious beach releases of cetaceans wherever possible rather than emphasizing sampling to such a degree that the animal may remain out of the water for an extended period of time for sampling of all possible parameters, and in the process compromise the chance of a successful release. Furthermore, only in cases in which and animal is clearly an excellent candidate for rehabilitation and return to the wild should the animal be removed to a rehabilitation facility.

The HSUS is also concerned about situations in which stranded animals may need rehabilitation services prior to release. We support the establishment of minimum housing and husbandry standards for rehabilitation facilities. There is also a need for criteria for determining which animals are not a good candidate for release to the wild (e.g., long term health concerns, very young age, etc.) and thus should not be taken into care. Controversy has arisen in the past over animals in Texas and elsewhere who received long-term rehabilitative care for health conditions that would have argued for humane euthanasia and that ultimately resulted in the death of the animal or the need for permanent captivity.

Promoting the protection of all animals

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Another concern arises from taking cetaceans for into facilities rehabilitation when the animals are particularly young. In this instance, long-term captive maintenance can become an excuse or incentive for permanent captivity. This situation has arisen at Mote Marine Laboratory in Florida. Facilities that take young animals for rehabilitation should be required to demonstrate that there is a high likelihood of the successful release of the young animal and should have a well-constructed, and NMFS-approved, plan to rehabilitate it for wild release.

The NMFS may wish consider establishing an independent review process with a committee comprised of scientists, veterinarians, environmental group members and managers to periodically review trends in fates of animals taken for rehabilitation and to review all requests under any Notification of Transfer of Custody forms that would move animals from one facility to another rather than back to the wild. This would allow a review of the success of the facility's rehabilitation protocol or the need for further guidance to facilities or regions.

Any animal that dies while in the custody of a rehabilitation facility should be necropsied within 24 hours of its death and the results reported in a manner allowing for public review. This practice should not vary among species.

#### (2) Level of Response Effort

Fiscal and human resources are not the same in all regions. For that reason, response will vary from one SA/LOA to another. However, the NMFS should strive to improve the quality of response in areas with limited response capability as a means of equalizing quality of response as much as possible.

If it has not already done so, the NMFS should undertake an analysis of the stranding and disentanglement response capabilities of various coastal states and regions to see where consolidation or enhancement are most likely to benefit uniform response to animals in distress. We believe that the NMFS may wish to consider consolidating SA/LOAs in some areas. There appears to be no real need for multiple LOA/SAs being granted within near proximity to one another. Coordination and uniformity of response can be facilitated by granting fewer letters rather than more. In states such as Florida there are multiple LOA/SA holders and for states such as this, NMFS should review the need for multiple LOA/SA holders. Contrarily, resources for disentanglement response are often localized that training, equipment and response may need to be broadened. For example, a large whale that is seen entangled in gear is often more readily disentangled in Florida or New England, where trained responders and equipment can be readily moved to the animal, but large whales are less likely to be successfully disentangled in the mid-Atlantic or on the west coast where equipment and trained personnel are less readily available.

The NMFS should identify the level of expertise available in various SA/LOA holders and consider where or how to improve uniformity of training and resources nationally. Marine mammals (and any samples taken from them) should receive the same degree of

intervention, care and handling whether they strand in Alabama, Florida, New England, California, Washington or elsewhere.

Pinnipeds are generally somewhat harder than cetaceans, in part because part of their behavioral ecology involves substantial time out of the water. Cetaceans out of the water have often been considered to be "lost causes" in the U.S. Yet in other parts of the world they routinely survive in higher rate than is the case in many parts of the U.S. (e.g., the northeast). It would seem appropriate for the NMFS to examine why this may be. There should be an examination of the numbers and types of strandings of cetaceans and an analysis of the extent to which discrepant survival rates occur around the country and/or in comparison to other countries. This may provide insight on improving stranding response.

The HSUS believes that all stranded marine mammals deserve timely and humane response. We do, however, acknowledge that resource limitations may necessitate a higher priority being put on response to species listed under the Endangered Species Act than for species from robust stocks.

#### (3) Organization and Qualifications

All stranding networks should be directly affiliated with veterinarians having experience working with marine mammals. We understand that some locales may find this difficult and, for that reason if no other, consolidation of LOA/SA permits should be considered.

We are also concerned with the appropriateness of facilities which are licensed for captive display acting as rehabilitation facilities. Our concern is two fold. First, as mentioned above, there may be an incentive to keep more unusual animals for display (e.g., *Stenella* spp.) rather than adequately preparing them for release. Secondly, there can be a problem of mixed species aggregations or exposure in facilities with multiple captive marine mammal species being kept for display in close proximity to one another. Since the NMFS has raised the issue of exposure to captive and/or domestic animals, we believe that unless captive display and rehabilitation facilities can pass an inspection that ascertains that there is no likelihood of exposure to pathogens across species, they should not be licensed for rehabilitation. In situations where an animal's release has been compromised because of its exposure to captive or domestic animals; the facility should lose its authorization.

#### (4) Effects of Activities

We have no specific comments on this area that are not discussed above or below.

#### Miscellaneous Comments

The NFMS has used terminology that is confusing and should be clarified. For example "LOA" and "SA" should be consolidated to a single term that can be readily understood



and used by any agency with management responsibility. The NOI also discusses the need for a permit to allow the “taking” of endangered species. In doing so, it refers to “hazing” of marine mammals. We believe the more appropriate terminology would be “harassment.” Wherever possible NMFS should examine the terminology used by various agencies (e.g., USFWS, APHIS, etc) or protective laws (e.g., MMPA, ESA, AWA, etc.) and use consistent terminology in order to avoid confusion of meaning.

We would also like to state that we do not believe that rehabilitation facilities should be allowed to charge admission to view animals in their care. Allowing rehabilitation facilities to charge for viewing marine mammals provides an incentive to assure that there is always something for the public to see and thus may unnecessarily extend an animal’s stay at the facility to the detriment of the animal’s successful release back to the wild. Furthermore, this practice undermines laws and regulations governing captive display. Any facility charging admission to see marine mammals undergoing rehabilitation should be required to obtain a license for captive display. The NMFS should vigorously enforce this prohibition.

While we did not do an exhaustive analysis of all background documents, we would like to comment on a few points raised in the documents regarding suitability of animals for release. We do not agree with NMFS that a wound inflicted by a conspecific disqualifies an animal for release. There is inadequate substantiation for this prohibition. It has been my observation that many wild animals bear scars from interactions with members of their species (e.g., sea lions, Risso’s dolphins, bottlenose dolphins) and yet live healthy lives no more prone to conflict than other members of their group.

The NMFS also mentions that calves are not suitable for release unless with their mothers. While this makes sense on a purely intellectual basis, the wording is not clear as to the exact point at which NMFS would consider that a calf can fend for itself or be cared for or protected by others in the group. It may be more appropriate to allow determinations on a case-by-case basis. We point to the instance of a young pilot whale orphaned in 1986 off the coast of Massachusetts. The animal was of a size that suggested it was still nursing and yet it successfully fended for itself, taking shelter near large buoys, for two years. Subsequently, there have been multiple observations of a lone pilot whale in the company of a group of white-sided dolphins (Baraff 1998). The age of dependence varies with species and a blanket prohibition based a set age/size may not be appropriate. Furthermore, in a group of stranded animals, a calf may not be directly adjacent to its mother; however, the presence of lactating females in the group (one of which may be the mother) that can be released with the calf may bode well for the calf’s survival. Again, a case-by-case determination, with some NMFS guidance, may be more appropriate.

Similarly, the document states that animals with deformed or missing appendages should not be released. Observations of large baleen whales missing substantial portions of their tail flukes are common in the New England area.

NMFS raises another barrier in saying it is “naïve to assume that any two cetacean species can be put together to form a functional social unit or that even two unfamiliar members of the same species will bond into a functional social unit”. Again, this may need to be a case-by-case determination rather than a blanket determination. There are many instances of inter-specific associations, many of them long-term (ibid; Frantzis and Herzig 2002). It would seem “naïve” to us to think that two animals who are of the same species, and used to socializing with one another in a rehabilitation situation, would not have a bond of some sort that could transfer to the wild if they are released together.

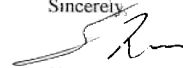
When there is doubt, the benefit of the doubt with regard to appropriateness of release from a beach or rehabilitation facility should go to the assumption that the marine mammal will survive, and it should be released; rather than assuming that an animal is “doomed” if it is in any situation other than the absolute ideal. Marine mammals are often more resilient than assumed.

#### Conclusion

We support the proposed action alternative, but urge the NMFS to consider the conditions of release for marine mammals that appear rigid and do not give the benefit of the doubt to the marine mammal. We also believe that there should be strict standards for housing and husbandry in rehabilitation facilities. A national approach is more appropriate than a regional approach when it comes to setting standards for training and facilities, for resource allocation and for monitoring and review. It also seems clear to us, based on previous experience, that the NMFS needs additional staff for training, inspection and coordination.

Thank you for the opportunity to comment.

Sincerely,



Sharon B. Young  
Marine Issues Field Director

#### Resources Cited:

Baraff,LS, Asmutis-Silvia,RA. 1998. Long-term association of an individual long-finned pilot whale and Atlantic white-sided dolphins. *Marine Mammal Science*. 14:155-161.

Frantzis, A. and D. L. Herzing. 2002. Mixed-species associations of striped dolphins (*Stenella coeruleoalba*), short-beaked common dolphins (*Delphinus delphis*), and Risso’s dolphins (*Grampus griseus*) in the Gulf of Corinth (Greece, Mediterranean Sea) *Aquatic Mammals* 2002, 28.2, 188-197

## INPUT from IMMS, Gulfport, MS

NMFS is seeking public comments on all issues relating to the MMHSRP, including the following specific questions:

- What sort of activities should be conducted on a local, regional and national level in response to stranded, entangled, sick, injured, and other marine mammals in distress?

Local level: The local stranding organization (LSO) should be notified immediately of any stranding in their area. LSO should be first level to investigate situation and report to regional level. LSO should be a central and essential component of the response, should one be deemed necessary. Adjacent stranding organizations should be notified also and participate if the LSO needs additional help. Since Louisiana, Alabama and Mississippi are considered one region then these organizations should be the ones utilized for strandings in the area. For example, if a stranding occurs in MS. Then IMMS should be notified 1<sup>st</sup> with LA and AL stranding organizations on standby. IMMS should investigate and determine if the situation can be handled by the local organization alone or if help is needed. If a stranding occurs in LA, then the LA stranding group should respond if available, and MS and AL would be put on standby. If there is no stranding organization in that state, or if their resources are not adequate for the situation at hand, the nearest organization with the appropriate resources should be called. Strandings in LA and MS should be the responsibility of LA and MS. Other stranding organizations should be brought in if the resources of these organizations are exhausted. Florida and Texas organizations should be used as a last resort.

- Are there critical research or management needs that may be met by stranding investigations, rehabilitation, disentanglement or health-related research and biomonitoring - activities? Are these needs currently being met? If not, what are they, how are they likely to benefit the marine mammal species, and what should be done to meet them?

Yes, there are many critical research and management needs that are met by stranding investigations. These needs include research on genetics and stock structure, population dynamics, toxicology, stranding trends in different areas, zoonotic diseases, parasitology, virology and other infectious diseases. Needs are not currently being met in the MS, LA, and AL area, aka the northern central Gulf of Mexico (needs previously stated). In the MS/LA area- a catch and release program should be implemented. Samples/biopsies can be collected on a biannual to annual basis. Knowing genetic makeup of these populations of bottlenose dolphins would allow us to determine how the different stocks are related if any. The study of zoonotic diseases in these dolphins (for example, toxoplasmosis, bartonellosis, and brucella) would allow further understanding of these diseases and possibly help us determine more about transmissions and environmental issues. Studying parasitology would help determine life cycles of parasites such as Nasitrema, and the possibility of intervention. Toxicological examination of these animals' blubber and other tissues would help evaluate the type and amount of toxins that are present in these waters... are these the result of run off from the MS River or other environmental or anthropogenic factors?

- Should there be different standards or levels of MMHSRP effort for different species or groups of species (i.e. pinnipeds vs. cetaceans; threatened or endangered species vs. increasing populations, etc.)? If so, how should NMFS set these standards or priorities?

Threatened or endangered species should receive the highest level of standards and response. All marine mammals should be treated with high standards. If a population increases and becomes a nuisance then standards may need to be adjusted, for example, salmon and sea lions; sea lions and public beaches. The sea lions have rebounded in population and now they are a nuisance in CA.

- Is the current organization of the national stranding and health assessment networks at the local, state, regional, ecosystem, and national levels adequate to meet the necessary management and research needs for conservation? If not, what changes should be implemented to make the organization more effective?

Communication is essential. Strandings should be responded to ASAP when a local stranding organization exists or is nearby. Again, this is where the local stranding organizations should have more responsibility and should be utilized as the first and primary responders to the situation, if they are capable. Stranded animals should not be left until the regional people can clear their schedule, which sometimes happens with the current system (for example, the bottlenose dolphins strandings reported in Galliano / Golden Meadow, LA in 2003).

The southeastern US region is a very large area to manage, especially since the state of Florida alone has so many strandings each year. This area should be divided into at least two regions:

- 1) TX, LA, MS, AL and FL panhandle; +/- west coast of FL and keys.
- 2) East coast of FL and Eastern (Atlantic) coast states, +/- west coast of FL.

Politics should be left out of the situation. Local organizations should be used more often.

- What should be the minimum qualifications of an individual or organization prior to becoming a Stranding Agreement holder to ensure that animals are treated appropriately, humanely, and with the minimum of adverse impacts?

The below answers are to the questions that were asked by NMFS in December 2004 in the document "Comments on the Draft NMFS National Stranding Agreement Template and the Minimum Qualifications for Issuing and Renewing a NMFS Stranding Agreement." These are the same answers that we (IMMS) had provided in December 2004.

- A.1.) Any existing marine mammal facility and its director that qualifies under a USDA license and NMFS public display or research permit should automatically be eligible and qualified to serve as a stranding network participant and director or primary representative of a stranding network participant, respectively. These facilities already meet and exceed the requirements necessary for response to both dead and live stranded marine mammals.

For those facilities not meeting the above-mentioned circumstances, experience should be based on the number of animals that a given person has handled, and their responsibility level in handling those animals, as this is more indicative of actual experience than number of years. For example, a facility in an area that does not historically receive a large number of strandings each year will gain less experience than a facility that is in an area that has a large number of strandings each year, and this discrepancy will continue for whatever time period is chosen. In this same regard, “continuous” experience is not as important as cumulative experience in the field, and again, the actual number of animals handled during this time. To illustrate this point, an individual may work three years continuously at a stranding facility with only a handful of strandings a year, of which there is less than one live stranding per year, and not be very experienced. Another individual may work two years at another facility where he/she was one of the primary animal handler and caretaker of multiple animals at a time because that region received an average of 3 or more live strandings per year. The individual in the latter scenario has more experience. Also, if that same person from the latter scenario relocates to work with another facility after a lapse of time of 6 months where they are not working with any marine mammals, they should still be considered more experienced than the first individual.

Specifically, for this section, the prospective director should have “hands-on” participation with at least six (6) dead marine mammals under the direction of experienced personnel. Included in the handling of these 6 dead animals should be a minimum of three (3) full necropsies and experience completing the NMFS Level A Data Form.

Classroom or workshop training for marine mammal strandings is also important and can include instructional videos, books, articles, and attendance at pertinent workshops all totaling a minimum of eight (8) hours.

- A.2.& 3.) Again, experience should be based on the number of animals that a given person has handled, as this is more indicative of actual experience than the number of years. Rather than “one year of continuous hands-on experience” or “comparable training,” the responders for the prospective Stranding Network Participant should have received a minimum of four (4) hours of classroom/workshop time, which includes viewing the NMFS Level A Data training video, **and/or** hands-on participation (continuous experience not necessary) with at least one (1) full necropsy and handling of three (3) other dead marine mammals, including a NMFS Level A workup.

Therefore, in this scenario, the responders will need hands-on experience or classroom training. The necropsy should be done by experienced personnel,

so if the responder(s) do not have necropsy experience, it can be done by the director himself/herself.

- B.1.) “Three years of comparable marine mammal stranding response experience” should only refer to those people who have been **fully responsible** for the care, maintenance and transport of marine mammals at a public display or research facility where marine mammals are housed and maintained for a length of time. These people would include supervisors, managers, researchers, trainers, veterinarians who have all worked for at least two (2) years cumulatively for a research or public display facility. These candidates would all need to have proven experience in the collection, transport, training, care and maintenance of live marine mammals. In addition, they would need a minimum of eight (8) hours of classroom or workshop training time as discussed in number A1 on page 1 of this document.

Any existing marine mammal facility and its director that qualifies under a USDA license and NMFS public display or research permit should automatically be eligible and qualified to serve as a stranding network participant and director or primary representative of a stranding network participant, respectively. These facilities already meet and exceed the requirements necessary for response to both dead and live stranded marine mammals.

- B.2.) “One year of continuous hands-on experience” should be defined as handling live marine mammals at a public display or research facility housing marine mammals for a cumulative total of twelve (12) months. This year of experience should include the care and handling of at least two (2) to three (3) animals. This experience can be obtained by paid employment, internships, apprenticeships, or volunteer experience.

In addition, the sentence that reads “. . . one year of continuous hands-on experience in marine mammal stranding response, triage, transport **and/or euthanasia**, or comparable training . . .” should be changed to read “. . .one year of continuous hands-on experience in marine mammal stranding response, triage, and transport (**euthanasia experience is desirable**), or comparable training . . .” In that way, an individual with one year of experience euthanizing marine mammals, but not actually transporting live animals, will not be responsible for the triage and transport of a live animal not in need of euthanasia.

- B.3.) There is no “comparable training” for experience with live marine mammals. Unless an individual has experience handling live marine mammals, they will not be able to make decisions necessary in stranding response, triage, and transport.

C.1.) Any existing marine mammal facility and its director that qualifies under a USDA license and NMFS public display or research permit should automatically be eligible and qualified to serve as a stranding network participant and director or primary representative of a stranding network participant, respectively. These facilities already meet and exceed the requirements necessary for response to both dead and live stranded marine mammals.

For those facilities not meeting the above-mentioned circumstances, experience should be based on the number of animals that a given person has handled, and their responsibility level in handling those animals, as this is more indicative of actual experience than number of years. Our suggestion is that “. . . a minimum of three years of continuous hands-on experience in marine mammal care and rehabilitation . . .” should be replaced with the following sentence: “. . . a minimum of two (2) years of cumulative experience caring for marine mammals, having handled at least two (2) to three (3) animals during that time, including responsibility for the care, maintenance, husbandry, transport, and water quality for these animals.”

C.2.) For this section, we agree with the minimum attending veterinarian requirements and would only add “A veterinarian who is consulting for a marine mammal public display or research facility for at least one year fulfills these requirements and is automatically qualified.”

For the section on recommended veterinarian requirements, we suggest eliminating the requirement to complete a course which offers basic medical training with marine mammals such as Seavet, Aquavet, or Marvet. IAAAM serves as continuous education for veterinarians. We also suggest changing the requirement that reads “Have access to the 2<sup>nd</sup> Edition CRC “Handbook of Marine Mammal Medicine” to “Have access to the **current** edition of CRC “Handbook of Marine Mammal Medicine.”

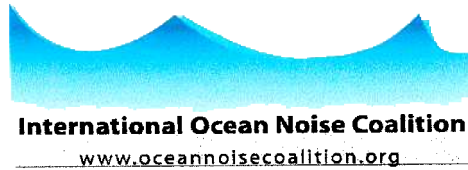
• Are public and animal health and safety needs adequately addressed in the current organization and operations of the MMHSRP?

Young animals such as calves and pups that either strand or are born at a stranding facility after the pregnant mother strands should not be euthanized just because they are deemed non-releasable, at least not without an extensive search for a home at a USDA-approved facility. These animals could go to a zoo or aquarium (a public display or research-type facility or exhibit) and have a healthy life in captivity. There needs to be more communication between the public display and research-type facilities, the stranding network, and NMFS. Many of these facilities are looking to increase their population/collection of animals and these stranded young marine mammals are

euthanized by some stranding organizations, not because of severe illness and suffering but because they are not eligible for release back to the wild. This is not right.

• Are there any other relevant issues or data NMFS should consider in its analysis of activities conducted by, for, and under the authorization of the MMHSRP? If so, please provide if or a reference for it.

Same as previous question. See above issue about euthanization of young non-releasable animals.



February 24, 2006

Mr. P. Michael Payne  
Chief, Marine Mammal and Sea Turtle Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway, Room 13635  
Silver Spring, MD 20910-3226

Re: Notice of Intention to prepare an Environmental Impact Statement for the stranding protocol for marine mammals (70 Federal Register 76777-76780)

Dear Mr. Payne:

The International Ocean Noise Coalition, representing over 140 global partner organizations, provides the following comments regarding the National Marine Fisheries Service (NMFS) announced intention to Conduct Public Scoping Meetings and Prepare an Environmental Impact Statement (EIS) on the Activities of the National Marine Mammal Health and Stranding Response Program.

Marine mammal stranding incidents caused by or contributed to by anthropogenic noise are of increasing concern. It has been found that animals who have stranded coincident with a noise event may display areas of hemorrhage, primarily in or around the inner ears, brain, acoustic jaw fat, and kidneys as well as vascular lesions suggestive of decompression sickness ("the bends").

Stranding incidents caused by or contributed to by anthropogenic noise are also controversial since the noise is of human origin and may be avoidable. Sources of noise may be seismic air guns, military active sonar or at-sea explosions. It is therefore of vital importance that at all stages of every marine mammal stranding incident, exposure to noise be considered as a possible causal factor in the stranding and that appropriate measures be performed so that sound can be either ruled in or out as a possible cause or contributing factor.

Stranding incidents which exhibit one or more of the following features should be suspected of involving noise as a cause or contributor:

*International Ocean Noise Coalition*

2 -

Mass-stranding or multi-species strandings of cetaceans over a period of a few days and/or when stranded animals are spatially separated;

Any cetacean stranding that coincides with local activities involving military sonar, air gun activity, or other sources of intense underwater sound;

Any mass- or multi-species stranding in which animals share pathologic findings suggestive of acoustic trauma.

If any or all of the conditions above are met or suspected, then the entire and intact fresh carcasses should be transported as soon as possible to a competent laboratory for full investigation. If the carcasses are too large or the stranding location is too remote to facilitate full carcass removal to a competent laboratory, consultation with an expert pathologist and examination in the field should be undertaken.

Necropsies should include a comprehensive examination for evidence of lesions that may be associated with pre-mortem noise exposure. Examination should not be limited to the ears or acoustic fats, but should include all tissues and organs. Scientific understanding of the pathology of acoustic trauma is still not fully known. Current knowledge suggests that acoustic trauma may display as hemorrhage and/or vascular lesions in the dead animal. The stranding protocol necropsy procedures should be refined and expanded as additional information on the pathology of acoustic trauma victims becomes available in the scientific literature. Currently, the guidelines in Marine Mammals Ashore, A Field Guide for Strandings edited by J. R. Geraci and V. J. Lounsbury (2005) should be followed.

The majority of the documented marine mammal stranding incidents associated with anthropogenic noise involve beaked whales. However, there are recorded standing incidents that have involved other species. Therefore the stranding protocol should include all cetaceans.

Additionally, all necropsy results should be released to the public in a timely fashion.

We appreciate the opportunity to provide these comments, which we request be entered into the record.

Sincerely,

Marsha L. Green, Ph.D.  
North American Representative

Sigrid Lüber  
European Representative

Comments: Marine Mammal Health and Stranding Response Program, EIS

Submitted by:

Pamela Sweeney, Stranding Coordinator  
on behalf of the Marine Animal Rescue Society  
[psweeney@marineanimalrescue.org](mailto:psweeney@marineanimalrescue.org)  
P.O. Box 833356  
Miami, FL 33283

Stranding Agreement Comments:

1. Would a Participant's Board Members/Directors who are legally responsible for actions of the organization but who are in no way financially compensated for their duties considered "volunteers"?
2. In terms of a lease agreement, define "long term" and what provisions may be necessary to include in such an agreement
3. NOAA/NMFS should issue bullet points for each stranding organization to review during volunteer trainings as mandatory minimum information pertaining to safety basics deemed most important for that region and/or at national level. Human safety issues must be defined properly in order for stranding organizations and/or NOAA/NMFS to adequately address such issues.

Release/Rehabilitation Comments:

4. Who constitutes the release candidate's "advisory committee?" Is this committee assembled by the stranding organization or NMFS? What criteria are met to be a member of such a committee?
5. NOAA should consider being solely responsible for aerial survey and air transport; private citizens/organizations are not permitted to call on federal resources like coast guard nor are they permitted to make a payment to a federal agency, whereas one federal agency can possibly transfer funds to another to assist the stranding network.
6. Satellite tags/satellite time should perhaps be organized/funded at a regional level where a cache of tags are paid for cooperatively by stranding network participants and are available for use as needed by whichever group is in need as seen fit by the Regional Stranding Coordinator. Because NOAA/NMFS has on hand localized/regional data that dictates likely areas of strandings, tag caches should be ready on demand in these particular areas of the state/region.
7. NOAA/NMFS should provide nutritional recommendations for stranding network participants for species based on historical data and records of previous rehabilitations to develop a baseline of standard procedures. For example, a particular formula brand or recipe may be considered standard for a particular species (calf) in rehab.
8. When release is an option for animal in rehab, a release committee must convene within 24 to 48 hours after release guidelines/medical release criteria have been met successfully.
9. Evaluate what pathogens etc are being released into the open water environment by rehabilitation facilities. Determine measurable values that organizations can consider safe as less to no impact to the human/animal environment. Evaluate measurable values for rehab tank water as well.

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Original Message -----

Subject: our quick comments

Date: Tue, 14 Mar 2006 18:22:37 -0500

From: donzum@aol.com

To: Janet.Whaley@noaa.gov

Call if you have any questions. We put these together quickly. Hope they're ok.  
Comments from Marine Mammal Care Center at Fort MacArthur on January 2006  
Policies and Best Practices: Marine Mammal Stranding Response, Rehabilitation, and  
Release: Standards for Rehabilitation Facilities:

1. The strict and separate quarantine for each animal is impractical. We receive several animals a day during our busy months. They receive exam and bloodwork on intake and are placed accordingly after that. We also believe that some stress is eliminated in a rehabilitation setting by placing the animals with conspecifics if appropriate. Quarantine is referenced in sections 1.0, 1.7, 3.0, 3.1, 3.5 (only applies to zoological facilities that also conduct rehabilitation).
2. Should hand rearing be addressed so extensively? Is that really considered rehab? Should mother-dependent pinnipeds be hand reared? To what end-especially concerning California sea lions which are mother dependent for nearly one year? For a rehabilitation to put such resources into an animal for that long, plus having to address proper socialization, foraging, etc. makes it nearly impossible to turn out a releasable hand reared otariid. Hand rearing is addressed in sections 1.0, 1.8, 8.1.
3. Physical barriers from the public need to be mandatory - but if you enforce visual barriers, we will receive no support to do the work we do. No one will be able to afford this. Barriers are discussed in sections 1.0, 1.13.
4. The document refers to "personnel" throughout. Does this include volunteers? Can there be a definition somewhere?

5.5.6 Weighing should always be possible, shouldn't it? Measuring the animal can often be more dangerous. unless we are talking about a deceased animal on the beach.

6.7.0 - Histopathology on each animal which dies is cost-prohibitive especially during a HAB or El Nino. Are we sending this histo to AFIP? Centers should strive to do necropsies on all animals, and histo on many representative of the event.

In the interim document, Best Practices Marine Mammal Stranding Response, Rehabilitation, and Release: Standards for Release:

1.D.6.-Post release monitoring as described here is not plausible with the hundreds of pinnipeds that are released each year. They are tagged. Re-sighting on the islands or re-stranding on the mainland should be sufficient.

Jackie Jaakola

Director/President

Marine Mammal Care Center at Fort MacArthur/MAR3INE

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[www.marinemammalconservancy.org](http://www.marinemammalconservancy.org)

February 22, 2006

Mr. P. Michael Payne  
Chief, Marine Mammal and Sea Turtle Division (F/PR2)  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway, Room 13635  
Silver Spring, MD 20910

Subject: MMHSRP EIS Comments

NMFS has set out several alternative proposals which may be eliminated from further study. We agree that these proposals should be summarily dismissed. The simplistic "live or die" proposal cannot be considered to comport with Congress's intent in enacting the MMPA and mandating NMFS to protect, preserve and conserve marine mammals.

This Environmental Impact Statement should not be a vehicle for NMFS to restrict, limit or eliminate the ability of Stranding Network participants to respond to, collect data, rehabilitate and release for further study marine mammals back into the wild. Rehabilitation should be a part of any effective environmental program for the protection and conservation of marine mammals. To do otherwise would limit not only the stranding networks ability to operate, thereby decreasing the effectiveness of NMFS to manage the MMHSRP, but also limit the scientific community's ability to learn more about marine mammals in the wild. The quest for knowledge should not be restrained without good cause.

Proper development of the MMHSRP should include a program to expand the scope of authority for participants to engage in rehabilitation and support for increasing and improving those organizations abilities, capabilities and the effectiveness with which they carry out the scope of their responsibilities.

1. **What sort of activities should be conducted on a local, regional and national level in response to stranded, entangled, sick, injured, and other marine mammals in distress?**

**Comments:** Stranding Network members should continue to respond (per the level of their LOA's) as before. Regional Stranding Coordinators should continue their efforts to more fully integrate stranding network members so that no single network member is overwhelmed with an unusual event. Nationally, standards of data collection, not just on dead marine mammals, but on live rehabilitations should be considered so that there is a repository of knowledge that other network members can access and use. The Policies and Practices Manual is a first step in making sure that network members are all held to the same standards. Providing this type of infrastructure would help strengthen the stranding network, provide for better diagnostics and treatments, and allow network members to learn from others experiences within the network.

2. **Are there critical research or management needs that may be met by stranding investigations, rehabilitation, disentanglement or health-related research and bio-monitoring activities? Are these needs currently being met? If not, what are they, how are they likely to benefit the marine mammal species, and what should be done to meet them?**

**Comments:** Only so much can be learned from dead marine mammals about diseases or causes of strandings. Open water observations and Level A assessments of marine mammals in the wild suffer from a number of limitations, e.g. time, weather and climate conditions, the ability to track the animals consistently, the limited number of subjects involved in the observations, etc... Consequently, there are many unresolved questions and information gaps about many of the marine mammal species that inhabit our planet. Successful rehabilitation efforts at the very least allow us a better glimpse of a species behavior, cognitive abilities and uniqueness in its niche within the ecosystem.

Rehabilitation efforts also afford unique opportunities to engage in vital research which can make a significant and positive contribution to the current store of knowledge relating to stranded and diseased marine mammals. Scientists and researchers continue to develop new techniques to test live stranded marine mammals for the effects of noise pollution, chemical pollution, disease transmission and the effects of our ever changing planet. Rehabilitators and veterinarians continue to develop new handling and medical treatment protocols to treat disease and injury which further expands our knowledge of marine mammal science. Tracking technology for marine mammals in the wild has come a long way in the last 15 years. The value in tracking released marine mammals back into the wild not only proves a successful conclusion to the rehabilitation effort, this data begins to answer and define some of the most basic questions of the species being tracked. Without live stranded marine mammals to test, many questions, some not even asked yet, would go unanswered.



Organizations that do both cetacean and pinniped rehabilitation as well as NMFS should encourage marine mammal researchers to use live stranded marine mammals in their research efforts as was suggested in a recent presentation to The Society for Marine Mammology in San Diego.

**3. Should there be different standards or levels of MMHSRP effort for different species or groups of species (i.e. pinnipeds vs. cetaceans; threatened or endangered species vs. increasing populations, etc...)? If so, how should NMFS set these standards or priorities?**

**Comments:** There should be no discrimination among the species regarding levels of response. To establish differing levels of response for cetaceans requires fine judgments for which the supporting data, e.g. populations, health, environmental condition, by-catch impacts, etc... may be either incomplete, outdated or, for some species, unknown. Without accurate and current supporting information, assignment of response levels would necessarily be speculative and subjective. Many species, then, might well be denied the response and resources essential to their continuing protection and ultimate conservation as mandated by the MMPA.

Neither should the allocation of response resources be determined simply by the designation of a species as endangered or threatened. Many species of cetaceans are on the cusp of being endangered or threatened. For example, according to a study conducted by Oceana the population of pilot whales has fallen to unsustainable levels as has that of harbor porpoises. The level of response to these or any other species when in distress should not be diminished or deferred until the survival of their species has reached the critical status of being endangered or threatened.

The mandate of the MMPA to protect and conserve marine mammals does not discriminate or distinguish among the species. Accordingly, every stranded, diseased or distressed marine mammal is statutorily entitled to the maximum response effort and to be given every reasonable opportunity for rescue, rehabilitation and release back to its natural habitat and to once again breed and help sustain its species in the wild.

**4. Is the current organization of the national stranding and health assessment networks or the local, state, regional, ecosystem, and national levels adequate to meet the necessary management and research needs for conservation? If not, what changes should be implemented to make the organization more effective?**

**Comments:** Rehabilitation is not only essential to any environmental program for the protection and conservation of marine mammals; it is inherent in the mandate of the MMPA. Currently, within the structure of the national stranding network there is a shortage of facilities capable of accepting and rehabilitating stranded, diseased or distressed marine mammals. Throughout the national network, then, there are numerous states and even entire regions in which responders to stranded, diseased and distressed marine mammals are left with no option but to euthanize viable candidates for rehabilitation and release.

Consequently, any analysis of the organizational structure and capabilities of the national stranding network should have as an objective the establishment of at least one facility with the authority and ability to rehabilitate marine mammals in each state of each region of the national network. In part, this could also be considered in determining the minimum qualifications required of individuals prior to becoming holders of Stranding Agreements or Letters of Agreement. Present Article VI/V holder's personnel could be used to help train these new facilities personnel in the techniques and practical applications of rehabilitating marine mammals. This type of cooperation and interaction would again strengthen the stranding network as a whole as well as help establish practical minimum standards of care and data collection throughout the network.

NMFS Interim Policies and Best Practices and National Template for Marine Mammal Stranding Agreements make some mention of the qualifications of those individuals in leadership positions in organizations seeking either a SA or LOA. They make only a cursory and general mention of the need for the SA or LOA holder to have the appropriate resources to carry out their responsibilities and no mention of the training of personnel. If, however, the experienced leadership does not have the equipment, facilities and personnel to conduct the activities authorized by their SA or LOA, their experience and expertise is rendered meaningless.

Admittedly, the activities authorized by the SA or LOA may be affected and influenced by a variety of factors, e.g. frequency of events, types of species stranding in any given area, geographic, topographic and climatic differences etc..., nevertheless, these variable factors notwithstanding for each level of activity authorized by the SA or LOA, there are identifiable types and amounts of equipment, facilities and basic training which are common to all and necessary to carry out their authorized activity. Consequently, NMFS can and should adopt specific and uniformly applicable requirements and criteria for equipment, facilities and basic training of personnel for each level of activity authorized by its SAs and LOAs. Additionally, a program of continuing education should be established for leadership positions so that personnel can benefit from the experience and knowledge gleaned. For example, all leadership positions should be qualified in the Incident Command System (cooperation and interaction with local state and federal agencies during mass stranding events and UME's is critical to the success of these types of events. A Network member should be able to travel anywhere when requested within the network and be able to assist and be familiar with the procedures and protocols of the ICS system since every Federal agency and most state and local agencies are now adopting the system). Leadership

positions should also have at least a basic course in press relations (bad press does not do any of us any good).

Representing or demonstrating compliance with, or exceeding, these requirements would be a precondition to obtaining either a new SA or LOA or the renewal of an existing one. Those organizations and individuals representing future compliance with these requirements should not have an indefinite or open ended period of time to fulfill their commitments. Their SAs or LOA should be issued on condition that within a given period of time, they will submit documentation of their satisfying the requirements. Pursuant to this condition, failure or the inability to meet and fulfill the representation of compliance would terminate and render the SA or LOA null and void.

In setting time limits for compliance, however, it must be recognized that those organizations seeking authority to engage in activities pursuant to Article IV or V of their SAs or LOAs will need greater and more sophisticated equipment and facilities and training programs for their personnel. Consequently, they should be afforded a more extended period of time in which to comply with the established equipment, facilities and training requirements.

**5. What should be the minimum qualifications of an individual or organization prior to becoming a Stranding Agreement holder to ensure that animals are treated appropriately, humanely, and with the minimum of adverse impacts?**

**Comments:** Designees and those apprenticing for eventual designee status should have continuing education requirements. Those requirements should include response/rescue methods, basic rigging course, medical evaluation, transport methods, stabilization techniques and methods, husbandry classes, necropsy classes, administrative requirements, familiarity with the MMPA, AWA and ESA and the relevant regulations, euthanasia protocols, medical and wound treatment, safety protocols/liability issues, just to name a few.

Defining "designee" as it pertains to each specific authorizing article (response, necropsy, transport, and rehabilitation) with approved training methods and standardized qualifications would make the Stranding Network stronger. Continuing education classes would allow existing designees the chance to learn new techniques, methods and requirements. This would also allow NOAA Fisheries the ability to benefit from the network SA/LOA Holders experiences, and designees to learn from other designee's experience.

Three years of marine mammal stranding response experience should be defined as a minimum number of actual stranding responses, educational classes in response, rescue, public/spectator/media relations, medical evaluation, stabilization techniques, and necropsy classes. Potential Designees must have participated in at least five (5) Article V stranding events plus a stranding event where that individual is in charge of a

specific aspect of an event (under the supervision of a designee) in order to be considered for designee status.

The sporadic nature of stranding events are such that some potential designees may not obtain the experience necessary in the time allotted or get the experience quickly long before the three year period. Experience should be defined by actual experience and not a definitive time period.

Specific educational and training requirements should be outlined and defined for SA/LOA Holders to follow. Training guidelines from experienced response, rescue, transport, and rehabilitation teams should be gleaned for those requirements. The Florida Fish & Wildlife Conservation Commission's Prescott Grant funded Necropsy Training Class should be used as either a requirement for each region's designees to participate in or replicated for use in each of the regions. Many organizations have training protocols that can be used for training and continuing educational qualifications.

Designation under an SA/LOA should not be given to individuals, organizations or institutions unless those individuals, organizations or institutions are fully qualified for that specific Article's responsibilities. Apprentices working to obtain a designee status should not be listed as designees as such a designation gives the appearance of qualification when no such qualification has been obtained.

All SA/LOA Holders should have at least two primary designees and one or more apprentices with a minimum of actual response experience and qualified training. During a stranding response, necropsy, transport, rehabilitation or release a fully qualified designee should be on-site at all times.

NMFS proposes that prospective participants in the Stranding Network be "established organizations". If this implies that the organization must be in being with actual marine mammal experience, newly formed, otherwise qualified organizations, would be eliminated from consideration for an SA/LOA. Consequently, the minimum requirement for an organization to demonstrate it is "established" should be proof that it is duly incorporated and in good standing in the state in which it has its principal offices and will conduct its operations and if non-profit and tax exempt that it has qualified with the IRS as a 501(c) (3) corporation and has complied with all state statutes, laws and regulations applicable to such corporations.

The guidelines provide that SA/LOA Holders shall have and maintain equipment appropriate to their stranding responsibilities. NMFS does not define what it means by "appropriate" although it does appear to be establishing a minimum equipment requirement for Article III Holders. Article IV and V Holders are invested with the greater responsibility of responding, transporting and in the case of Article V Holders rehabilitating marine mammals. Therefore, it is critical that these SA/LOA Holders possess the necessary facilities, equipment and experienced personnel to carry out these responsibilities. Consequently, NMFS should establish minimum equipment requirements which Article IV and Article V LOA Holders must have in hand and properly maintain.

NMFS seems to suggest that three years of continuous hands on experience would be required. Even at full time rehabilitation facilities, this requirement would be difficult to meet as marine mammals undergoing rehabilitation are eventually released and the facility may not have marine mammals undergoing rehabilitation on a continuous basis. Trainers from Public Display Facilities should not automatically be considered experienced either as there is a great deal of difference in treating and rehabilitating wild marine mammals than there is in maintaining and training public display marine mammals. Unfortunately, there is no one size fits all minimum requirement for an Article V designee. Those facilities rehabilitating pinipeds will have different requirements from those rehabilitating cetaceans. Article V Holders that tend to rehabilitate only a few cetacean species will have different training criteria than those facilities and teams that rehabilitate several different cetacean species. Experience and training are paramount, but the individual being designated must also be an accomplished administrator, communicator, educator, and supervisor of personnel. Letters of recommendation as well as experience and training should all be considered before approval is granted to any potential Article IV/V Individual or organization.

**6. Are public and animal health and safety needs adequately addressed in the current organization and operations of the MMHSRP?**

**Comments:** No Comment

**7. Are there any other relevant issues or data NMFS should consider in its analysis of activities conducted by, for, and under the authorization of the MMHSRP? If so, please provide it or a reference for it.**

**Comments:** It should be noted that the National Template [Article (B)(1)(b) and (c) provides that Article IV and V SAs and LOAs will be for a term of three (3) years. As indicated above, to properly perform their duties, holders of these SAs and LOAs need to acquire, at their own organizations expense, a significant amount of various types of equipment, facility infrastructure for its housing and maintenance and incur other operational and administrative costs. Given the short term of Article IV and V SAs and LOAs requires their holders to concentrate inordinate attention, time and effort to the raising and obtaining the funds to sustain their operations and detracts from their ability to perform their duties and responsibilities.

This is particularly true for those non-profit 501(c)(3) organizations (as are many in the national stranding network) which primarily depend on donations, contributions and grants for financial support. Certainly potential donors, contributors and grantors will take into account the three year term of the SAs and LOA, and the prospects of the need for their renewal at the end of this short period, when considering whether or not to commit large amounts of funds to support the operations of their holders.

In view of all of the above, the three year term currently provided for in the National Template is inadequate given the monetary investment and commitment made by Article IV and especially Article V Sa and LOA holders. A more acceptable term for Article IV and V SA/LOA holders would be five (5) years and consideration of an even longer term would not be out of order.

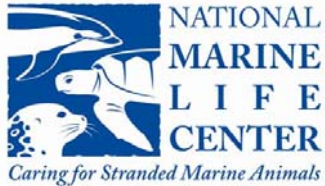
Parenthetically, but nevertheless relevant to note here, Article IX (A)(2) and (3) of the National Template also will have a chilling effect on the ability of Article IV and V SA/LOA holders to raise significant amounts of money. That a holder's SA/LOA can be drastically modified at any time by NMFS upon 30 days written notice to the holder and even more debasingly, simply upon 30 days written notice terminated by NMFS and for any reason. It is unreasonable to assume that these contingencies will not be considered by potential donors, contributors and grantors in deciding whether to make long term monetary commitments to an SA/LOA holder.

Also relevant here, it will not go unnoticed by potential donors, contributors and grantors, that in the event of NMFS's unilateral modification or termination of an SA/LOA, neither the National Template nor its existing regulatory or administrative structure provides the mechanisms or procedures for the affected SA/LOA holder to appeal and obtain review, reconsideration or reversal of the agency's action administratively or judicially.

More importantly, however, this absence of these mechanisms or procedures for an SA/LOA holder to challenge or an adverse determination or action by NMFS clearly denies the organization or individual of the fundamental due process to which they are entitled pursuant to the Administrative Procedures Act as implementing the right to such process provided by the Fifth Amendment to the Constitution. It would not be untoward then, in conjunction with the comprehensive review being undertaken in conjunction with preparation of the EIS, that NMFS adopt procedures which will bring its issuance and administration of SA/LOAs into compliance with the statutory and constitutional requirements of due process.

Respectfully submitted through:

Robert G Lingenfelter Jr  
President  
Marine Mammal Conservancy, Inc  
[rgl@marinemammalconservancy.org](mailto:rgl@marinemammalconservancy.org)  
(305) 360-2130



28 February 2006

Mr. P. Michael Payne  
Chief, Marine Mammal & Sea Turtle Division  
Office of Protected Resources  
NMFS 1315 East-West Highway, Room 13635  
Silver Spring, MD 20910-3226

Dear Mr. Payne,

Thank you for the opportunity to participate in the Marine Mammal Health and Stranding Response Program's scoping for the EIS. On behalf of the National Marine Life Center, I fully support the MMHSRP's proposed action a) to issue a Policies and Best Practices for Marine Mammal Stranding Response, Rehabilitation and Release Manual, establishing required minimum standards for the national marine mammal stranding and disentanglement networks; b) to issue an MMHSRP permit to permit response activities for endangered species, entanglement activities, biomonitoring projects, and import and export of marine mammal tissue samples; and c) to continue to issue and renew Stranding Agreements (SAs, formerly LOAs) on a case-by-case basis as necessary. The marine mammal stranding network provides an important public service by responding to and learning from stranded marine animals, and the MMHSRP's proposed action is critical to the continuation and improvement of the stranding network.

I had the privilege of attending MMHSRP staff's excellent presentation of alternatives at the Boston public scoping meeting. At that time, we were presented with the option of commenting on proposed alternatives by activity. Following are specific comments for each activity.

#### *Response*

I support the alternative that stranding criteria be revised and implemented. MMHSRP staff may wish to consider adding a provision that new and renewing SA applicants include letters of recommendations from two to three other SA-holders in good standing. This would help address the comments regarding experience and qualifications. As earlier commentators pointed out, it is difficult to assess qualifications based on time in the field or based on cases, because there are so many differences across regions. Recommendation letters would help in evaluating qualifications. Recommendation letters would also foster collaboration, teamwork, and positive communication among network members, as the incoming (or renewing) SA applicants would have to maintain good relationships within the network in order to gain recommendations.

#### *Carcass Disposal/Euthanasia*

I support the alternative of chemically euthanized animals being transported off-site whenever feasible, and others left, buried, or transported as feasible. Suffering animals have the right to humane, efficient, and effective euthanasia. Research should be conducted into improved methods of euthanasia that reduce suffering and also reduce the potential negative environmental impacts of current euthanasia chemicals. Additionally, financial resources must be made available to stranding network organizations to dispose of carcasses properly. Disposal is expensive, and it is often difficult for small, non-profit stranding network organizations with limited resources to effect proper disposal. Finally, MMHSRP

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should assist in identifying logistical, geographic, and equipment resources available to effect proper disposal. Even with adequate resources, there often are not places at which to dispose of carcasses much less equipment with which to transport carcasses.

#### *Rehabilitation*

I support the alternative of rehabilitation facility guidelines being modified and implemented. Specific comments are as follows.

Standards for cetacean and pinniped facilities should be equivalent, unless there is a medical reason for one class of animals to have higher or lower standards.

The required number of staff needed to rehabilitate cetaceans (page 6) should also include trained volunteers. Once a cetacean is medically stable, there is no need for 24-hour care. Standards should include the provision that the number of people required and the amount of direct monitoring time involved may ease as the animal's condition improves.

Public display should be explored and defined. Involving the public in rehabilitation in a meaningful way, through the ability to view the animals being rehabilitated for example, is critical to maintaining and gaining support for the stranding network and MMHSRP activities. At the same time, it is important that any public viewing of rehabilitating animals not impact the animals more than they are already being impacted through the rehabilitation process. There are many possibilities through technology and facility design that may allow the public to directly view the animals and rehabilitation activities without impacting the animals. More guidance, perhaps resulting from a participatory workshop of rehabilitation experts, would be appreciated.

Finally, resources must be made available for rehabilitation facilities to improve to the level of the standards. The John H. Prescott Marine Mammal Rescue Assistance Program must be continued, and a priority placed on providing support to organizations seeking to reach, maintain, and exceed minimum standards.

#### *Release of Rehabilitated Animals*

I support the alternative of release criteria being modified and implemented. The overall release criteria are thoughtful and comprehensive. MMHSRP staff is to be commended on researching and compiling these criteria. MMHSRP staff may wish to revise the procedural guidelines in order to minimize burden on regional coordinators and stranding network organization staff and to expedite animals' releases. To that end, I offer the following specific comments.

The guidelines do not address immediate release from the beach, or relocation and release (e.g., of healthy animals or of mass-stranded animals) without entering a rehabilitation facility. Future guidelines should consider this case.

In some places (e.g., pinnipeds in California), obtaining release authorizations for each individual animal would be prohibitively time-consuming both to the stranding network organization and to NMFS staff. Provisions should be maintained allowing for a waiver of this requirement. In the case of a waiver, an organization should have its overall release policy approved by MMHSRP as part of the normal process of SA application and renewal. There should also be a procedure to allow for interim review (between SA renewals) should concerns be raised about an organization's releases.

MMHSRP should consider whether NMFS review of individual release determination recommendations is the best use of time. In many cases, the NMFS regional coordinators reviewing the release determination recommendations are not veterinarians and may not have the experience required to review the information. Another option may be for NMFS to review organizational release policies, ensure they fulfill national standards, and allow stranding network facilities to release animals as long as: they follow their release policies; they maintain a release health certificate or similar paperwork in the animal's permanent medical record kept at the organization (and available for review upon request); and submit disposition paperwork to NMFS in a timely manner. If an organization does not comply, or if there are questions raised (by NMFS, by other network organizations, or by the general public) about an

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organization's release decisions, then the more stringent requirements to submit for approval a release plan and paperwork for each individual animal prior to release could be implemented until it is felt the organization is making good release decisions.

The 15-day timeline for release plan approval does not allow stranding network organizations adequate flexibility to release animals as conditions require. It may sometimes cause animals to be kept longer than medically necessary simply to undergo the federal approval process. MMHSRP should strive for a 48-hour or 72-hour review, so that animals may be released in a timely manner.

*Disentanglement*

I support the alternative of implementation of disentanglement guidelines along with training requirements for disentanglement network participants. As NMFS implements these guidelines, it is important to include a strong effort to bring other regions up to northeast region's level of preparedness. This effort should include structure, training, oversight, and funding. In the absence of a viable network that is easy to contact and quick to respond, untrained members of the public will be motivated to respond. When I worked in California, for example, we had an instance in which a fishing boat improperly disentangled a whale (cut the trailing line but didn't cut the line around the peduncle). Their action, although improper, was understandable because there was no authorized agency able to respond within what the fishers considered a reasonable timeframe, and they were frustrated at the perceived lack of response. An effective, coordinated, and well-trained national disentanglement network will greatly improve human and animal safety.

*Biomonitoring and Research Activities*

I support the alternative of issuance of a new permit with current and new (foreseeable) projects. Stranded marine animals provide an important opportunity to learn more about animals, their populations, and the diseases and conditions that impact them. Research gained from stranded animals is critical to learning more about our oceans and about human health.

In closing, I would also like to express strong support for the John H. Prescott Marine Mammal Rescue Assistance Grant Program. This program provides critical support to stranding network organizations. Stranding response and science has advanced tremendously through the financial support of the Prescott grant program.

I commend NOAA Fisheries and in particular the staff of the MMHSRP program in using the EIS process to improve and establish standards for the stranding and disentanglement network. Thank you once again for the opportunity to participate in the process.

Sincerely,

Kathryn A. Zagzebski  
President & Executive Director  
National Marine Life Center

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**Comments on the NOAA EIS Documents**  
**Prepared by Stranding Program Coordinator Connie Merigo on behalf of the New**  
**England Aquarium Rescue and Rehabilitation Program.**  
**Submitted on February 28, 2006**

General Comments:

On behalf of the staff at the New England Aquarium (NEAq), we appreciate the effort that has gone into this document and are grateful for the opportunity to provide constructive criticism.

Overall we support the efforts of the NOAA Fisheries Service to continue the National Marine Mammal Health and Stranding Response Program (MMHSRP). The MMHSRP serves an important public service in managing sick and stranded marine mammals and monitoring ocean health. Without the MMHSRP the general public would likely take matters into their own hands in regards to marine mammals in distress along our nations shores. Even with the stranding network in place the public often intervenes unaware of regulations and health risks. Human health and safety will be at grave risk without the MMHSRP.

Lastly, we feel all documents as well as course descriptions for training requirements referred to in the NOAA EIS materials under comment must be available to the stranding participants in writing before signing. We also feel that if the Stranding Participants will be held to strict reporting time frames that NMFS' agree to do the same. We understand that upon signing this letter we agree to assume financial responsibility for stranding related activities in our designated area, but we feel that the language in the LOA needs to reflect the resources available to the participant. We are concerned about the future of the Prescott Stranding Grants. If the funding is no longer available, our program will reflect the loss in some way.

Comments on National Template

1. Article I Section 3: Currently LOA's can recommend help from neighboring LOA holders when necessary. This new language "if requested by NMFS" seems to add an extra step in the process. We recommend changing this language to "if requested by other LOA holders or NMFS".
2. Article II Section A1: We recommend defining rapid response.
3. Article II Section B6: In the past, NOAA has provided only limited training regionally. We recommend training one person from each LOA.
4. Article II Section B8: NEAq has been using the ICS system for large-scale events since 1998. This is an intricate system that requires the Incident Commander to have certain qualification, skill level, and knowledge of local resources, regulation, and stranding operations. In addition, the Incident Commander is responsible for directing all resources including personnel, response vehicles and all other related equipment. Much of this equipment includes medical supplies such as syringes,

needles, controlled substance, and often expensive and sensitive diagnostic equipment, which is under the liability of the LOA holder. An arrangement where NOAA will determine an IC as stated in this section can lead to personnel safety and liability issues, resulting from the lack of intricate working knowledge if the IC is not from the primary LOA. Internal LOA policies dictate that stranding operations must happen under the direct supervision of institutional staff. Sensitive resources, as mentioned above, can not be directed by outside individuals. For example, in the case of mass strandings, New England Aquarium policy dictates that all stranding activities and equipment fall under the direction of the Stranding Coordinator or Head Veterinarian. We also have concerns regarding lack of field experience on behalf of some NOAA staff who would be selecting these IC's.

5. Article II Section C7: This section makes reference to working cooperatively with the NMFS Incident Command System (ICS) when implemented. A NMFS ICS document needs to be made available in writing to the LOA holders. As stated above, we have serious concerns about NOAA selecting Incident Commanders.
6. Article II Section C8: This seems like a labor-intensive request in regards to personnel changes, since many facilities have high influx of seasonal employees. We recommend this be limited to full time permanent staff.
7. Article II Section C11: We feel NMFS should reimburse the stranding participants for all media requested. Some participants respond to a large number of high profile events each year and this figure could become significant. We are concerned about NMFS requiring the submission of this material because this is not considered Level A data and is therefore owned by the individual LOA's. In many cases the stranding networks hire videographers to film stranding events for them. In the Aquarium's case the videographers often do it for free as long as they can then produce a marketable product. Therefore, we can not require them to release this media without reimbursement. We also recommend adding that requests for this material will be limited to law enforcement cases, and other high profile stranding events on a limited basis.
8. Article III Section B2c: We would appreciate guidelines on NMFS definition of extralimital or out of habitat situations.
9. Article III Section B3a: This section requests notification of samples retained by the participant within 30 days of a stranding. This requirement may be unattainable for LOA's with high numbers of strandings. We recommend changing this to approve for LOA's to maintain an internal database that NOAA could request as needed. We also suggest NOAA provide a specimen disposition database template for those LOA's that currently maintain their own database. With this system, duplication on the part of LOA's can be eliminated. As written, this requirement would cause a severe backlog in data submission for some LOA's.
10. Article IV Section B1c: We would like NMFS to specify which animals fall under this designation. As written this section would mean that LOA's would have to provide each volunteer with tag guns and NMFS approved tags and every animal would require multiple responders to restrain and tag where in the past, it may have just required one responder to guide an animal back to the water, or relocate and release an animal. For LOA's with large response regions, like the New England

Aquarium, this is an unrealistic goal, which would require staff supervision at every relocated animal.

11. Article IV Section B1d: We would like NMFS to clarify exactly which animals this section refers to. If this section applies to all animals brought into rehab, the request may be difficult to fulfill, and an unnecessary extra step in stranding response.
12. Article IV Section B2d: We would like NMFS to clarify exactly which human interaction cases this refers to. A human involvement case, where an animal may be healthy and merely relocated, qualifies as human interaction. This section seems to indicate that each of these cases needs to be reported to NMFS. We believe this to be an unnecessary additional step because of the nature of some of the cases involved, as well as the number of such cases. In addition, we recommend that NMFS ask for notification only for specific high profile cases, such as those that indicate specific human intent as opposed to accidental take.
13. Article IV Section B2e: We recommend that NMFS state that these requests will be made on a limited basis, as this repeats reporting by the LOA.
14. Article IV Section B2f: This section states that for all live cetacean stranding events the NMFS coordinator may request expedited reporting possibly within 24 hours. Stranding network participants shall provide NMFS with preliminary or complete stranding reports if available, including analytical results and necropsy reports possibly within 24 hours.

In many cases the stranding teams are still in the field for days during a mass stranding or large whale necropsy so it may not be possible to send the stranding report in such a short time frame. We suggest including a phrase such as "or as soon as possible" or "within 48 hours of returning from the field. In addition, analytical results and necropsy reports are not considered Level-A data and are owned by the stranding participants. We do however understand NMFS' need for the data to make informed management decisions. We prefer that this paragraph restate the caveat; NMFS will not reproduce, modify, distribute, or publish the data without consent of the Stranding Participant, unless required to release a copy under Federal law or order (such as the Freedom of Information Act).

15. Article IV Section B2g: We recommend that NMFS state that government staff may not use the data to publish internal documents, scientific publications, or professional lectures without obtaining specific LOA permission and providing LOA co-authorship.
16. Article V Section A2: We recommend that NMFS clarify this section to indicate what sort of research this encompasses. We also recommend that NMFS exclude non invasive research, such as husbandry observations, or collation of data obtained from routine exams or sample collection.

Concluding Remarks:

**This document discusses in detail the training qualification, requirements and consequences that affect the LOA's. There is little discussion of the necessary qualifications and training required of the NOAA regional office staff, or discussion of any plans to ensure that staff meet any such requirements. We would like a section of the agreement to include such a discussion, and for the**

**LOA's to have access to NMFS regional staff qualifications. In addition, we are concerned that NMFS has a number of commitments that may prove hard to implement because of limited resources. Current NMFS staff already has an overwhelming number of responsibilities, and therefore may not be able to effectively assume these new responsibilities. We would like the LOA's to have access to an implementation plan for these new projects. Additionally, we would like consequences implemented for NMFS, just as there are for LOA's, if responsibilities are not fulfilled.**

27 February 2006

P. Michael Payne, Chief  
Marine Mammal and Sea Turtle Division  
NMFS 1315 East-West Highway  
Silver Spring, MD 20910-3226

Dear Mr. Payne,

We, the National Oceanic and Atmospheric Administration (NOAA) Northeast Region LOA and 109h agreement holders listed below, are writing in support of the proposed action to have the National Marine Fisheries Service continue to coordinate and operate the National Marine Mammal Health and Stranding Response Program (MMHSRP). Specifically, we support the MMHSRP's proposal to (1) issue policies and best practices for marine mammal stranding response, rehabilitation, and release, and establish required minimum standards for the national marine mammal stranding and disentanglement networks; (2) issue MMHSRP permits allowing response activities for endangered species, entanglement activities, biomonitoring projects, and import and export of marine mammal tissue samples; and (3) continue to issue and renew stranding agreements (formerly LOAs) on a case-by-case basis as necessary. The MMHSRP provides a critical public service by facilitating response to stranded marine mammals and by promoting research into questions related to ocean health, including causes and trends in marine mammal health and causes of strandings. While each of us has our own opinion on the specific questions involved, collectively, we believe that NMFS has not only a need, but also an obligation, to develop standards for the national marine mammal stranding and disentanglement networks, in order to operate the MMHSRP effectively and efficiently while making the best use of available limited resources.

In response to the specific questions posed for public input on the MMHSRP website, we offer the following comments:

*What sort of activities should be conducted on a local, regional and national level in response to stranded, entangled, sick, injured, and other marine mammals in distress?*

- We support all current activities of the MMHSRP including prevention, response, rehabilitation, release and research of marine mammals that are stranded, entangled, sick, injured, or otherwise in distress, and public education about strandings.

*Should there be different standards or levels of MMHSRP effort for different species or groups of species (i.e. pinnipeds vs. cetaceans; threatened or endangered species vs. increasing populations, etc.)? If so, how should NMFS set these standards or priorities?*

- To the extent that it is practical and legal, we do not believe that there should be different standards of stranding response for different species or regions, regardless of status. Valuable information may be gathered from both pinnipeds and cetaceans, and from endangered and non-endangered species. There needs to be a minimum set of standards that all network members are required to meet. However, given the differences in species and other regional issues, Headquarters should work with each region to prioritize their response based on regional conservation and research priorities and network resources. We also

understand that stranding response levels or standards must be fluid documents, able to incorporate new information as we gather it in order to continue to provide the best stranding response and investigation possible.

*Is the current organization of the national stranding and health assessment networks at the local, state, regional, ecosystem, and national levels adequate to meet the necessary management and research needs for conservation? If not, what changes should be implemented to make the organization more effective?*

- We believe that the current disconnect among the NMFS regions and between the regions and NMFS headquarters is hindering the development of consistent, standardized policies and procedures nationally. There are two fundamental elements that seem to be inhibiting this process. The first is that regional stranding programs operate independently, without direct supervision/connection to headquarters. This prohibits consistency in both program and policy. The second element is that the regional structure of the marine mammal programs varies greatly among the regions. Aside from the Regional Coordinator, there are no parallel positions. In some regions, NMFS employees are paid to respond to strandings, while in others and in other areas within the same regions, NMFS does not contribute to stranding response. Other inconsistencies also contribute to the problem:
  - Stranding response is governed by the regional office control in NER, but under the control of science centers in other regions.
  - Funding for NMFS appears to vary significantly regionally and annually. We would like to see regional NMFS allocation of stranding response funds divided more equally among regions, if possible, from Headquarters.
  - We are aware that MMHSRP funding has been (unfairly, in our opinion) earmarked for specific organizations and states. Anything that can be done to protect and increase the small amount of funding allocated to the MMHSRP is vital. We believe all MMHSRP funding should go towards program goals, and that funds available for dispersal should be equitably divided among stranding network participants through competitive awards and fair direct allocations.
  - The NMFS Regional and local stranding staff should have an equal or higher level of experience than is expected from the network members. If this experience is not present, representatives from NMFS should be encouraged to train with each facility under their charge. This training would help to alleviate the lack of understanding of differences within our regions and facilitate an understanding of how each organization functions.

*Are public and animal health and safety needs adequately addressed in the current organization and operations of the MMHSRP?*

- No, we continue to be concerned about issues surrounding euthanasia. Specifically, we would like to pursue a solution that is both humane and less toxic. The toxicity of euthanasia solution presents a disposal problem and makes it unwise to leave carcasses on uninhabited beaches where they may be consumed by scavengers. Additionally, use of the commonly-prescribed euthanasia solution can be dangerous to personnel when dealing with a struggling animal. It would also allow a broader range of disposal options for euthanized carcasses.



Are there any other relevant issues or data NMFS should consider in its analysis of activities conducted by, for, and under the authorization of the MMHSRP? If so, please provide it or a reference for it.

– We strongly support the continuation and advancement of the John H. Prescott Stranding Grant Program. The support provided by the program is vital to our efforts. However, it must be noted that the activities we are both allowed and required to perform under the current and proposed stranding agreements are in no way fully funded by the Prescott Program. NMFS must recognize the true costs of the Marine Mammal Stranding Network and be prepared for the possibility that without appropriate, annual, non-competitive funding, organizations may not be able to fulfill the goals of the MMHSRP. This is especially true as NMFS moves toward standardizing its marine mammal programs. Additional or more detailed requirements in response, rehabilitation and research may lead to additional costs which must be taken into account.

All considered, we are impressed with the effort and detail that has been presented with the EIS, and we are pleased to be a part of this important process.

Sincerely,

The members of the Northeast Region Stranding Consortium:

Susan Barco  
Virginia Aquarium Stranding Program (VA)

Jay Pagel  
Marine Mammal Stranding Center (NJ)

Robert DiGiovanni  
Riverhead Foundation for Marine Research  
and Conservation (NY)

Charles Potter  
Marine Mammal Program  
Smithsonian Institution (MD)

Lynda Doughty  
Department of Marine Resources (ME)

Katherine Sardi  
The Whale Center of New England (MA)

Tricia Kimmel  
Maryland Dept. of Natural Resources (MD)

Jennifer Dittmar  
Marine Animal Rescue Program, National  
Aquarium in Baltimore (MD)

Katherine Mansfield  
Virginia Institute of Marine Science (VA)

Suzanne Thurman  
MERR Institute (DE)

Keith Matassa  
Marine Animal Rehabilitation Center,  
University of New England (ME)

Sean Todd  
Allied Whale/College of the Atlantic (ME)

Heather Medic  
Mystic Aquarium (CT)

Kathleen Touhey  
Cape Cod Stranding Network, Inc. (MA)

Connie Merigo  
Rescue and Rehabilitation Program, New  
England Aquarium (MA)

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**Subject: MMHSRP EIS comments****Date:** Tue, 28 Feb 2006 15:22:55 -0500**From:** "Daniel K. Odell" <dodell@cfl.r.com>**To:** mmhsrpeis.comments@noaa.gov

28 February 2006

Mr. P. Michael Payne, ATTN: MMHSRP EIS

Chief, Marine Mammal and Sea Turtle Division (F/PR2)

Office of Protected Resources

National Marine Fisheries Service

1315 East-West Highway Room 13635

Silver Spring, MD 20910-3226

Dear Mr. Payne:

The purpose of this letter is to provide written comment on the NMFS request for public input on the Environmental Impact Statement on the activities of the National Marine Mammal Health and Stranding Response Program as referenced in the Federal Register, volume 70, number 248, page 76777 and dated 28 December 2005. I have been involved in marine mammal stranding operations in Florida since 1974 when I was issued NMFS Permit No. 40 (dated 29 August 1974) for cetacean carcass salvage and FWS permit MM-1 (dated 15 April 1974) for Florida manatee carcass salvage. Over the intervening years I have served as volunteer Scientific Coordinator for the Southeastern U.S. Marine Mammal Stranding Network and as State Coordinator for Florida. Until 2002 when the national stranding database came online, my students and I maintained the cetacean and pinniped stranding database for the southeastern U.S. I have watched the stranding network grow and Hubbs-SeaWorld Research Institute is currently an active stranding LOA holder covering the east-central coast of Florida with emphasis on the Indian River Lagoon. Institute scientists have also participated in several Unusual Mortality Events in Florida.

The study of stranded marine mammals - both dead and alive - has been and will continue to be an invaluable resource for the study of marine mammal biology, including the assessment of the health of marine mammal species and populations. The so called 'Level A Data' are the foundation upon which all subsequent studies and analyses of data and specimens from an individual stranded animal are based and interpreted. As such, it is of critical importance that the institutions and individuals authorized to collect Level A stranding data be properly trained in the collection of these data and have a solid understanding of the importance of these data and how they will be used by other investigators. While I could go on for pages with specific examples, network participants continue to submit incomplete Level A reports and often multiple reports with failure to cross-reference field numbers when more than one institution handles an animal, especially a live animal. The quality of work submitted by these individuals and institutions should be reviewed in an ongoing fashion and corrective training given when and where needed.

With respect to the various alternative actions, I believe that

network operations must be improved by placing increased emphasis on the collection of complete and valid Level A data and collection of samples that support those data. As stated above, network participants must be trained in the proper collection and reporting of Level A data and reports must be monitored for quality on an ongoing basis with corrective actions taken immediately. In addition, I believe that collection of voucher specimens that can be used to confirm species identification (e.g. photographs, skulls, skin for DNA analysis) and perhaps to enable life history analyses as needed (e.g., teeth as applicable, particularly for odontocetes) should be considered for implementation as a mandatory requirement. "Hi-Tech" clinical and chemical analyses are often of little use if the species, age and sex of the animal from which the specimens were collected can not be verified.

The marine mammal stranding program provides a unique resource for the study and monitoring of marine mammal species and populations in the coastal waters of the United States. It is extremely important that this program continue and that specific attention be given to the collection and validation of Level A data through network participant training, evaluation and data quality control.

Sincerely,

dko

Daniel K. Odell, Ph.D.  
Senior Research Biologist  
Hubbs-SeaWorld Research Institute  
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10 February 2006

Mr. P. Michael Payne  
Office of Protected Resources  
Marine Mammal and Sea Turtle Division (F/PR2)  
National Marine Fisheries Service  
1315 East-West Highway, Room 13635  
Silver Spring, MD 20910

Dear Mr. Payne:

We are writing in response to your call for comments on the Environmental Impact Statement (EIS) on the Marine Mammal Health and Stranding Response Program (MMHSRP). As a member of the Southwest Region of the Marine Mammal Stranding Network and one of the first permit holders in the region, we appreciate your consideration of our comments as you move forward.

**Public Viewing**

Our chief concern is that public viewing of our animals is integral to our Center's funding. Much of our income is based on individual donations, motivated in large part by visitors' personal viewing experience. Additionally, a central tenet of our organizational mission is to provide outreach and education to students and visitors alike. Every year we teach hundreds of students about marine mammal biology, ecology and conservation. In 2005, we taught nearly 3,000 students about seals and sea lions. Our lessons on entanglement, marine pollution, and human-animal interaction are much more powerful when students have the opportunity to view a wild animal recovering from one of these injuries.

In addition, approximately 35% of our income is based on grants from foundations that explicitly require program components in education and outreach. If we are unable to provide public education and outreach through public viewing, our ability to compete for foundation grants is crippled.

As we surmise that these concerns are shared, we would suggest establishing guidelines for viewing that protect the animals as well as the visitors. We make every effort to protect our animals from stress caused by public viewing, and we fully support the implementation of guidelines for public viewing at stranding centers. Doing away entirely with public viewing, however, would seriously compromise our ability to fund ourselves and hence our ability to provide quality care for the nearly two hundred marine mammals that strand each year in Orange County.

**Quarantine**

The property that our facility is housed on is provided to us at a nominal charge by the City of Laguna Beach. We have limited space and are unable to expand our existing building to include a separate quarantine facility. During the time of year when we are highly impacted with animals, we may rescue as many as five animals a day. Providing a dedicated building for individual quarantine for the number of animals we may be required to rescue is not feasible. We currently take every precaution (quarantine in temporary enclosures, footbaths and clothing disinfection, and dedicated staff) with new animals or animals that may have contagious or communicable diseases.

**Laboratory Tests and Frequency of Testing**

We are dedicated to providing excellent medical care for each stranded marine mammal that we rescue and treat and recognize the importance of regularly monitoring blood chemistry. Based on the number of animals that we treat annually and the cost associated with administering these tests, the expense of a bimonthly CBC/Serum Chemistry is financially prohibitive. In addition, it is our thinking that administering expensive diagnostic tests on mortally ill or injured animals at the time of their admission is a waste of resources and funding. While we could consider Prescott funding to establish and maintain the recommended testing protocol in the short term, we have concerns about the continuing financial ramifications of maintaining this frequency of testing in the long term. In addition, we do not have the staff or facility to collect, analyze, and bank serum and "buffy coat" for every animal.

We surmise that the aforementioned concerns are shared among other small stranding centers with operating budgets less than \$1 million and offer the following suggestion: the establishment of a central MMHSRP (either national or regional) diagnostic lab and sample bank. This would provide a twofold benefit to the Stranding Network. It would alleviate the costs associated with testing for individual centers and it would provide a central data bank for research purposes.

20612 LAGUNA CANYON ROAD • LAGUNA BEACH CA 92651 • 949.494.3050 949.494.2802 fax

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**Additional Comments**

We fully appreciate the need for a national standard for the MMHSRP, but would request that consideration be taken for the discrepancy in numbers of reported stranded animals between regions. The most recent data we found available was taken from NOAA's 1999-2000 MMPA Annual Report to Congress.

Region	Total Number of Strandings	Number of Live Strandings	Number of Dead Strandings
Northeast	637	275	362
Southeast	693	83	610
Northwest	304*	118	181
Southwest	2,016	942	1074

*\*Number includes five cases in which condition of stranded animal was unreported.*

As the table clearly illustrates, the Southwest Region, of which we are a part, is one of the most heavily impacted areas in terms of annual strandings. This fact has implications with respects to both available funding and staffing.

**Conclusion**

The topics which we have commented on have the potential to greatly impact our financial ability to continue providing care for Orange County, California's stranded marine mammals. Our center alone has responded to 939 animals between 2000 and 2005. We look forward to working with you towards an improved Marine Mammal Health and Stranding Response Program.

Please feel free to contact me directly at 949.494.3050 or via email at [mhunter@pacificmmc.org](mailto:mhunter@pacificmmc.org) if you have any questions or require clarification about any of these matters.

Kind regards,



Michele Hunter  
Director of Operations/Animal Care

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**POINT MUGU WILDLIFE CENTER**  
POST OFFICE BOX 1053  
PORT HUENEME, CA 93044-1053  
PHONE: 805-488-5168  
e-mail: seaotter4@verizon.net

28 February, 2006

P. Michael Payne, Chief,  
Marine Mammal and Sea Turtle Division,  
Office of Protected Resources,  
National Marine Fisheries Service,  
1315 East-West Highway, Room 13635,  
Silver Spring, MD 20910-3226

**ATTN: MMHSRP EIS**

Chief Payne:

To begin with, please add our name and contact information to your list of very interested parties concerning your actions regarding anything to do with marine mammals, either here on the West Coast or anywhere for that matter. I would also appreciate it if you could send me all relevant documents concerning this EIS.

I am currently the Executive Director of the Point Mugu Wildlife Center, an organization that began its existence on a Naval Air Station in 1997 and has since moved to various locations near Port Hueneme, CA. We started out with a large number of volunteers and a lot of enthusiasm and community support, most of which was destroyed by the usual problems afflicting animal welfare groups, the grisly details of which I won't go into here. Suffice it to say that we could've used more support from your marine mammal stranding coordinator in Long Beach than we ever received or hoped to receive. Instead of offering support and/or reasonable direction and guidance he kept upping the ante for a permit to establish a marine mammal rehab facility in Ventura County where one is sorely needed.

In the very beginning of our involvement with NMFS we were asked to meet only three criteria for an operating permit. As relations soured among the integral principals your marine mammal stranding coordinator kept increasing the number of items that had to be met in order to secure a permit. In addition, he kept changing his story whenever he was asked for information or help. At one point he said all permitting decisions were the sole responsibility of local animal control offices. That carved in granite rule was later changed to meet criteria of his that we were unaware of. He would often set up rules for bringing a stranded animal in that had to do with space available at rehab centers in San Pedro and Santa Barbara, ostensibly having to do with over-crowding. Since numerous animals had to be left on the beach for 48 hours or more, subject to the tender mercies of interfering humans and scowflaws who refused to obey signs warning them to stay away, this situation, which has been repeated a number of seasons, simply called out for another rehab center in our area. No permit has ever been forthcoming and his

wholly arbitrary rationale for issuing such a permit has hindered our ability to garner community support to establish one here. This situation is unacceptable and on-going. We need consistency!

A few months back your marine mammal stranding coordinator called to say we could transport stranded marine mammals under the aegis of a capable veterinarian in the Santa Barbara area who is himself establishing a marine mammal rehab center in an old school near Gaviota. This is some distance from where we live and work but is exponentially better than nothing at all. The Point Mugu Wildlife Center is currently transferring and contributing cages and other useful equipment to Dr Sam Dover's facility in Gaviota in the hopes that we can assist him in aiding stranded pinnipeds during the upcoming season, usually beginning in April. I will attach some articles from local newspapers that explain the situation here in California a bit better than I am able to do in a letter. In the meantime we are continuing our efforts to establish a state-of-the-art marine mammal and oiled bird facility here at the Aquacultural Center in Port Hueneme. It is a facility that already has infrastructure in place to supply each tenant facility with ocean water. As long as the need exists we will continue our efforts to establish a much-needed facility here, with or without the help or permission of your West Coast Marine Mammal Stranding Coordinator.

We would like you to know that we support your Proposed Alternative #1, with certain provisos that would allow for some kind of appeals process when dealing with intransigent and biased individuals in your employ. Since your increasingly restrictive budgets don't allow for fully effective work in marine mammal rehab activities we would encourage you to fully exploit all available professional help from volunteers. There are a number of qualified medical and animal handling people anxious to do what they can to help relieve the incredible animal suffering we see here on a seasonal and year round basis. I am referring, of course, to the growing number of marine mammals and sea birds that have come to grief as a result of various human recreational or commercial activities.

We thank you for this opportunity to comment on this scoping document. I fully regret not having attended your public meeting in Santa Barbara in January. Had we been notified we would've attended and submitted our comments in person. If further meetings are scheduled please make every effort to notify us, either through e-mail or some kind of public announcement. That this scoping meeting got by us, the very people with interest in this matter, is evidence that your notification process needs improvement. With optimism that things will eventually improve, we remain

Sincerely yours,

Daniel Hayes Pearson  
Executive Director  
Point Mugu Wildlife Center

DP/dhp  
Enclosures: 1



## POINT MUGU WILDLIFE CENTER

Post Office Box 1053

Port Hueneme, CA 93044-1053

(805) 488-5168 e-mail: [seaotter4@verizon.net](mailto:seaotter4@verizon.net)

10 July 2005

### Letters

Ventura County Star  
5250 Ralston Street  
Ventura, CA 93003

**RE: Deadly toxin is taking annual toll on sea lions by Zeke Barlow (6 July, 2005)**

Dear Sirs:

It is unfortunate and regrettable that Mr Barlow's well-written and informative article partially served to spew some deadly toxin of its own. I am referring to the ill-informed and thus misleading and mean-spirited statements made by Ms Kathy Jenks, director of Ventura County Animal Control, proclaiming her disdain of the efforts of local volunteers and wildlife advocates to establish a marine mammal rehab facility in Ventura County.

We, of course, take issue with Ms Jenks' position that the establishment of a marine mammal rehabilitation center (in Ventura County?) would be "worthless." We suppose she means it would be a waste of time and wholly misdirected. This is a doubly unfortunate statement in light of the fact that Ms Jenks is known to be a compassionate woman with strong feelings for animal welfare, albeit focused mainly on errant pets, dangerous animals that could harm the public and escaped, mistreated or neglected livestock. Ms Jenks and her organization have long recognized and applauded the efforts of county volunteers to ameliorate the plight of various species of felines, canines, equines and the occasional possum and reptile.

We take exceptionally strong objection to her statement describing donors of funds for a rehab center as people who would be doing little more than throwing money down a hole. Perhaps this statement was taken out of context.

In fact, despite the plight of marine mammals (and some sea birds) affected by domoic acid poisoning, the need for a marine mammal rehab center, as well as an oiled-bird rehab center, is paramount in Ventura County and has been for several years, over and beyond the seasonal toxic poisoning that seems to occur with increasing intensity. California also needs some saltwater pools or tanks to care for injured or diseased cetaceans (dolphins, whales) that occasionally beach themselves here). Marine mammals are constantly appearing on our shores as either abandoned healthy babies (sometimes a result of human interference), or gunshot and boatstrike victims. If people are disturbed by the agonizing death throes of an animal succumbing to domoic acid poisoning, then they would not be comforted any more by the sight of an infected

animal slowly choking to death with a fish net wrapped around its head or neck. Sometimes these animals have fish-hooks imbedded in them as well and they require and deserve some human help to recover. Even if a number of these afflicted and/or injured animals die in the rehab center they at least provide valuable information about what's going on in the biological ocean; sort of like canaries in coal mines.

Concerned wildlife volunteers are aware of the precepts of nature and don't need to be lectured to about survival of the fittest. Despite what is said about them, they are not tampering with the natural order of things or altering gene pools in any significant way. Life persists on this crowded planet and most volunteers simply want to alleviate unnecessary and avoidable animal suffering; especially when it's caused by human negligence or overt human action, such as poaching or violations of The Marine Mammal Protection Act of 1972. Human-animal conditions in the ocean are not improving and asserting that a marine mammal rehab center is not needed by characterizing the efforts of concerned people as being foolish, misdirected and a total waste of time, energy, concern and money does not serve the real situation along our coastline. Despite what some people may think or say, we need to continue being stewards of life on earth, certainly more now than ever.

Sincerely,

DANIEL HAYES PEARSON  
Executive Director  
POINT MUGU WILDLIFE CENTER

## Animals need space

Re: Daniel Hayes Pearson's July 17 letter, "Marine mammal rehab facility is needed":

Living in the beach area for the past two years, we enjoy the beautiful sunsets each day.

However, one day last week, one of the most distressing things we saw was a man on a ski boat chasing a seal in open water beside the wharf. When the seal finally dove to get away from this boat, I motioned to the man with my arm to leave the seal alone. It was only then, when he saw us watching him, that he disappeared toward Ventura Harbor.

Later the next day, we came back to the beach and saw a seal that was marred by boat scars on its back.

Another time, a young seal was on the water's edge and some volunteers had put some yellow tape up to mark the area and warn people that a young seal was in the area and to keep their distance. Sadly, it seemed to do just the opposite. Many people with dogs and cameras came to see the seal in distress.

Happily, Mr. Pearson's letter will make people aware that marine

mammals need their space to live along with people on our crowded beaches.

7/27/05 — Peter Dane,  
Ventura

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**Provincetown  
 Center for Coastal Studies**

### FAX TRANSMITTAL

TO: Mr. Michael Payne - Office of Protected Resources

FROM: Peter Borrelli, Executive Director

DATE: 2/23/06

Number of pages including this page: 4

#### COMMENTS:

For additional information: (508) 487- 3622 Main Office  
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**Provincetown  
 Center for Coastal Studies**

February 22, 2006

Mr. P. Michael Payne  
 Office of Protected Resources  
 Marine Mammal and Sea Turtle Division  
 (F/PR2)  
 NOAA Fisheries  
 1315 East-West Highway, Room 13635  
 Silver Spring, MD 20910

Dear Mr. Payne:

**Re: Environmental Impact Statement on the  
 Marine Mammal Health and Stranding Program**

These comments are being submitted as a follow-up to oral comments made by Dr. Charles Mayo at the February 13 scoping meeting held in Boston. The Provincetown Center for Coastal Studies (PCCS) is encouraged that NOAA Fisheries is revising the plan for of the Marine Mammal Health and Stranding Response Program (MMHSRP). Having played a key role in the creation of the Cape Cod Stranding Network, we are well aware of many of the issues addressed in the EIS, and we strongly support the call for national standards and guidelines in this field. However, these comments address the disentanglement of large cetaceans.

#### Roles and Training Levels

Included within the EIS are the criteria for disentanglement roles and training levels. These criteria have been developed over the past ten years by NOAA Fisheries in collaboration with PCCS, the only organization authorized to disentangle large whales on the East Coast of the United States. We believe that these criteria should serve as the basis for the development of a national disentanglement network. National standards for disentanglement should require that participation and advancement at all levels is founded on experience and training.

#### Training Facilities

With respect to training we recommend that there be two training facilities, one at our center in Provincetown and one on the West Coast, and that they be accredited to

02/23/2006 9:21AM



teach the protocols that will underpin the national disentanglement program. We cannot emphasize enough the dangers associated with disentanglement to both humans and animals. PCCS's twenty-year perfect safety record is the result of extensive training and adherence to safety protocols.

#### National Protocols

PCCS also supports the development national protocols, to the degree that they may be applicable to all species and locations throughout the nation, to further unify and advance the goals of a national program. The EIS does not address the subject of national protocols, but we encourage their careful development.

Details of protocols that have evolved in the PCCS disentanglement program that should form the basis for the development of national protocols can be found on the Disentanglement Network web site maintained by PCCS, in reports to NOAA Fisheries, and in contracts between the agency and PCCS. A manual for use by individuals trained to experience Level 3 and above by PCCS which details all aspects of disentanglement protocols will soon be produced and should offer many particulars regarding disentanglement procedures. This manual, which in no way circumvents the need for experience and approved training, offers detailed protocols that may guide the codification of national protocols.

Absent underlying protocols for disentanglement applied on a national basis it is unlikely that NOAA Fisheries will have the control that we see as essential to the successful disentanglement of whales. Because of differences in the behavior of species, fishing gear, and logistical support along the coasts of the United States, some protocols will necessarily be tailored to specific circumstances. The national program that evolves will need flexibility with respect to procedures that apply to such variable conditions as cetacean species, accessibility, and procedures that are gear-dependant. However, critically important protocols related to safety, documentation, reporting, and operations should be developed for use through out the nation.

#### National Disentanglement Coordinator

We support the creation of the position of National Disentanglement Coordinator. Our experience shows that the field operations that lie at the heart of any disentanglement program are aided by close coordination with a knowledgeable federal agent, one who understands the logistic, safety, and conservation issues involved in disentanglement efforts. Such an individual should oversee the national protocols and training and interact with components of the developing program to unify the effort while improving communication among the regional networks. The national coordinator of disentanglement should be knowledgeable in federal responsibilities and trained and experienced in disentanglement work with large whales at sea and in the protocols of the disentanglement operations. In our experience it is essential to have all disentanglement coordination pass through a single highly knowledgeable individual

(who may at his/her discretion then pass responsibility on to regional and network coordinators) because many issues involving the urgent response typical of disentanglement need both overview and unitary responsibility and coordination.

The present structure that has evolved during the last twenty years of disentanglement work along the East Coast of North America has shown that:

- Coordination among agencies is essential to the success of the program;
- Close coordination with one federal agent empowered to speak for NOAA Fisheries improves efficiency;
- A decentralized, coastal network of responders working in close coordination with highly trained disentanglement team deployed to the site offers the needed rapid response coupled with intervention by a skilled and experienced primary disentangler;
- Protocols evolving out of the substantial experience of a small number of individuals at PCCS offer a foundation for the advanced protocols that NOAA Fisheries needs to develop throughout the nation.

Thank you for this opportunity to comment during the scoping process.

Sincerely,



Peter Borrelli  
Executive Director

26 February 2006

P. Michael Payne, Chief  
Marine Mammal and Sea Turtle Division  
NMFS 1315 East-West Highway  
Silver Spring, MD 20910-3226

Dear Mr. Payne,

We, the Riverhead Foundation for Marine Research and Preservation (RFMRP), are writing in support of the proposed action to have the National Marine Fisheries Service (NMFS) continue to coordinate and operate the National Marine Mammal Health and Stranding Response Program (MMHSRP). With regards to the proposed action and alternatives, the RFMRP supports MMHSRP's proposal to (1) issue policies and best practices for marine mammal stranding response, rehabilitation, and release, and establish required minimum standards for the national marine mammal stranding and disentanglement networks; (2) issue MMHSRP permits allowing response activities for endangered species, entanglement activities, biomonitoring projects, and import and export of marine mammal tissue samples; and (3) continue to issue and renew stranding agreements (formerly LOAs) on a case-by-case basis as necessary. The RFMRP supports the compilation of minimum guidelines that promote a proactive and coordinated progression of the national MMHSRP. The MMHSRP provides a critical public service by facilitating response to stranded marine mammals and by promoting research into questions related to ocean health, including causes and trends in marine mammal health and causes of strandings.

The RFMRP believes that NMFS has not only a need, but also an obligation, to develop standards for the national marine mammal stranding and disentanglement networks, in order to operate the MMHSRP effectively and efficiently while making the best use of available limited resources.

In response to the proposed alternatives by activity, the RFMRP offers the following comments:

*What sort of activities should be conducted on a local, regional and national level in response to stranded, entangled, sick, injured, and other marine mammals in distress?*

- The RFMRP supports all current activities of the MMHSRP including prevention, response, rehabilitation, release and research of marine mammals that are stranded, entangled, sick, injured, or otherwise in distress, and public education about strandings. Due to the significant role of public funding and its link to public perceptions about strandings it is imperative that NMFS acknowledge the need for outreach with regards to broadcasting the guidelines and the regional priorities of the MMHSRP. The Riverhead Foundation recommends that NMFS support each of the region's priorities and that brochures, public service announcements and general outreach be fully recognized and supported.

To the extent that it is practical and legal, we do not believe that there should be different standards of stranding response for different species or regions, regardless of status. Valuable information may be gathered from both pinnipeds and cetaceans, and from endangered and non-endangered species. There is a need for a minimum set of standards that all network members are required to meet. However, given the differences in species and other regional issues, Headquarters should work with each region to prioritize their response based on regional conservation and research priorities and network resources. We also understand that stranding response levels or standards must be fluid documents, able to incorporate new information as we gather it in order to continue to provide the best stranding response and investigation possible. The RFMRP supports the development of one, two, and five-year plans which could be developed by a working group compiled of representatives from each of the regions.

*Is the current organization of the national stranding and health assessment networks at the local, state, regional, ecosystem, and national levels adequate to meet the necessary management and research needs for conservation? If not, what changes should be implemented to make the organization more effective?*

- We believe that the current disconnect among the NMFS regions and between the regions and NMFS headquarters is hindering the development of consistent, standardized policies and procedures nationally. There are two fundamental elements that seem to be inhibiting this process. The first is that regional stranding programs operate independently, without direct supervision/connection to headquarters. This prohibits consistency in both program and policy. The second element is that the regional structure of the marine mammal programs varies greatly among the regions. Aside from the Regional Coordinator, there are no parallel positions. In some regions, NMFS employees are paid to respond to strandings, while in others and in other areas within the same regions, NMFS does not contribute to stranding response. Other inconsistencies also contribute to the problem:
  - Stranding response is governed by the regional office control in NER, but under the control of science centers in other regions.
  - Funding for NMFS appears to vary significantly regionally and annually. We would like to see regional NMFS allocation of stranding response funds divided more equally among regions, if possible, from Headquarters.
  - We are aware that MMHSRP funding has been (unfairly, in our opinion) earmarked for specific organizations and states. Anything that can be done to protect and increase the small amount of funding allocated to the MMHSRP is vital. We believe all MMHSRP funding should go towards program goals, and that funds available for dispersal should be equitably divided among stranding network participants through competitive awards and fair direct allocations.
  - The NMFS Regional and local stranding staff should have an equal or higher level of experience than is expected from the network members. If this experience is not present, representatives from NMFS should be made to train with each facility under their charge. This training would help to alleviate the lack of understanding of differences within our regions and facilitate an understanding of how each organization functions. The RFMRP strongly recommends that regional coordinators spend a significant portion of their training time with each

of the organizations within their region. Additional training will assist with understanding the uniqueness of each organization within each region.

*Are public and animal health and safety needs adequately addressed in the current organization and operations of the MMHSRP?*

- No, we continue to be concerned about issues surrounding euthanasia. Specifically, we would like to pursue a solution that is both humane and less toxic. The toxicity of euthanasia solution presents a disposal problem and makes it unwise to leave carcasses on uninhabited beaches where they may be consumed by scavengers. Additionally, use of the commonly prescribed euthanasia solution can be dangerous to personnel when dealing with a struggling animal. It would also allow a broader range of disposal options for euthanized carcasses.

*Are there any other relevant issues or data NMFS should consider in its analysis of activities conducted by, for, and under the authorization of the MMHSRP? If so, please provide it or a reference for it.*

- We strongly support the continuation and advancement of the John H. Prescott Stranding Grant Program. The support provided by the program is vital to our efforts. However, it must be noted that the activities we are both allowed and required to perform under the current and proposed stranding agreements are in no way fully funded by the Prescott Program. NMFS must recognize the true costs of the Marine Mammal Stranding Network and be prepared for the possibility that without appropriate, annual, non-competitive funding, organizations may not be able to fulfill the goals of the MMHSRP. This is especially true as NMFS moves toward standardizing its marine mammal programs. Additional or more detailed requirements in response, rehabilitation and research may lead to additional costs, which must be taken, into account. The RFMRP further adds that there is a need for NMFS to recognize that even without rehabilitation that there is a fixed cost associated with the response of marine mammals.

All considered, the RFMRP is impressed with the effort and detail that has been presented with the EIS, and we are pleased to be a part of this important process.

Sincerely,

Robert A. DiGiovanni Jr.  
Director/Senior Biologist

Riverhead Foundation for Marine Research and Preservation  
467 E. Main Street Riverhead, New York 11901  
631.369.9840 [www.riverheadfoundation.org](http://www.riverheadfoundation.org)

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From [jean\\_public\\_<jeanpublic@yahoo.com>](mailto:jean_public_<jeanpublic@yahoo.com>)

Sent Thursday, December 29, 2005 2:17 pm

To [mmhsrpeis.comments@noaa.gov](mailto:mmhsrpeis.comments@noaa.gov)

Cc

Bcc

Subject public comment on federal register of 12/28/05 vol 70 #248 pg 76777

usdoc-noaa-id 230805B

i would like a copy of the paper eis sent to me.

commercial fish profiteers are decimating our seas. nobody watches what they do and they are inflicting serious damage on all marine mammals. law enforcement is remarkably deficient. we need more and higher fines on these lawbreaking commercial fish profiteers. they kill not only marine mammals but bird populations seriously negatively impacting the american public and their children, who will have no living creatures left in the sea after these profiteers are through. the law of the commons is in effect here - it is a well known system of robbery.

it is extremely deficient by noaa that no regulations are proposed to aid in preventing these poor marine mammals from becoming stranded in the first place. we have the u.s. navy assaulting them with sonar, cruise ships ramming them and drowning them in garbage so that their stomachs are full of plastic garbage bags, and all of this goes on courtesy of noaa which attaches little importance to this horrible killing. i want high fines on those caught. i want more catching via satellite watching. i want these commercial fish profiteers jailed and their houses and cars and bank accounts taken from them since they are negatively impacting the world.

noaa is doing a lamentable job so far in this effort. i guess the bureaucrats sitting in washington at their desks get all the tax dollars in this program.

b. sachau  
15 elm st  
florham park nj 07932

--- jean\_public\_<jeanpublic@yahoo.com> wrote:

> Date: Wed, 28 Dec 2005 07:53:27 -0800 (PST)

> From: jean\_public\_<jeanpublic@yahoo.com>

> Subject: overfishing

> To: jeanpublic@yahoo.com

>

> [Federal Register: December 28, 2005 (Volume 70,

> Number 248)]

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500 Sea World Drive · San Diego, California 92109-7904  
Tel: 619.226.3926 · Fax: 619.226.3951  
Seaworld.com

February 25, 2006

P. Michael Payne  
Chief, Marine Mammal and Sea Turtle Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway Room 13635  
Silver Spring, MD 20910-3226

Dear Mr. Payne,

SeaWorld in San Diego has been responding to live-stranded marine mammals in Southern California since 1964. In this endeavor, the program has responded to over 4000 stranded marine mammals composed of 17 Genera and 20 species. These animals have been mostly California sea lions, northern elephant seals, harbor seals, and common dolphins (both long and short beaked). Endangered and threatened species included in this program are Guadalupe fur seals (*Arctocephalus townsendi*), and fin whales (*Balaenoptera physalus*). Other cetacean genera included in the response program have included *Tursiops*, *Kogia*, *Lagenorhynchus*, *Eschrichtius*, *Cystophora*, *Grampus*, *Lissodelphis*, and *Phocoenoides*. This history of stranding response and demonstrated ability to work with marine mammals, as the need arises, makes SeaWorld well qualified to provide comments and suggestions regarding marine mammal health and stranding response.

Stranded animal response provides an excellent passive marine mammal monitoring system. This system in turn, provides information on the ocean environment. Live-stranded animal response provides the best picture of the dynamic condition of live marine mammals. Live-stranded response can provide animal integrated information on real-time environmental conditions such as algal blooms, coastal run-off, toxicants, and infectious diseases. While many of these conditions can be detected in dead stranded animals, the clinical impact of these conditions in dead animals can not be determined. Likewise, assessments of immune function and hormonal alterations require responding to live-stranded animals. Lastly, specimen collection and evaluations performed on live-stranded animals that unfortunately die are the gold standard for necropsy evaluations of marine mammals. These animals provide the best quality samples for researchers throughout the US. For all of these reasons, live-stranded response must continue as a corner stone of the national stranded animal response program. Critical research needs are being addressed by these programs and they continue. Additional needs include increasing support for animal biologic, serologic, post-mortem, and tracking programs. Enhancing these investigations will improve the scientific contributions possible by the live-stranding response program.

Levels of response effort should meet minimum requirements for all species. Minimum requirements should be that all live-stranded animals receive a veterinary examination within 24 hours of rescue. All live-stranded animals should have clinical blood samples collected for routine blood counts, clinical chemistries and a minimum of 2-5ml of serum banked for further serologic tests. All medical care should be under the direction of a licensed veterinarian. Any live-stranded animal that dies should receive a full necropsy evaluation with an integrated

Page two

assessment to assure that maximal information is obtained from the efforts expended on that animal. Samples should be available to researchers for bacteriology, virology, toxicology, and natural history investigations. Standards of effort and care should be established by a panel of ten personnel involved in the highest quality stranding response. All responding participants should have meeting these requirements as a condition of their letters of authorization.

The national stranding program should continue in the current organizational plan with regional coordinators overseeing the local network participants. These coordinators should strive to integrate stranding response, animal assessments, and scientific inquiry. Minimum qualifications for network participants should include: demonstration of facilities and personnel appropriate for handling, housing, and caring for marine mammals; a close relationship with a qualified veterinarian; personnel with knowledge of marine mammal health concerns, safe handling techniques, and zoonotic considerations. Through having qualified, trained, and educated personnel, the stranding response program can minimize zoonotic concerns and injuries associated with management of these animals. Facilities plans should include water management plans that assure that animals are kept in clean water and that water from rehabilitation pools is sanitized prior to discharge.

Activities conducted by the stranding response program have significantly improved our knowledge of human impacts on marine animals and marine life. Many scientific publications have been made possible through investigations in stranded animals. These publications have impacted the public's actions towards the ocean environment. In San Diego, the stranded animal program at SeaWorld has educated thousands of visitors annually about the marine environment and the animals that live there. This educational component of the stranded animal program has fostered concern and commitment to the ocean.

Given the value of the program, and a specific need to assure that personnel and facilities are adequate, alternative 1, the Proposed Action Alternative establishing minimum standards is the recommended course of action. It is critical that responses not be limited to cetaceans only. By limiting the stranding response, you would significantly impede proper training of personnel and facilities development. The marine mammal stranding response program benefits are great and growing. Continued support of this program, especially the live-stranded animal component, will assure that qualified personnel and facilities are available when needed for marine mammals with critical needs.

Sincerely,

Michael Scarpuzzi  
Vice President Zoological Operations



**Sierra Club**

**Los Padres Chapter**

**Santa Barbara and Ventura Counties**

Arguello Group

Conejo Group

Santa Barbara Group

Sespe Group

Alan Sanders  
Conservation Chair  
232 N. Third St.  
Port Hueneme Ca. 93041  
805-488-7988  
alancatdaddy@aol.com

February 22, 2006

P. Michael Payne, Chief,  
Marine Mammal and Sea Turtle Division,  
Office of Protected Resources,  
National Marine Fisheries Service,  
1315 East-West Highway, Room 13635,  
Silver Spring, MD 20910-3226,  
Fax: 301-427-2584

ATTN: MMHSRP EIS or e-mail at  
mmhsrpeis.comments@noaa.gov with the subject line MMHSRP EIS.


Chief Payne

Please add my contact information to your list of interested parties for this and all other planned actions involving marine mammals. I would also like to request paper copies of all relevant documents.

The Los Padres Chapter includes the sections of coastlines in Ventura and Santa Barbara Counties including the Channel Islands National Park. LPC volunteers are well acquainted with stranding issues and other issues involving marine mammals. We also work closely with the Pt Mugu Wildlife Center and other volunteer organizations.

The LPC would support a variation to the preferred alternative (1) with additional features such as an appeals procedure for those denied permitting for marine mammal stranding and disentanglement networks. The application procedure also should be revised to be more user friendly for applicants. We make these comments because of our knowledge that qualified volunteers are not being supported to the detriment of the wildlife under your agencies' purview.

Thank you for the opportunity to comment on this scoping document.

Sincerely,  
  
Alan Sanders

cc. Dan Pearson PMWC

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**Written Comment Form**  
**Marine Mammal Health and Stranding Response Program**  
**Environmental Impact Statement (EIS)**

Your input is important to us. Please use this form to tell us about the environmental issues and alternatives that you think should be analyzed in the Draft EIS. Please feel free to use additional comment sheets if more space is needed. To ensure that your comments are considered in the Draft EIS, we must receive them by February 28, 2006.

- All marine mammal response facilities should be held to APHIS standards, regardless of whether animals are on public display or not.
- Flexibility should be allowed regionally regarding release plan requirements
- regionally flexibility within reason should be allowed regarding proposed Stranding Agreements. Although I support the need for cross the board standards, this may not be realistic in some avenues due to geographical, species, population and agency availability factors. I do feel that there is a strong need for the detailed parameters for failures to comply with stranding agreements
- question regarding the termination action of the stranding agreement. If an agency has its SA terminated, is there a length of time before the agency can reapply?
- I agree with the outlined renewal guidelines for LDAs/SAs, this allows for regulation of identified expected standards

Your Name & Email Address: Shylbi Stoudt STOUBIS@TMMC.ORG  
 Mailing Address: 1065 Fort Cronkite  
 City, State, Zip Code: Sausalito, CA 94965

This form can be submitted to:

P. Michael Payne  
 Chief, Marine Mammal and Sea Turtle Division  
 Office of Protected Resources,  
 NMFS 1315 East-West Highway, Room 13635  
 Silver Spring, MD 20910-3226  
 Email: mmhsrpeis.comments@noaa.gov  
 Fax: 301-427-2584

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**Written Comment Form**  
**Marine Mammal Health and Stranding Response Program**  
**Environmental Impact Statement (EIS)**

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- While I understand the intent of restricting public viewing of animals undergoing rehabilitation, I can also see the benefit of allowing it under certain circumstances. Many of the agencies are non-profits, public viewing of certain species where the potential negative effects are limited. There are plenty of wild viewing areas where people can get just as close. Remote viewing should be clearly defined. Certainly no ESA listed species or cetaceans should be allowed for public viewing areas. In my opinion public viewing would have less impact on animals than conditioning behaviors.
- I feel that all the current programs related to the mmh/SRP are important and should be continued and improved upon. Therefore I feel the No Action Alternative is not feasible. Similarly I do not feel the status quo Alternative is a responsible direction to go.
- The Policies and Practices Manual should be issued

Your Name & Email Address: Shylbi Stoudt STOUBIS@TMMC.ORG  
 Mailing Address: 1065 Fort Cronkite  
 City, State, Zip Code: Sausalito, CA 94965

This form can be submitted to:

P. Michael Payne  
 Chief, Marine Mammal and Sea Turtle Division  
 Office of Protected Resources,  
 NMFS 1315 East-West Highway, Room 13635  
 Silver Spring, MD 20910-3226  
 Email: mmhsrpeis.comments@noaa.gov  
 Fax: 301-427-2584

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### Written Comment Form

#### Marine Mammal Health and Stranding Response Program Environmental Impact Statement (EIS)

Your input is important to us. Please use this form to tell us about the environmental issues and alternatives that you think should be analyzed in the Draft EIS. Please feel free to use additional comment sheets if more space is needed. To ensure that your comments are considered in the Draft EIS, we must receive them by February 28, 2006.

→ I do not feel that any of the alternatives to be eliminated are viable options. Biomonitoring activities are important to monitor the health of the wild populations, however without data from the other programs we would have nothing to compare it to. Stranding Response only is not an option. How would you release an animal without rehab? For pinnipeds, ~~is~~ entanglement is part of the definition of a stranded marine should response and rehabilitation for cetaceans only happen, many agencies would be forced to close as the majority of their patients are pinnipeds. Some information gained from one species can be applied to another species that may be listed under the ESA. Without response and rehabilitation to non-ESA listed species we would not be able to treat those on the list as effectively. Sharing information by way of a national database allows for networks to learn & share data easily.

Your Name & Email Address: Shelbi Stoudt STOUTS@TMMC.ORG  
Mailing Address: 1065 Fort Cronkhite  
City, State, Zip Code: Sausalito, CA 94965

This form can be submitted to:

P. Michael Payne  
Chief, Marine Mammal and Sea Turtle Division  
Office of Protected Resources,  
NMFS 1315 East-West Highway, Room 13635  
Silver Spring, MD 20910-3226  
Email: mmhsrpeis.comments@noaa.gov  
Fax: 301-427-2584

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### Written Comment Form

#### Marine Mammal Health and Stranding Response Program Environmental Impact Statement (EIS)

Your input is important to us. Please use this form to tell us about the environmental issues and alternatives that you think should be analyzed in the Draft EIS. Please feel free to use additional comment sheets if more space is needed. To ensure that your comments are considered in the Draft EIS, we must receive them by February 28, 2006.

→ From the information I have seen, I strongly support the proposed action plan presented regarding the issues and programs connected to the MMHSRP. I think all programs could and should be improved upon.

Your Name & Email Address: Shelbi Stoudt STOUTS@TMMC.ORG  
Mailing Address: 1065 Fort Cronkhite  
City, State, Zip Code: Sausalito, CA 94965

This form can be submitted to:

P. Michael Payne  
Chief, Marine Mammal and Sea Turtle Division  
Office of Protected Resources,  
NMFS 1315 East-West Highway, Room 13635  
Silver Spring, MD 20910-3226  
Email: mmhsrpeis.comments@noaa.gov  
Fax: 301-427-2584

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**Subject: Fw: EIS on MMHSRP**

**Date:** Tue, 28 Feb 2006 11:10:02 -0600

**From:** "Forrest Townsend D.V.M." <bayvet@bha.gccoxmail.com>

**To:** mmhsrpeis.comments@noaa.gov

----- Original Message -----

From: [Forrest Townsend D.V.M.](mailto:Forrest.Townsend.D.V.M.)

To: [Janet Whaley](mailto:Janet.Whaley)

Sent: Friday, February 17, 2006 11:56 AM

Subject: EIS on MMHSRP

Good Morning Janet, I reviewed your paper and only have minor comments.

page 4 6. great news for us in the FI panhandle

5 3. I am concerned of being ordered to euthanize healthy calves on the beach

5 6.a. We have sent tissues for histology to a number of pathologists I guess this is what you are calling

non-diagnostic parts, over the many past years we have requests for tissues i.e. spleens, eyes etc. these are the persons that need to apply for a permit?

6 9. good!

6 10. need the current list, had a positive brucellosis card test that the state and local health department got excited about. The NMFS needs a brief explanation in writing to explain the significance of these reportable diseases in marine mammals and the problems with our current testing methods.

7 2. Who's funding this?

7 6. Again need current list.

10 e. need to explain the chain of custody procedures to us that don't know it

10 4. this is a real problem, when a volunteer spends 2-3 hours on their time collecting samples and then are responsible for site cleanup it would only take one criticism to run alot of us off. The problem is city and county sometimes will help out but on the weekend they usually not provide assistance and added is the problem of private property access

11 b. I have been told in the past by NMFS that we had to put a satellite tag on a dolphin, and really in most cases this is the only way to really judge the success of a release on a rehab animal. I am not suggesting this on mass strandings, out of habitat dolphins and any cases that are not held in a rehab facility for an extended length of time.

13 d. oral or written approval ( should be written)

14 3. does this include tissues we send to the pathologists or tissues we retain?

18 d. this is a really important item on the Gulf coast after last year, I have written my parks with recommendations to develop plans for these events

18 e. feral cats at a park caused a fatal toxoplasmosis case in a rehab dolphin

19 a. need current list

Hope this helps, Forrest

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## United States Department of the Interior

NATIONAL PARK SERVICE  
Glacier Bay National Park and Preserve  
P.O. Box 140  
Gustavus, Alaska 99826-0140  
Tel: 907-697-2230 · Fax: 907-697-2654



IN REPLY REFER TO  
L7619

FEB 7 2006

P. Michael Payne, Chief  
Marine Mammal and Sea Turtle Division  
NMFS 1315 East-West Highway  
Silver Spring, MD 20910-3226

Dear Mr. Payne

Thank you for giving Glacier Bay National Park and Preserve (GBNPP) the opportunity to comment during the scoping process for the National Marine Fisheries Service's (NMFS) upcoming Environmental Impact Statement to analyze the Marine Mammal Health and Stranding Response Program (MMHSRP). As you know, GNBPP has a long history of cooperation in response to marine mammal strandings in Southeast Alaska and we look forward to continuing to be involved with the NMFS Alaska Region stranding network in the future.

We are pleased that NMFS is developing national protocols to standardize the marine mammal stranding networks across the country, however we do not support the language in the Interim Stranding Agreement Template, Section C, Participant Responsibilities: "[Participant] shall bear any and all expenses that they incur with the taking, collection, or other activities pursuant to this Agreement." Stranding network participants in Alaska face unique challenges in responding to strandings due to the lack of roads and complicated logistics associated with traveling within our remote region. In the past, the NMFS Alaska Regional Office has covered the expense of air taxis, charter flights and other travel costs incurred during our response to strandings outside GBNPP. We feel strongly that continuing this precedent is necessary given the great expense involved in responding to strandings in Alaska, thus perhaps a different version of the Stranding Agreement is needed for Alaska stranding network participants to ensure that the network remains effective.

We support the adoption of the proposed criteria for disentanglement roles and training levels following the Provincetown Center for Coastal Studies model. In addition, we encourage NMFS to develop a standardized protocol at the regional level for responding to reports of live entangled whales which clearly outlines the roles and responsibilities of Alaska stranding network members and how these mesh with NMFS personnel under an Incident Command System framework. This protocol could be adjusted on a case-by-case basis depending on the circumstances of the event.



The majority of the strandings that we are asked to respond to outside of GBNPP involve humpback whales (live entanglements and/or dead animals). We encourage NMFS to continue to prioritize responding to these events and coordinating full necropsies when dead animals are found to ensure that the causes of mortality in humpback whales in Alaska are thoroughly investigated. Finally, while the focus of the MMHSRP is on 'response' to strandings, we encourage NMFS to incorporate a proactive approach into the program in which the agency works with commercial and private stakeholders to prevent marine mammal strandings caused by fisheries interactions, vessel strikes and other anthropogenic sources.

We commend NMFS for supporting and organizing several training and educational opportunities for Alaska stranding network participants over the past year, including an advanced whale disentanglement training workshop in Glacier Bay in September 2005, a harbor seal necropsy workshop in Juneau in January 2006 and an Alaska Region marine mammal stranding network meeting in Anchorage earlier this month. These opportunities have strengthened our network and we thank you for your continued support.

We hope you will find these comments useful and we look forward to reviewing the draft EIS.

Sincerely,

Tomie Patrick Lee  
Superintendent



February 28, 2006

Michael Payne, Chief  
Marine Mammal and Sea Turtle Division  
NMFS 1315 East-West Highway  
Silver Spring, MD 20910-3226

Dear Mr. Payne,

Thank you for the opportunity to comment during the scoping process for the National Marine Fisheries Service's (NMFS) upcoming Environmental Impact Statement to analyze the Marine Mammal Health and Stranding Response Program (MMHSRP). I have been part of the Alaska Stranding Network since the 1980s. My primary involvement has been in disentangling humpbacks whales but I have conducted necropsies and identified stranded marine mammals in remote Alaskan sites for NMFS, as well.

Having been issued an LOA (Letter of Authorization and now a Stranding Agreement, SA) for a number of years, I am really just recognizing what that responsibility involves. I have concerns over the language in the Interim Stranding Agreement Template, Section C, Participant Responsibilities: "[Participant] shall bear any and all expenses that they incur with the taking, collection, or other activities pursuant to this Agreement."

Alaska has unique challenges in responding to strandings and entangled marine mammals because of the size of the state, length of the coastline, remoteness, the lack of roads (accessibility to a site) all which lead to incredibly complicated logistics associated with traveling within our state. We should not be aligned with logistics available in other regions of the United States. I realize many of the protocols we use today evolved in other regions but this established protocol, where the stranding network volunteer bears the financial responsibility for the disentanglement or necropsy, should not be applied to Alaska. The cost of doing business in Alaska is expensive when compared to other regions.

NMFS Alaska Regional Office has provided funds for travel to remote sites, including the expense of air taxis and other travel costs incurred during a response. This should continue and the Stranding Agreements should reflect this support explicitly for Alaskan participants. I can not carry this financial burden as a SA holder. I have given countless volunteer hours to the stranding network but do not have a developed program similar to what exists in other regions to support the costs of responding to a stranding or entanglement.

I believe that the MMHSRP should continue to support and develop a workable network to respond to all strandings and entanglements of live animals in Alaska. This includes providing equipment and training for participants. This is absolutely needed to document interactions with fisheries as mandated by Congress under the MMPA reauthorization. More participants are needed in all areas of Alaska. Coverage is minimal, even in areas which currently have participants. Requirements for participation could come at all levels; from basic identification at a stranding site; to placement of a telemetry buoy; to conducting a full necropsy or disentanglement.

Not only does the Stranding Network in Alaska need to be fully developed, there should be a proactive approach to this issue. As whale populations recover from commercial exploitation and the waters of

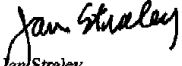
Alaska become increasingly used by vessels of all types there undoubtedly will be an increase in human interactions with marine mammals. This will occur in the form of increased vessel strikes resulting in strandings and entanglements in fishing gear, both recreational and commercial.

Currently, many of the fisheries strandings/entanglements can not be identified to gear type or origin of gear. Working proactively with the fishing communities (recreational and commercial) could solve some of these issues, not only to help identify gear involved but to offer suggestions in setting gear to reduce strandings/entanglements. Additionally, in Alaska this program should support a full time database person (or more than currently exists) at the regional level. Mary Sternfield has done an admirable job, first as an intern, then a contract employee and now as a NMFS employee BUT her position is primarily with the observer program and only minimally with the stranding network. The historical and ongoing database dealing with strandings and entanglements needs to be maintained at a high level of effort and commitment by NMFS. Fishery interactions, as determined from the disentanglement data where we can connect the interaction to a fishery, is predominately with pot gear. However, only one of the pot fisheries is listed in the List of Fisheries in having any interactions with marine mammals. Also, in the recent List of Fisheries the level III category for Alaska does not list some species I know were involved (because I disentangled whales from the gear) in having interactions with fishing gear. I fully realize that NMFS has a lot to keep track of in terms of fisheries interactions with marine mammals but this type of oversight could be alleviated by supporting a database manager at the regional level. It has improved greatly over the past 20 years but could get better, and this need will become even higher with the inevitable increasing interactions.

We do need to develop and maintain this program in Alaska, where we have marine mammal populations along our entire coastline. As our oceans become noisier, more polluted, mass die offs of marine mammals, including declines of seal and sea lions may, and continue to, occur. It will be necessary to have fully trained responders to assess such an occurrence. This is important not only to monitor changes in ocean health, climate change and global warming but because our human population relies on marine mammals for food. If limited funds are available for responding, there should be regional priorities established within Alaska to determine where these funds should be allocated. I believe a priority response should be based upon factors such as knowledge about the species (if little is known this information will increase the body of knowledge about that species) and if species is involved in a fishery interaction or human consumption. Certainly, declining populations should receive priority. However, I do think we should be careful when we are rehabilitating a marine mammal in that a decision to keep alive a marine mammal in distress should not be made for all live stranded marine mammals. If rehabilitation does occur, deciding if that animal should be released back into the wild should be made very carefully to protect other wild animals in the release location from disease.

I would like to thank NMFS for developing a website, organizing training and providing educational opportunities for Alaska participants during the past decade, particularly during the past year. These have greatly improved our ability to respond to strandings and disentanglements.

Sincerely,

  
Jan Straley  
Assistant Professor of Biology



20 February 2006

P. Michael Payne, Chief  
Marine Mammal and Sea Turtle Division  
NMFS 1315 East-West Highway  
Silver Spring, MD 20910-3226

Dear Mr. Payne,

We, the NOAA Northeast Region LOA and 109h agreement holders listed below, are writing in support of the proposed action to have NMFS continue to coordinate and operate the National Marine Mammal Health and Stranding Response Program (MMHSRP). Specifically, we support MMHSRP's proposal to (1) issue policies and best practices for marine mammal stranding response, rehabilitation, and release, and establish required minimum standards for the national marine mammal stranding and disentanglement networks; (2) issue MMHSRP permits allowing response activities for endangered species, entanglement activities, biomonitoring projects, and import and export of marine mammal tissue samples; and (3) continue to issue and renew stranding agreements (formerly LOAs) on a case-by-case basis as necessary. The MMHSRP provides a critical public service by facilitating response to stranded marine mammals and by promoting research into questions related to ocean health, including causes and trends in marine mammal health and causes of strandings. While each of us has our own opinion on the specific questions involved, collectively, we believe that NMFS has not only a need, but also an obligation, to develop standards for the national marine mammal stranding and disentanglement networks, in order to operate the MMHSRP effectively and efficiently while making the best use of available limited resources.

In response to the specific questions posed for public input on the MMHSRP website, we offer the following comments:

*What sort of activities should be conducted on a local, regional and national level in response to stranded, entangled, sick, injured, and other marine mammals in distress?*

- We support all current activities of the MMHSRP including prevention, response, rehabilitation, release and research of stranded, entangled, sick, injured, and other marine mammals in distress, and public education about strandings.

*Should there be different standards or levels of MMHSRP effort for different species or groups of species (i.e. pinnipeds vs. cetaceans; threatened or endangered species vs. increasing populations, etc.)? If so, how should NMFS set these standards or priorities?*

- To the extent that it is practical and legal, we do not believe that there should be different standards of stranding response for different species or regions, regardless of status. Valuable information may be gathered from both pinnipeds and cetaceans, and from endangered and non-endangered species. Rather, each region should be encouraged to

prioritize their own response based on regional conservation and research priorities and network resources. We also understand that stranding response levels or standards must be fluid documents, able to incorporate new information as we gather it in order to continue to provide the best stranding response and investigation possible.

*Is the current organization of the national stranding and health assessment networks at the local, state, regional, ecosystem, and national levels adequate to meet the necessary management and research needs for conservation? If not, what changes should be implemented to make the organization more effective?*

- We believe that the current disconnect among the NMFS regions and between the regions and NMFS headquarters is hindering the development of consistent, standardized policies and procedures nationally. There are two fundamental elements that seem to be inhibiting this process. The first is that regional stranding programs operate independently, without direct supervision/connection to headquarters. This prohibits consistency in both program and policy. The second element is that the regional structure of the marine mammal programs varies greatly among the regions. Aside from the Regional Coordinator, there are no parallel positions. In some regions, NMFS employees are paid to respond to strandings, while in others and in other areas within the same regions, NMFS does not contribute to stranding response. Other inconsistency also contribute to the problem:
  - Stranding response is governed by the regional office control in NER, but under the control of science centers in other regions.
  - Funding for NMFS appears to vary significantly regionally and annually. We would like to see regional NMFS allocation of stranding response funds divided more equally among regions, if possible, from Headquarters.
  - Finally, we are aware that MMHSRP funding has been (unfairly, in our opinion) earmarked for specific organizations and states. Anything that can be done to protect and increase the small amount of funding allocated to the MMHSRP is vital. We believe all MMHSRP funding should go towards program goals, and that funds available for dispersal should be equitably divided among stranding network participants through competitive awards and fair direct allocations.
  - The NMFS Regional and local stranding staff should have an equal or higher level of experience than is expected from the network members. If this experience is not present, representatives from NMFS should be made to train with each facility under their charge. This training would help to alleviate the lack of understanding of differences within our regions and facilitate an understanding of how each organization functions.

*Are public and animal health and safety needs adequately addressed in the current organization and operations of the MMHSRP?*

- No, we continue to be concerned about issues surrounding euthanasia. Specifically, we would like to pursue a solution that is both humane and less toxic. The toxicity of euthanasia solution presents a disposal problem and makes it unwise to leave carcasses on uninhabited beaches where they may be consumed by scavengers. Additionally, use of the commonly-prescribed euthanasia solution can be dangerous to personnel when dealing with a struggling animal. It would also allow a broader range of disposal options for euthanized carcasses.

Are there any other relevant issues or data NMFS should consider in its analysis of activities conducted by, for, and under the authorization of the MMHSRP? If so, please provide it or a reference for it.

- Yes, it must be noted that the activities we are both allowed and required to perform under the current and proposed stranding agreements are in no way fully funded by the Prescott Program. NMFS must recognize the true costs of the Marine Mammal Stranding Network and be prepared for the possibility that without appropriate, annual, non-competitive funding, organizations may not be able to fulfill the goals of the MMHSRP. This is especially true as NMFS moves toward standardizing its marine mammal programs. Additional or more detailed requirements in response, rehabilitation and research may lead to additional costs which must be taken into account.

All considered, we are impressed with the effort and detail that has been presented with the EIS, and we are pleased to be a part of this important process.

Sincerely,

The members of the Northeast Region Stranding Consortium:

Susan Barco  
Virginia Aquarium Stranding Program (VA)

Robert DiGiovanni  
Riverhead Foundation for Marine Research  
and Conservation (NY)

Greg Jakush  
Marine Animal Lifeline (ME)

Tricia Kimmel  
Maryland Department of Natural Resources  
(MD)

Katherine Mansfield  
Virginia Institute of Marine Science (VA)



Keith Matassa  
Marine Animal Rehabilitation Center,  
University of New England (ME)

Heather Medic  
Mystic Aquarium (CT)

Connie Merigo  
Rescue and Rehabilitation Program, New  
England Aquarium (MA)

Jay Pagel  
Marine Mammal Stranding Center (NJ)

Charley Potter  
Smithsonian Institution (MD)

Kate Sardi  
Whale Center of New England (MA)

Brandi Sima  
Marine Animal Rescue Program, National  
Aquarium in Baltimore (MD)

Suzanne Thurman  
MERR Institute (DE)

Sean Todd  
Allied Whale/College of the Atlantic (ME)

Kathleen Touhey  
Cape Cod Stranding Network, Inc. (MA)

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27 February 2006

P. Michael Payne, Chief  
Marine Mammal and Sea Turtle Division  
NMFS 1315 East-West Highway  
Silver Spring, MD 20910-3226

Dear Mr. Payne,

We are writing to provide comments on the proposed actions of NMFS to continue to coordinate and operate the National Marine Mammal Health and Stranding Response Program (MMHSRP) for response to stranded marine mammals and research into questions related to mammal health, including trends in marine mammal health and the causes of strandings, of the Marine Mammal Protection Act.

We believe that NMFS has not only a need, but also an obligation, to develop standards for the national marine mammal stranding and disentanglement networks in order to operate the MMHSRP effectively and efficiently, making the best use of available limited resources.

In general, we are very impressed with the documents produced as a part of the EIS/NEPA process. With the exception of some minor comments, the Stranding Agreement (SA) template, the SA minimum criteria, Rehabilitation Facility Guidelines, Release Criteria and Disentanglement Guidelines are well thought out, well written and organized.

The updated proposed actions/alternatives presented at the scoping meetings are more problematic. While we understand and agree with the idea of breaking the MMHSRP into programmatic activities (Response, Carcass Disposal/Euthanasia, Rehabilitation, Release of rehabilitated animals, Disentanglement, Research and Biomonitoring), we are concerned that some of the alternative actions are untenable and others are not listed. We list first general comments on the amended alternatives, followed by specific comments for each activity, answers to questions posed in the scoping presentation, and, finally, comments on the draft documents listed in paragraph three above.

General comments on scoping meeting amended alternatives for all activities:

- We reject the *'No Action'* and the *'Curtail Activity Immediately'* alternatives for all activities. It is critical that these activities continue.

- We reject the *'authorize some activities, do not allow others'* alternative for all activities unless specifically stated below.
- We do not prefer the *'Status Quo'* alternative for any activity. NOAA must make changes in order to operate the MMHSRP more effectively and efficiently.
- Where applicable, we believe that the criteria/guidelines mentioned under different activities should be implemented with minimal revisions.
- We are assuming that recommendation of an alternative does not preclude acceptance of another, especially where criteria or guidelines are concerned. For example acceptance of *'Release Criteria'* does not preclude implementation of other alternatives such as the *'All animals released'* alternative.

Comments on Stranding Response Alternatives:

- Does *'Stranding Response'* only refer to DEAD animals??? If not the section should be structured based on the *'Articles of Authorization'* recommended in the Stranding Agreement template.
- For dead and live animal initial response, we prefer the *'Response to some animals required, others optional'* alternative, but suggest re-wording the alternative and a different required/optional breakdown under the alternative.
- We do not believe it should be optional to record data Level A or partial Level A (if only location, date and suspected species) about a stranded marine mammal and would therefore like to see the alternative read: *'Level A response required; higher levels of response required or optional depending on the circumstances: ...'* or something similar.
- Levels of response (level A, B & C or other definition) should be based on both species group and condition code, and, perhaps, on location and time of year.
- The definition of Level A response could change depending on the carcass condition and the status of the population.
- Requirements/guidelines for stranding response (species, population or group, age class, condition) and data collection (Level A, B & C or other definition) should be dynamic and directed by NOAA/NMFS HQ with input from the regional coordinators and SA holders. Requirements and guidelines could be issued annually and more specific protocols, based on regional disease threats, UMEs, and other events, could be issued on an as-needed basis.

Comments on Carcass Disposal/Euthanasia Alternatives:

- It is unclear whether the *'All animals buried on site'* and the *'All animals transported off-site for disposal'* refer to all carcasses or only those that have been chemically euthanized.
- If the above alternatives refer to all carcasses, then without further funding, stranding response organizations cannot be responsible for either burial or off-site transport of all marine mammal carcasses. Requiring

either of these alternatives as part of an SA would effectively shut down numerous organizations response activities.

- If the above alternatives refer only to chemically euthanized carcasses, then carcass disposal of non-euthanized carcasses (especially of large whales and carcasses that die naturally during mass strandings and UMEs) should also be addressed with funding provided for proper disposal, especially if euthanized.
- The final alternative *'Chemically euthanized animals transported off-site; others left, buried or transported as feasible'* is the most appropriate alternative without funding being provided specifically for disposal.
- We feel that euthanasia guidelines for large and for endangered animals is needed. These situations involve legal and/or environmental concerns that we have little guidance on at present. Can we, legally, euthanize an endangered whale, if the animal is clearly suffering????
- We suggest that NOAA explore a less toxic, but humane means of chemical euthanasia as soon as possible. It is possible that a combination of potassium chloride with a less toxic (or non-toxic) depressant or pain killer can provide humane euthanasia. This would address both worker safety and carcass disposal issues in less-than-ideal field situations.

#### Comments on Rehabilitation Alternatives:

- Does *'Rehabilitation'* refer to both live stranding first response and live stranding rehabilitation and release as described in the *'Articles of Authorization'* recommended in the Stranding Agreement template? Please clarify.
- Our comments assume adoption of the Stranding Agreement Template and Rehab and Release best practices and facility guidelines as proposed with, at most, minor changes.
- We do not agree with any of the alternatives as written. We do believe that NOAA/NMFS should require specific data collection (diagnostic tests, behavioral and physical assessment, etc.) for animals taken into rehab based on species, population or group, age class, health status, etc.
- Because emerging diseases, HABS, and other unusual events are more likely to be detected in live specimens of more common species/populations, it seems unwise to stop requiring rehabilitation of these groups such as harbor seals and California sea lions. Some limited rehab, or at least sampling of live animals should be required (where facilities exist) in each region in each population at different times of the year.
- We believe that NOAA/NMFS should develop spatial and temporal rehab/release priorities based on species, population or group, age class, health status, etc.
- Requirements/guidelines/priorities for live animal response, rehab and release (species, population or group, age class, condition) and data collection (diagnostic tests, behavioral and physical assessment, etc.) should be dynamic and directed by NOAA/NMFS HQ with input from the regional coordinators and SA holders. Requirements and guidelines could

be issued annually and more specific protocols, based on regional disease threats, UMEs, and other events, could be issued on an as-needed basis.

- Whenever possible, active, post-release monitoring of rehabilitated animals should be strongly recommended or required.

#### Comments on Release Alternatives:

- We agree with the *'All animals released'* alternative (with exceptions below) if the release guidelines are adopted as is or with minimal changes.
- There may be times and places where release of a successfully rehabilitated animal is not authorized to ensure protection of the environment and/or human safety.
- There may be exceptions where an animal that is initially not a candidate for release is taken into rehabilitation (For example: an abandoned or injured *Tursiops* neonate or walrus pup rehabilitated with unconditional placement into an approved collection prior to the rehab process; an animal taken into rehab in order to further investigate disease, especially zoonoses, before euthanasia).

#### Comments on Disentanglement Alternatives: (large whales)

- We agree with the *'Implementation of Disentanglement Guidelines, training prerequisites for Disentanglement Network participants'* alternative.
- We believe that there should also be guidelines and authorization for small cetacean and pinniped disentanglement, especially in fixed gear.

#### Comments on Biomonitoring Alternatives:

- We agree with the *'Issuance of New Permit with current and new (forseeable) projects'* alternative.

#### General comments on guidelines and criteria:

- Final decisions regarding issuance of and renewal of Stranding Agreements (SAs) should be made by NOAA/NMFS HQ and regional stranding coordinators with input from current SA holders in the region. These decisions should NOT be made solely by regional administrators (RAs) or other administrators at the regional level. At most, their input should be considered by HQ and the regional stranding coordinators.
- Final decisions about release should NOT be made by regional administrators (RAs). At most, their input should be considered by HQ and the regional stranding coordinator. In general RAs are not veterinarians, have little or no stranding experience and may not be well versed in marine mammal biology. The final decision should be made by HQ, with input from the facility that rehabilitated the animal(s), the regional stranding coordinator, as well as veterinarians and experts on the species/rehab process.

Responses to specific questions posed in the scoping input document on the MMHSRP website:

**What should the minimum qualifications of an individual or organization be prior to becoming an SA holder or disentanglement participant?**

Staff of any potential SA holder are required to have hands-on experience and/or comparable training from a facility or organization currently holding a NOAA/NMFS SA or similar international agreement. Written documentation from previous supervisor(s) should be required to ensure that appropriate experience was obtained.

**What should the requirements be for continued participation in the networks? Should there be a certification or licensing process? What training should be required?**

Facilities or organizations should be required to maintain 'good standing' status by following guidelines established in the minimum standards and SA template. We agree with the conditions described in the SA National Template.

Certifications or licenses in addition to the SA would be helpful, but costly. Training in human interaction evaluation, large whale stranding response, euthanasia, mass stranding response and UME coordination should be required in order to achieve a certification.

**What sort of activities should be conducted on a local, regional and national level in response to stranded, entangled, sick, injured, and other marine mammals in distress?**

We support all current activities of the MMHSRP including response, rehabilitation, release and research/biomonitoring of stranded marine mammals (pinnipeds and cetaceans in the NER).

**Should there be different standards or levels of MMHSRP effort for different species or groups of species (i.e. pinnipeds vs. cetaceans; threatened or endangered species vs. increasing populations, etc.)? If so, how should NMFS set these standards or priorities?**

To the extent that it is practical and legal, we believe there should never be a 'No response' alternative for dead animals (i.e. where no data are collected) for any species or region, regardless of status.

For live animals, to the extent that it is practical and legal, we believe that there should be a 'No response' alternative that allows nature to take its course without intervention or euthanasia for any species or region, regardless of status.

**Is the current organization of the national stranding and health assessment networks at the local, state, regional, ecosystem, and national levels adequate to meet the necessary management and research needs for conservation? If not, what changes should be implemented to make the organization more effective?**

We believe that the current disconnect among the NOAA/NMFS regions and between the regions and NOAA/NMFS headquarters is hindering the need for consistency and standardization nationally. In some areas, NOAA employees are paid to respond to strandings, while in other areas, NMFS does not contribute directly to stranding response.

Among regions, stranding response is under regional office control (in NER), but under the control of science centers in others (in SER). In order to maintain consistency, we believe that regional stranding coordinators should answer directly to and make decisions based on recommendations from HQ with input from regional staff and not *vice versa*.

Funding for stranding response (outside of Prescott) appears to vary significantly regionally and annually.

We are aware that NOAA/NMFS set-aside funding has been earmarked (unfairly in our opinion) for stranding organizations and activities in certain states. Anything that can be done to protect and increase the small amount of funding allocated to the Marine Mammal Stranding Network and MMHSRP is vital.

**Are public and animal health and safety needs adequately addressed in the current organization and operations of the MMHSRP?**

No, we continue to be concerned about euthanasia. We would like to pursue a humane, but less toxic alternative to the euthanasia solution that is currently approved by the AVMA.

The toxicity of euthanasia solution presents a disposal problem and makes it unwise to leave carcasses on uninhabited beaches where they may be consumed by scavengers.

Use of the solution can be dangerous to personnel when dealing with a struggling animal. If we can develop a euthanasia protocol that utilizes non-controlled, less toxic drugs, then we may be able to implement a euthanasia certification that does not require licensed veterinary personnel to administer. This would reduce stressful transports for some animals as well as reduce dangerous situations for response staff. It would also allow a broader range of disposal options for euthanized carcasses.

**Are there any other relevant issues or data NMFS should consider in its analysis of activities conducted by, for, and under the authorization of the MMHSRP? If so, please provide if or a reference for it.**

Yes, it must be noted that the activities we are 'allowed' to perform under the current and proposed stranding agreements are in no way fully funded by the Prescott Program. NOAA/NMFS must recognize the true costs of the 'Volunteer' Marine Mammal Stranding Network and be prepared for the possibility that without appropriate, annual, non-competitive funding support, organizations may not be able to fulfill the goals of the MMHSRP.



Specific Comments on Documents:  
*SA template, SA minimum criteria and Disentanglement Guidelines acceptable as written.*

## Standards for Rehabilitation Facilities

### Chapter 1

pg 2 - Need definition of "qualified personnel" ratio of 3:1 for critical cetacean care

- Can this include trained volunteers along with 1 trained, experienced staff member?
- Must all 3 be on the premises 24/7 or just available (to come in) in case of emergency?

pg 5, section 1.3 - Minimum standards should take temporary holding into consideration (*e.g.* triage for 24-48 hours); dark/light periods should be considered

pg 6, section 1.5 - Must the 2 qualified trained staff members be on the premises for each and every dependent cetacean 24/7? Each animal must be able to be ID'd to evaluate food consumption, treatment, etc. (*e.g.* mass stranding event/rehab attempt)

pg 10, section 2.2.1 – Consider increased frequency of coliform counts (more often than weekly, at least every 2-3 days).

pg 10, section 2.2.2 - specify daily recording/measuring of ozone levels

pg 16, section 3.8 - persons immuno-suppressed possibly specify cold and flu are considered infectious diseases

pg 16 section 4.1 - recommend rotating disinfectants; specify appropriate disinfectants (*i.e.* virocidal); require disinfection of decks, steps, wet suites, etc.

pg 19, section 6.1 - not realistic to expect veterinarian to available for "immediate examination upon admittance to a facility" or to "Recommend" the person be a full time employee or contracted veterinarian of record at facilities managing over 10 cetacean cases per year.

pg 22, section 7.1 - Include list of reportable diseases with which to notify NOAA/NMFS along with brief descriptions; recommendation of -80F freezer unrealistic for many rehab facilities unless supplied

pg 24, section 8.2 - Address carcass disposal if euthanized or not

### Chapter 2

pg 29, section 1.7 – Add specifications regarding structurally separate facility for quarantined animal

pg 32, section 1.12 – Recommending 24 hour monitoring when animals are present may be unrealistic, especially if monitoring requires direct monitoring by on-site personnel. As a compromise, perhaps specify on-site monitoring during critical phases or if physical condition warrants (*e.g.* seizures)

pg 37, section 3.1 - Elaborate or define "sufficient air turnover"

pg 39, section 3.7 - Replace *consider* viral screening with *obtain* (if NOAA/NMFS provides funding)

pg 40, section 3.7 - Address potential for human to animal transmission (*e.g.* person should not handle animal if the person has a viral or contagious disease); in addition, persons immuno-suppressed should not handle animal

Section 4.1 - Specify cleaning walls and pens "at least once daily;" specify recommended frequency of disinfectant rotation and define "appropriate" (*e.g.* virocidal, etc)

pg 42, section 5.5 - Must there be staff members present or are trained "certified" volunteers acceptable?

### Standards for Release

Whenever possible, NOAA/NMFS should respond in timely matter (within 48 hours?) so as not to interfere with time sensitive releases.

Although notification of tracking results requirement is understandable, ownership of data must be guaranteed

Section I, pg 35 - Tracking daily for 2 months and at least one full year may be unrealistic

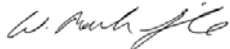
Section E, #4, pg 47 - It is stated in paragraph that veterinarian must do hands-on exam with 72 hours of release while it states <10 days in checklist. Ten days is more realistic.

Many of our comments and recommendations in the SA template, SA minimum criteria, Rehabilitation Facility Guidelines, Release Criteria and Disentanglement Guidelines require a significant amount of input and oversight from the MMHSRP staff at NOAA/NMFS HQ. It is imperative that the MMHSRP be adequately staffed in order to accomplish these goals.

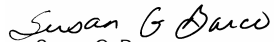
In addition, for the National Marine Mammal Stranding Network to function effectively and efficiently, many decisions about levels of response, rehab, release and disentanglement would be best made with the input of experts in stranding response. We suggest the formation of a National Stranding Advisory Group to provide input to HQ for important decisions and policies. Members should include administrators and/or veterinarians from stranding response organizations in each region as well as experts on pinniped and cetacean rehab, large whale necropsy and disentanglement.

All considered, we are impressed with the effort and detail that has been presented as a part of the EIS/NEPA analysis, and we are pleased to be a part of this important process.

Sincerely,



W. Mark Swingle  
Director of Research & Conservation



Susan G. Barco  
Stranding Response Program Coordinator

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**Subject:**

**Date:** Tue, 28 Feb 2006 20:44:13 -0500

**From:** Scott Weber <sweber@neaq.org>

**To:** mmhsrpeis.comments@noaa.gov

**CC:** Michele Sims <msims@nmlc.org>, Connie Merigo <cmerigo@neaq.org>,  
Charlie Innis <cinnis@neaq.org>

Marine Mammal Health and Stranding Response Environmental Impact Statement (EIS)

Comments

The efforts of NMFS to standardize care among stranding responders is welcomed and all your work is greatly appreciated. The following are some suggestions on the policies and best practices on marine mammal stranding response, rehabilitation, and release.

Many of the draft policies seem redundant to other laws and requirements already instituted by USDA for display of marine mammals and IACUC requirements. These references could be directly cited to stress where NMFS policies may differ and or compliment already established legislation to prevent an additional layer of redundancy. For institutions that have larger goals and missions beyond the scope of stranding, having a third set of policies and best practices would add another layer of bureaucracy that would take staff time away from response and directed towards administration. Several of the statements throughout the document are undefined. Some examples are the use of "qualified trained rehabilitation staff members" and "prevent discomfort". The numbers of staff suggested in section 1.5 for both the minimum standard and recommended are entirely unmanageable in smaller institutions. For example, since we provide 24 hour care for critical ill cetaceans until they are stabilized, even with a staff of nine individuals we would be unable to do any other work to maintain our level of coverage if 3 qualified staff were on duty all the time, if the animal remained critical for a period of 10 + days. Management of staff may best be left to the institutions. Under Section 2 Water Quality, no mention is made about protecting staff or the public from discharged water. Much of the water quality section may be referred to either USDA standards for keeping marine mammals and or the EPA NPDES for discharge regulation that are already established. It is unclear in Section 2 under the recommended standards why fecal strep or yeast counts should be completed when they are not referenced in any of the text. These are good suggestions, but could benefit from supporting paragraphs prior to the recommendation. The word "regularly" should be defined in regards to testing frequency. It is unclear under Section 3 Quarantine who is responsible for overseeing quarantine of animals. This could be made clear and perhaps should be the attending veterinarian. In this section no mention is made in Section 3.7 of the attending veterinarian having responsibility for clearing animals of quarantine before placing marine mammals together. In Section 5.2 Food Storage and Thawing, the recommended culturing of fish slime layer while frozen has rarely yielded positive results in our facility, where as we culture for Erysipelothrix when the fish is freshly thawed. No mention is made of veterinary responsibility for animal nutrition. Section 5.5 Public Feeding could be deleted. There is no minimum standard if public feeding is prohibited. Section 6 Veterinary Medical Care raised several concerns. The first is that preventive medicine was not mentioned or stressed. Veterinary responsibilities for quarantine and nutrition were not well defined. Recommended standards for veterinary experience seemed to deviate from the minimum standards by specifically endorsing several independent organizations and/or training opportunities that are not government endorsed or sponsored. The government should not require membership in any single organization. A list of several marine mammal organizations could be listed in an appendix for veterinarians to refer to. Recommending a single organization to join has several implications from an animal welfare and liability issue, especially when abstracts are not consistently peer-reviewed. An example is a case report presented at IAAAM in 2000 that referred to the attempted rehabilitation of a pygmy sperm whale that had 2/3 of the fluke amputated. This case could be considered an inhumane approach to rehabilitation. Many other marine mammal organizations and zoo and wildlife veterinary groups offer excellent continuing education material as well such as the AAZV. Reference to textbooks could again be offered as a list of text materials and references in an appendix to accommodate new book editions without changing the entire

policy draft. A similar argument can be made for the third recommended item regarding specific courses. Having completed and teaching in these courses, these programs are so basic, far better experience may be received in veterinary externships and residencies at various zoos and aquariums. A list of available courses and training can be provided in an appendix. The recommended number of cetacean cases and pinniped cases for veterinary experience are inappropriate and not well-defined. For example it is very conceivable that an institution in the northeast may have 30 seal pups to nurse during a given season, whereas other institutions in the same region may try to attempt half dozen more difficult adult pinniped cases. One could easily argue from a veterinary perspective the latter may afford a more qualified veterinarian while the former great husbandry experience. Having rehabbed cetaceans, for a small institution to complete 10 cetacean cases in a year especially harbor porpoise may be unattainable the way these animals strand as individuals. Both recommended requirements referring to numbers of cases should be omitted or better defined as to types of clinical cases and perhaps even species. Perhaps quality verses quantity of cases and data collection should be encouraged.

It is suggested that NMFS may consider recommending veterinary led necropsy on all code 1 and code 2 animals both from rehab and stranded if it is the intention to gather infectious diseases data. Standardizing necropsy procedures would greatly benefit data collection for research.

Thanks for your time and consideration.

Warm regards,

E. Scott Weber, MSc Aquatic Veterinary Science, VMD

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NEAQ's Mission: "To present, promote, and protect the world of water."

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A non-profit organization emphasizing whale  
research, conservation, and education.

P. Michael Payne, Chief  
Marine Mammal and Sea Turtle Division  
NMFS 1315 East West Highway  
Silver Spring, MD 20910-3226

February 28, 2006

Dear Mr. Payne,

I am writing on behalf of The Whale Center of New England, a designee in the Northeast Regional Stranding Network, to comment as a part of the scoping process for preparation of a Draft Environmental Impact Statement on the National Marine Mammal Health and Stranding Response Program (MMHSRP). Specifically, we would like to state our support of the proposed action for the National Marine Fisheries Service (NMFS) to continue to coordinate the MMHSRP. We also offer the following comments in response to the questions posed in the public scoping document.

*What sort of activities should be conducted on a local, regional, and national level in response to stranded, entangled, sick, injured, and other marine mammals in distress?*

We believe that all of the current activities of the MMHSRP are valuable and should be continued. These activities include the Marine Mammal Disentanglement and Stranding Networks, the John H. Prescott Marine Mammal Rescue Assistance Grant Program, the Marine Mammal Unusual Mortality Event and Emergency Response Program, the Information Management, and the Health Bio-monitoring Research, Development, and Banking Program. Our reasons for supporting these programs include:

- Gaining further understanding of marine mammal populations to aid in their federally mandated management;
- Gathering information on the nature and rate of human interaction with marine mammals and, if necessary, means to mitigate these conflicts;
- Monitoring ecosystem health by documenting habitat threats, such as biotoxin outbreaks and accumulation of pollutants in marine mammal tissues;
- Reducing pain and suffering of landed marine mammals by evaluating their health and administering medical care or euthanasia, as appropriate;
- Providing an opportunity for public education to increase awareness and appreciation of marine mammals and their habitats, as well as to promote appropriate behavior around landed animals.

We would like to give particularly strong support to the John H. Prescott Marine Mammal Rescue Assistance Grant Program. Stranding response, rehabilitation, and release require significant financial resources and the Prescott Program relieves some of this financial burden. In our case, Prescott funding has specifically allowed us to respond to stranding events at our present level, both by providing funds for necessary equipment (from a stranding vehicle to

supplies such as kennels used to move animals) and the personnel to be available for timely responses. We encourage NMFS to continue this program in the future and, if possible, increase the funding available to cover a higher percentage of these costs. In the future, if financial backing becomes unavailable for the Prescott Program budget line item, we encourage NMFS to pursue other avenues of funding to maintain support for the stranding network.

We support the issuance of a policies and best practices manual for the national stranding network, but only if it is flexible enough to account for species differences, as well as the pressures and conflicts that are unique to each region. For instance, stranding network participants in the Northeast Region must be prepared to respond to mass stranded cetaceans, whereas other regions may rarely, if ever, have these events. During a mass stranding, the responding organization's resources may be strained, perhaps requiring a reprioritization of other response efforts during that period. The manual should be flexible enough to allow for such cases, allowing organizations to change their standard operating procedures to do the best they can during unforeseen and taxing circumstances. Standardizing protocols and procedures has value in order to ensure consistency in the stranding network to provide a minimum level of care and response for these animals, but it is important to not standardize to the point of losing species differences. Requirements for pinniped response and rehabilitation would not be appropriate for cetaceans or vice versa. The manual should take these differences into account.

*Are there critical research or management needs that may be met by stranding investigations, rehabilitation, disentanglement, or healthy-related research and bio-monitoring activities? Are these needs currently being met?*

As mentioned above, the activities of the MMHSRP are vital to understanding these federally protected marine mammals and also to better understanding the human or habitat-related threats to their survival. The Unusual Mortality Event and Emergency Response Program is important as a tool to monitor environmental conditions using marine mammals as sentinels of ecosystem health. Although this is a valuable program, there is room for improvement in its organization and management. One of the key efforts in responding to unusual mortality events (UMEs) is thorough collection of data and biological samples, for which we believe that there should be NMFS-sponsored training events. In the past there have been only certain stranding network participants that were targeted for this sort of training, but we feel that the program would be strengthened by dissemination of this information to all participants. We also believe that the stranding network members should be kept better abreast of UMEs both in their region and nation-wide. This knowledge is critical to assess possible extensions of these events past their known or suspected boundaries. Keeping stranding network members apprised of the UME can facilitate this process, as well as potentially foster cooperation amongst organizations. As stated above, declaration and analysis of UMEs is only scientifically important when compared against the baseline data that are collected by the stranding network and analyzed in the bio-monitoring, research, and banking programs.

*Should there be different standards or levels of MMHSRP effort for different species or groups of species? If so, how should NMFS set these standards and priorities?*

We believe the current high level of field stranding response should continue in the future, but that rehabilitation efforts for different populations and/or species might be prioritized based on their status. Much of the information on marine mammal distribution and behavior, as well as identification of human interaction rates, emerging diseases, or biotoxin outbreaks comes from data collected during field responses to strandings. Response may also allow stranding network members to reduce health and safety threats between people and landed marine mammals, reduce the pain and suffering of stranded animals, and also educate people about the animals that share their shores in an effort to foster environmental stewardship. However, many resources are

allocated to the rehabilitation and release of marine mammals and it is here that we think different levels of effort may be appropriate. We believe that the resources for rehabilitation should be weighted towards species that are known to be below the optimal sustainable population (OSP) or towards species for which there is insufficient data to accurately assess the population size. Using the precautionary principle, we should make every effort to rehabilitate and release species whose population status is unknown. It is these strategic species that stranding network members should be required under their Stranding Agreement to rehabilitate. Species that are at or above the OSP should receive lower priority, allowing stranding network members to choose, based on availability of resources, whether or not they rehabilitate these animals. For example, in the Northeast Region, there are a great deal of resources expended on the rehabilitation of harp seals, which upon successful release, could easily travel up to Canada and be taken during their annual seal hunt.

*What should be the minimum qualifications of an individual or organization prior to becoming a Stranding Agreement holder to ensure that animals are treated appropriately, humanely, and with the minimum of adverse impacts?*

In response to this question, we have specific comments regarding the Minimum Eligibility Criteria interim document.

- ◇ In sections A1 and B1, we suggest changing the wording from “geographic need” to “geographic or programmatic need,” to reflect that some areas may have sufficient geographic coverage, but not enough resources to deal with the high volume of stranding events.
- ◇ Numbers 1 and 2 from section A and B should also be included in section C.
- ◇ In sections A3 and B3, other organizations have commented that this experience should be region-specific, but we feel that would be too restrictive. Instead of making it region-specific, it would be more appropriate to make it taxa-specific (e.g. pinnipeds, odontocetes, etc.).
- ◇ In section A4, we believe that the requirement of two employees each with a minimum of one year of hands-on experience is too restrictive and unnecessary. Collecting level A and B data does not require extensive experience, and internal training for this methodology seems adequate. Further, it is not necessary to specify the number of employees that are trained, because the requirements for number of staff greatly differ by region and by organization based on the number of stranded animals reported.
- ◇ In section C1, we suggest the wording should be changed to experience *and* education, rather than experience *or* education. Education alone does not qualify someone to respond to every situation in a rehabilitation facility; experience is a must.
- ◇ In section C4, there should be no specification that there needs to be a trained volunteer base. If the facility can maintain high quality care with only paid staff, then that should be appropriate. The statement would be adequate if changed to *a trained staff or volunteer base*.

We thank you for the opportunity to comment on this process.

Sincerely,

Katherine Sardi  
Assistant Director  
Stranding Coordinator

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[mmhsrpeis.comments@noaa.gov](mailto:mmhsrpeis.comments@noaa.gov) (MMHSRP EIS)

Re: Notice of Intent to prepare an Environmental Impact Statement on the Activities of the National Marine Mammal Health and Stranding Response Program (MMHSRP).

28 February 2006

Dear Mr. Payne:

On behalf of the 70,000 members and constituents of the Whale and Dolphin Conservation Society (WDCS), I would like to offer the following comments regarding the Notice of Intent to prepare an Environmental Impact Statement on the Activities of the National Marine Mammal Health and Stranding Response Program, Docket No. [I.D. 120805B]. Additionally, I request a paper copy of the Draft EIS sent to the signature address on this document.

The WDCS appreciates the efforts by the NMFS to pursue standards for the stranding response programs. We believe the stranding and disentanglement response programs are essential to the continued protection and conservation of marine mammals and recognize the need for standardized practices throughout these programs. We also believe there is a need for the continued collection and assessment of data and development of innovative, noninvasive response, rescue and research techniques.

**Proposed Action:**

- Policies and Best Practices for Marine Mammal Stranding Response, Rehabilitation and Release (Policies and Practices) Manual would be issued, establishing required minimum standards for the national marine mammal stranding and disentanglement networks.
- MMHSRP permit would be issued to permit response activities for endangered species, entanglement activities, biomonitoring projects, and import and export of marine mammal tissue samples.
- Stranding Agreements (formerly LOAs) would continue to be issued or renewed on a case-by-case basis as necessary.



The WDCS supports the Proposed Action and we do not believe the Alternatives considered meet the statutory obligations set by Title IV of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1421). In addition to the Proposed Action, we offer the following general suggestions regarding the stranding program and comments regarding the specific draft documents.

**General Comments:**

National Stranding Coordinator and National Data Archive:

The NMFS has requested public comments as to whether stranding activities should be conducted on a national level. If so, what are the needs, and how to best meet these needs? The WDCS strongly encourages NMFS to create a national program with a single, national coordinator and national protocols. Because we understand that species may differ between regions, we encourage the NMFS to create protocols based on species, or groups of species issues, and not on historic geographic locations. A national program can ensure that funds are disseminated equitably and where the need is greatest plus ensuring that impacts to migratory species are viewed throughout their current and future ranges, as we know these are changing from historic norms, and not just within any specific region.

According to Title IV of the MMPA, mandated goals and purposes of the MMHSRP include: to “facilitate the collection and dissemination of reference data on the health of marine mammals and health trends of marine mammal populations in the wild”; and to “coordinate effective responses to unusual mortality events...”.

We believe that health and human impact trends are more likely to be determined through a national data base, rather than archiving data regionally, such as is the case with ship-strikes of large whales along the east coast. For example, strandings of large, endangered, baleen whales occur throughout the entire east coast range with many occurring in the mid-Atlantic. These strandings are often attributed to ship strikes. However, the current division of stranding regions occurs at the Virginia / North Carolina border. An animal struck off Virginia may strand in North Carolina. Different regions may have unique protocols for response, data collection and dissemination, and funding allocations. Having a national coordinator would ensure that, regardless of where the strike, or stranding, occurred, protocols for necropsy would be uniform and resources would be available. Additionally, we request that the NMFS establish a web-based accessible database to archive suspected ship strikes, such as is currently done for entanglements of large whales.



Level of Response:

The NMFS has requested comments as to whether there should be different standards or levels of effort for different species or groups of species.

As mentioned previously, we believe that species, or groups of species, should dictate stranding protocols rather than regions. However, we also believe that NMFS must require the response to all stranded marine mammals and not prioritize based on abundance of a population.

In fact, mortalities resulting from human interactions and toxins are more likely to be detected in abundant, coastal populations than in pelagic, or endangered, populations. For example, responding to strandings of abundant California sea lions has resulted in documentation of toxins such as domoic acid as well as human interactions such as entanglements in fishing nets and gun shot wounds. These issues also impact endangered Stellar sea lions. Gathering information from an abundant population, such as California sea lions, can result in temporal and spatial impact data which can be utilized to enhance the conservation of endangered populations.

Additionally, the MMPA includes, in its definition of “stranded” as any marine mammal floating in waters under U.S. jurisdiction. Both humpback and right whales takes are known to exceed the designated Potential Biological Removal rate (PBR) for these species yet floating carcasses of these species are not always retrieved for necropsy. Carcasses of other species of large whales are even less likely to be retrieved and necropsied resulting in limited information as to the impacts on these species.

We believe that NMFS must respond to reports of all floating large whales, regardless of whether external signs of human interaction are noted on the carcass. Ship strikes are frequently determined by necropsy, and not by external signs of trauma and, according to Moore et al. 2004, post mortem examinations are necessary to ensure better our understanding of mortalities that are due to human interaction. We believe that floating large whales should be retrieved and thoroughly necropsied with a full necropsy report available within 14 days of when the carcass is initially reported.

Because there are areas where beaching a carcass for necropsy is difficult, we recommend NMFS design and fund construction of a number of mobile necropsy stations or barges to ensure these data are collected in all US waters.

Coordination with Local Officials and Public Outreach:

As part of the Stranding Agreement, we believe that NMFS must require stranding network participants to demonstrate outreach to all local officials (i.e. harbor masters, police, dog officers, etc) on, at least, an annual basis by way of a report to the NMFS. Furthermore, the Stranding Agreements should also require public outreach and



education programs particularly in areas of high pinniped strandings. This would be to ensure public safety and minimize impacts on marine mammal individuals and populations.

Coordination with Research Community:

We believe that the number of takes should be minimized and suggest that NMFS establish a sampling archive bank for unused portions of tissue, fecal matter, exhalation, fluids, etc. obtained by stranding networks. Future permit requests requiring these types of samples should be required to utilize archived materials prior to authorization of additional takes from the wild.

Standardize Terminology:

We recommend, for the sake of consistency, that NMFS remove the word “hazing” from their stranding documents and replace it with the word “harassment” as “hazing” is ambiguous and “harassment” has a statutory definition. Furthermore, we suggest the both the NMFS and the Fish and Wildlife Service (FWS) use the same reference for their agreements with stranding networks. Currently, the NMFS issues “Stranding Agreements” and FWS issues “Letters of Authorization”. As stated previously, we believe responding to marine mammals should be coordinated nationally and, for the sake of consistency, we feel the type of authorization given should be uniform.

**Comments Regarding the Specific Draft Documents:**

Marine Mammal Stranding Agreement:

According to the proposed document, NMFS will “periodically” review the agreement, however, no timetable is given as to when the reviews will occur not what form any review may be. Since NMFS proposes the first year as a probationary period, we recommend that a review should occur at six months.

Standards for Cetacean Rehabilitation Facilities:

We generally agree with the suggested improvements to standards, such as increasing the pool size and the time needed to drain/fill a pool. However, we strongly believe that the NMFS must be clear that the primary objective is to release or refloat an animal immediately from the stranding site and moving a stranded animal into a rehabilitation facility is a last resort.

In cases where an animal is moved into a rehabilitation facility, the stated goal should be to expedite the animals’ release back into the wild. While in rehab, the animal(s) should not be subjected to sampling or experimentation that do not directly relate to expediting its release back into the wild or research contributing to the conservation of the wild



population(s). Those samples that are obtained (e.g. blood, fecal, tissue) should be archived and, as suggested previously, made available to researchers and their use mandated prior to issuing permits for wild research.

We strongly support the notion that rehabilitation facilities should mimic natural settings, such as the suggested changes in daylight, the frequency and quantity of food given, etc. Furthermore, we believe that human interaction should be minimized and the priority should be for remote (camera) monitoring of the animals throughout their time in rehabilitation.

We believe that the NMFS must develop more stringent requirements for sampling of animals in rehabilitation. For instance the current document does not specify how often blubber-thickness should be monitored ultrasonically, nor does NMFS specify the technique to be used. The WDCS strongly believes that samples must be obtained in the least invasive means possible. For example, we believe that girth measurements should be obtained photographically rather than from a weekly capture of the animal. Furthermore, as is required for cetaceans, we believe that pinnipeds which die in rehab should be necropsied within 24 hours of death.

#### Best Practices Standards for Release:

As stated previously, we believe that the Standards for Release document must emphasize that the primary goal for response to any live stranded marine mammal must be the animal's immediate release back into the wild. If an animal is deemed not immediately appropriate for release and is brought into captivity for rehabilitation purposes, every effort should be made to expedite its return to the wild as soon as possible. Rehabilitation facilities must mimic natural conditions, for that species, as closely as possible. We also emphasize the importance of limited human contact and behavioral conditioning. We strongly support the notion that, if an animal does not pose a health threat to the wild population, it is a candidate for release. We believe that only cases of zoonoses, or disease to the wild population, should prevent a beach release.

The NMFS indicates that these guidelines will be reviewed periodically but no time line is given for the review process or the revisions. We suggest that the NMFS review all guideline documents at least every five years. Furthermore, we recommend that the NMFS develop a working group for the review process. The working group should consist of stranding network members, researchers, conservationists as well as State and Federal regulators.

In addition to the aforementioned review committee, we believe the NMFS should require a similar oversight committee to review and agree any Notification of Transfer of Custody requests before rehab animals are placed in permanent display facilities. According to the NMFS, cetaceans in rehab for more than two years or otherwise too habituated are non-releasable. We question why a cetacean would be in rehab for two



years. Any animal still be in rehab for this period of time should have its case history reviewed by one of the review bodies.

Furthermore, we believe that the NMFS must mandate that animals placed in permanent facilities must be placed in settings which mimic their natural environment and must not allow these animals to become performance, swim-with, or petting pool animals.

We agree that cetaceans must not be exposed to any type or variety of domestic or captive animal. We would recommend that the NMFS develop a system of probation, review and revocation of any Stranding Agreement, in addition to monetary fines in cases where rehab animals are intentionally exposed to either domestic or captive animals while in a permitted facility or where a rehab animal is held for a period longer than 2 years or experience any mistreatment in that facility.

We would recommend that the NMFS develop a system of probation, revocation of Stranding Agreement, or monetary fines in cases where rehab animals are intentionally exposed to either domestic or captive animals while in a permitted facility.

We acknowledge the need to document survivorship in released animals but are concerned with the identification requirements put forward by the NMFS. According to the document, "NMFS requires all delphinids released in the wild to have a minimum of three forms of identification including photoidentification, freeze branding and dorsal fin tag". We believe this is excessive and may put further stress on the animal reducing its chance for survival. Studies have shown dorsal fin tags can result in substantial deformities to the dorsal fin (Mazzarella et al. 2002). Furthermore, implanted tags may result in hydrodynamic drag, alterations in behavior and increased energy expenditure. We recommend, that where identification is necessary that, aside from photographing natural markings, only one other, minimally invasive procedure be allowed. Furthermore, we recommend that NMFS investigate the use of microchip-implant tags such as those currently being developed to identify fishing gear and those used for domestic pet identification. We also recommend that, in cases where multiple animals are released together, only one tag is used in order to minimize impacts on cetaceans; as is recommended for pinnipeds.

According to the document, the NMFS may require an animal to be recaptured following a release if the animal appears to be in distress or pose a risk. However, it is unclear as to the disposition of the animal once it is recaptured. Nor is the methodology of recapture and the determinants of "distress" and "risk" clear. We question as to whether the NMFS is requiring further rehabilitation, euthanasia or movement to a permanent display facility. We recommend that this be made clear prior to the publication of this document and could not support any proposal where a recaptured animal was moved to a permanent display facility.





While we are aware of concerns regarding beach releases of dependent cetacean calves, we do not agree that dependent calves can only be released in the presence of their mothers. First, in situations of mass strandings, it may not be possible to specifically determine which lactating female, on the beach, is the mother of a dependent calf within that stranded group. Secondly, alloparental care has been documented in captivity (Ridgeway et al. 1995) and inferred in wild populations (Simard and Gowans 2004). We believe that, providing lactating females are present, the calf should be considered releasable for a beach release in a mass stranding situation.

We do not support the notion that, if an animal stranded primarily because of a shark attack then it lacks ability to avoid predators and survive in the wild. Anecdotal evidence indicates that dolphin/shark interactions occur commonly (Gibson 2006) and, therefore, can be considered to be natural. Similarly, we do not agree with the assessment that animals with injuries by conspecifics should not be released. Intraspecific wounds are common in many marine mammal species (Martin and DaSilva 2006, Norman and Mead 2001, Angliss and DeMaster 1997). These behaviors are natural and should not be a criteria used to evaluate whether an animal is suitable for release.

We also question why the NMFS would consider an animal with a deformed or amputated appendage as unsuitable for release. Many wild marine mammals have been observed with amputated and/or deformed appendages and are successful. For example, the WDCS has observed humpback, right whale and fin whales missing, up to, a full fluke yet these animals have been observed feeding, and with calves (WDCS unpublished data). Both boto and *Tursiops* have been observed missing part of their flukes but appear to behave normally in the wild (Martin and DaSilva 2006, Gibson 2006). As such, we do not agree that the NMFS should consider these animals as unsuitable for release.

We also disagree that with the NMFS assertion that it would be “naïve to assume that any two cetacean species can be put together to form a functional social unit or that even two unfamiliar members of the same species will bond into a functional social unit”. Again, evidence is to the contrary. Frantiz and Herzing (2002) reported that interspecific associations or interactions were common in the Mediterranean Sea. These associations have been reported for at least 33 cetacean species (in: ibid).

Finally, we question the NMFS concerns regarding the release of geriatric animals when the NMFS, itself, reports there have been cases of manatees in captivity for more than 50 years. With little known about the life span of most marine mammals, we believe it is premature, and inappropriate, to make judgment calls based on the supposed age of the individual. The WDCS considers, as stated above, that only animals those animals posing a health threat to a wild population to be considered non-releasable.



#### Disentanglement Roles and Training Levels:

We support the concept of producing a national standard for the disentanglement and the development of training levels. We believe the draft put forward by the NMFS is a good baseline from which to produce a final product. However, we believe that, like the rest of the stranding network, this should also be coordinated on a national, rather than regional level. We feel that a committee made from members of the current Atlantic Large Whale Disentanglement Network (ALWDN), currently under the direction of the Provincetown Center for Coastal Studies (PCCS), should be consulted to produce a finalized national document within an agreed timeframe. This document should cover the protocols, the implementation and on-going monitoring and policing of any national scheme.

In summary:

- The NMFS should designate a National Stranding Coordinator and National Protocols.
- Program funds should be overseen by the National Coordinator to ensure that dissemination of funds is equitable, targeted and appropriate.
- The NMFS should designate a consultation committee, which will include some members of the East Coast Disentanglement Network, to address disentanglement protocols before they are finalized leading to the production of an agreed, timetabled and implementable program.
- The NMFS should create a data archive system, accessible on the internet for the documentation of Unusual Marine Mammal Mortality Events and Ship Strikes.
- The NMFS should ensure that all marine mammal species over PBR and endangered species are retrieved and thoroughly necropsied.
- The NMFS should create a designated location, or remote site, for large whale necropsies.
- The NMFS should mandate their Stranding Agreement letter holders routinely coordinate with local officials in areas of strandings.
- The NMFS should minimize invasive tagging techniques for released animals.
- The NMFS should require the response and examination of all stranded marine mammals in order to monitor diseases, human interactions, etc.



- The NMFS needs to develop a mechanism for euthanasia that will minimize environmental impacts and threats to stranding teams.
- There is a need to develop a plan leading to a program being implemented for the timely and safe disposal of all marine mammal carcasses.
- The NMFS should require coordination between permitted researchers and stranding coordinators to minimize sampling impacts on wild populations.

The comments made here relate exclusively to the rescue situation in the US and do not imply any blanket support by WDCS for captive rehabilitation. WDCS has severe doubts about the utility of captive rehabilitation as a primary tool for stranded or otherwise stricken cetaceans and will continue to monitor and review rescue methods worldwide. We appreciate the opportunity to comment and thank you for your time and consideration.

Sincerely,

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