REPORT TO CONGRESS ON RESULTS OF FEEDING WILD DOLPHINS: 1989 - 1994

By
NATIONAL MARINE FISHERIES SERVICE
Office of Protected Resources
July 1994

TABLE OF CONTENTS

1. Issue 1

2. Summary 2

3. Documentation of Problem 8

4. Conclusion 15

5. Chronology of Events 17

6. Cited References 19

7. Affidavits and Declarations 22

8. List of Attachments 23

Prepared by Laurel Bryant
National Marine Fisheries Service
Office of Protected Resources
(301)713-2289

NMFS REPORT TO CONGRESS ON RESULTS OF FEEDING WILD DOLPHINS: 1989 - 1994

ISSUE

This report is submitted pursuant to Section 306 of Public Law 102-567, which called upon the Secretary of Commerce to conduct a study in the eastern Gulf of Mexico on the effects of feeding non-captive (wild) dolphins by human beings. Due to budgetary constraints and concerns over the scientific prudence of conducting a designed field study which would involve irreversible harm to wild dolphins, this report relies on the extensive documentation and evidence collected by the National Marine Fisheries Service (NMFS) since 1989 in our efforts to establish a policy addressing these activities that is consistent with the agency's obligations under the Marine Mammal Protection Act (MMPA).

Included with this document are scientific reviews submitted by marine mammal experts outside of NMFS; comments from various interests with relevant experience and knowledge of the subject; and evidence and affidavits collected during the two years of litigation prompted by NMFS regulations to include "feeding" in the definition of "take" under the MMPA.

As specified by Public Law 102-567, this report is being submitted to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SUMMARY

Since the phenomenon of "feed-the-dolphins" cruises emerged in early 1988, the Marine Mammal Commission (MMC) and independent marine mammal and animal behavioral scientists have expressed serious concern over the potentially harmful and documented impacts this activity can have on wild populations of marine mammals. In October 1993, The Fifth Circuit Court of Appeals upheld NMFS prohibition against feeding wild marine mammals, overturning a ruling by the Southern District Court of Texas prohibiting NMFS from enforcing the prohibition against feeding of dolphins. Increasing reports of dolphins exhibiting altered behaviors in areas where feeding has occurred corroborates many of the concerns originally expressed by the MMC and concerned scientists.

In 1989, in response to receiving the first permit application to feed wild dolphins, and due to heightened public and scientific concern over the growing number of feeding cruises, NMFS initiated an analysis of the scope of these activities and solicited six experts outside the agency to conduct a scientific review of the effects of feeding wild populations of marine mammals, on the behavior and health of wild pinnipeds and cetaceans. All of the contributing scientists concluded that feeding wild populations of dolphins alters their natural behavior in ways that are harmful to individual marine mammals and marine mammal stocks.

In 1989, eleven "feed the dolphins" commercial cruise operations were known to be operating in Corpus Christi, Texas, Hilton Head Island, South Carolina, and Panama City and Key West, Florida. By 1992, as many as 20 commercial cruises and 50 charter operations were active in the Southeast region alone. Since the Fifth Circuit decision in October 1993, NMFS understands that these commercial feeding operations intend to revert back to their original observational cruise format. However, where feeding activities have occurred, dolphins are now habituated to accepting food from humans and continue to beg from private vessels and charter boats for handouts. The predicted problems resulting from humans feeding wildlife have emerged in these areas. NMFS has received numerous reports of incidents including passengers and swimmers being bitten, small fishing boats being surrounded by aggressive dolphins, dolphins being fed beer, pretzels and even hooks baited with fish.

For example, dolphins in Corpus Christi, Texas, that once confined their activity to bow-riding in the outer-harbor area, now frequent the heavily trafficked inner-harbor and marina, routinely approach boats seeking handouts, and have displayed aberrant alterations in the behavior of mother-calf pairs that feed from handouts (May, 1994). In Ft. Walton Beach and Panama City, Florida, dolphins are now foraging around fishing piers in greater numbers and have been "baited and hooked" by fishermen (CMC, 1993). In Sarasota, Florida, human injuries from aggressive dolphins seeking handouts has reached such a level of intensity that

in March, 1994, the Sarasota County Natural Resources and Recreational Advisory Board held a meeting to discuss solutions (Wells, 1994).

In addition, recent reports indicate that feeding of dolphins has expanded in some instances to now include swimming with the dolphins, in which paying patrons are given bags of fish to take into the water with them (Sugarman, 1994). NMFS believes the uncontrollable nature of these interactions further escalates the risk to both dolphins and humans.

The concern over these increasing problems with conditioned dolphins was noted in 1989 by the South Carolina Wildlife & Marine Resources Department (Floyd, 1989):

> "This situation of hand feeding dolphins in our area is a serious problem which I hope will be addressed by the Committee of the National Marine Fisheries in Washington, D.C. Feeding wild animals or fish in this area, including deer, raccoons and alligators, has proved to do nothing but create serious problems for both the wildlife and the people in this area."

Historically, wildlife management agencies in the United States have included prohibitions against feeding wildlife as a primary tool for fulfilling their legal obligations to manage and protect the species under their jurisdiction. The problems and dangers associated with feeding wildlife are well known. For example, problems with humans feeding bears and elk in Yellowstone National Park resulted in serious consequences to humans, wildlife and property, and are textbook training for park rangers and wildlife managers (Gunther, 1992). To NMFS knowledge, no field studies have ever been required of the National Park Service or the Fish and Wildlife Service prior to issuing such prohibitions. Rather, the adoption of anti-feeding policies and regulations occurred as rational responses to problems resulting from wildlife being conditioned to human sources of food, be they direct handouts or improperly contained sources of food such as open dumpsters or garbage cans (Herrero, 1985).

Similar to the logic employed by NMFS, the National Park Service prohibited feeding of bears and elk to protect humans and property and to to prevent circumstances from occurring that are potentially harmful to the animals. A bear habituated to human sources of food loses its wariness of humans and becomes more aggressive. Typically, a bear that becomes a threat or causes injury and cannot be broken of its conditioning, either by relocation of the animal or control of the food source, is destroyed. Until the 1970's, when Yellowstone developed and implemented a bear management program, an average of 48 bear-caused injuries and 138 counts of property damage occurred each year due to roadside feeding and negligent campers, resulting in an average of 3 grizzlies and 24 black bears being destroyed each year (Gunther, 1992). In addition, habituation and conditioning are behaviors which can be passed on to juvenile offspring. Grizzly cubs, for example, raised by a habituated female are often conditioned to human sources of food and face the same fate

as their mothers should they become aggressive toward humans (Meagher, 1989). Elk, conditioned to seeking human sources of food, enter roads and residential areas placing them at risk from vehicles, gun shots and other sources of harm. Although these problems occur in developed areas where wildlife is abundant, feeding by humans further exacerbates the problem and is, therefore, prohibited (Hardin et al., 1984). Permitting the feeding of wild marine mammals encourages similar circumstances to develop as the animals become more aggressive, increasing their vulnerability to vessel injuries, vandalism or retaliatory behavior by humans.

Many accounts of wildlife becoming conditioned to human sources of food and altering their natural foraging behavior have been documented. For instance, at a hotel in Kenya, an elephant feeding station was constructed as a tourist attraction on the site of the hotel. Although the feeding station was terminated following serious property damage and human injury, the elephants had already become conditioned to seeking easy sources of food. It was discovered that the elephants had begun feeding at the local dump when wildlife managers began finding plastic garbage bags and other human debris in elephant fecal material around the park (Moss, 1988). The marine mammal stranding records contain numerous accounts of mortality caused by ingestion of debris. Animals conditioned to seek food from humans may become vulnerable to eating inappropriate materials as their habits and foraging skills become altered. Similar instances of tourists being allowed to feed vervet monkeys and baboons in Kenya resulted in the destruction of these animals as threatening and unsanitary pests (Lee et al., 1986).

It has been suggested that known effects of feeding terrestrial mammals are irrelevant for marine animals like dolphins. However, animal behaviorists recognize that dolphins share many behavioral patterns with similarly large-brained, socially-complex, terrestrial mammals like elephants and primates. Because of these behavioral similarities, scientists and wildlife managers agree that observed problems resulting from feeding wild terrestrial mammals are entirely relevant for their marine counterparts (pers.comm. Samuels, 1994).

The only known example of regulated marine mammal feeding occurs at Monkey Mia, in Shark Bay, Australia. Some pro-feeding advocates have pointed to Monkey Mia as proof that feeding can be controlled in a manner not harmful to the dolphins. However, Monkey Mia is an isolated beach resort in which 4 mature female bottlenose dolphins and their offspring are habitually fed. Feeding is controlled by managers who give limited quantities of fish to paying patrons who enter the water at the shoreline to feed dolphins which have entered the area. The quality and quantity of fish are monitored with regard to proper storage, handling and level of caloric intake as a portion of the dolphins' estimated daily diet (Gales, 1989).

Recently, however, problems with the Monkey Mia dolphins outside the resort area have been brought to the attention of the Australian government. Although the resort area itself and the behavior of its patrons are controlled, the behavior of the dolphins outside of

the area cannot be controlled. Recent observations by marine mammal scientists at Monkey Mia has revealed problems similar to those being seen in areas of the United States where feeding has been occurring, including dolphins that regularly approach and surround any vessel in the area, aggressive behavior in seeking handouts, and frequent human injury. More importantly, a lack of learned foraging skills has been observed in at least one juvenile offspring who appears to be completely dependent on handouts, leading to concerns over future survivability (Samuels, 1994).

It has been argued that feeding from humans is no different than dolphins feeding from the discarded bycatch of commercial fishing or shrimping vessels, which has occurred for decades. Bycatch slicks differ, however, in that they are randomly opportunistic sources of food which are left to drift behind an exiting vessel and are not dependent on, or associated with, direct human (handout) contact. Bycatch is a major marine conservation concern for which solutions are being sought at the national and international levels, and interactions with opportunistic marine mammals is a component of the larger bycatch problem. Stranding data establishes that fishing gear entanglement is a major cause of death in dolphins off the coasts of Alabama, Mississippi, Louisiana, and Texas. In Sarasota, Florida, at least three percent of the resident dolphins bear the scars from vessel strikes (Wells, 1991), and in Hilton Head Island, S.C., a dolphin observed feeding from a cruise vessel was later seen with fresh propeller wounds (Petricig, 1991).

Another argument that is put forward by dolphin feeding advocates is that it affords an educational opportunity to observe the behavior of these creatures in their natural environment. Unfortunately, since feeding activities emerged, the observed behavior of animals habituated to approaching vessels and humans for fish resemble the behaviors characteristic of captive dolphins interacting with their trainers, not wild dolphins. In observing a dolphin feeding operation in Corpus Christi, Texas, Dr. Susan Shane, a marine mammalogist, noted that the dolphins' behavior "differed significantly from that of undisturbed feeding dolphins" and dolphins that feed around shrimp boats. The dolphins attracted to the cruise boats compete for access to fish, suspend themselves vertically in the water, and bob up and down as captive dolphins do in oceanarium petting pools. "[This] behavior more closely resembled captive dolphin behavior than natural dolphin behavior" (Shane, 1991). Thus, the educational value of such activities is questionable at best.

Observations of modified behavior in dolphins along the Gulf and southern mid-Atlantic coasts demonstrate that entire populations of dolphins are being impacted by feeding activities, not just individual animals or small pods (pers. comm. Brown, 1994). There are accounts of dolphins that have become identified as well known "moochers" by residents in some areas, such as Grinder and Grinda in Sarasota, Florida, well noted for their aggressive behavior. However, since 1988, growing numbers of dolphins in various coastal populations have become habituated to human handouts. As noted by Dr. Randall Wells, a marine mammal biologist based at Mote Marine Laboratory in Sarasota, Florida, "[This] cultural transmission of behavior between dolphins has been reported under other circumstances, and

it is of concern [because] of the dangers it poses to increasing numbers of dolphins and the boating public" (Wells, 1991). In recent comments submitted to NMFS, Douglas Reed, a recreational fisherman in Ft. Walton Beach, Florida noted, "I can't emphasize strongly enough the change in the behavior of the dolphin population in our area since the dolphin feeding began. We have taken a wild mammal and turned it into a beggar" (Reed, 1994). A similar account by a researcher in South Carolina notes that when his research on wild populations of dolphin began, no dolphins would approach his boat. By 1990, he couldn't avoid them, as they seemed to be cued by the slowing speed of his engine (Petricig, 1991).

One of the more curious accounts of possible behavioral transmission between dolphins has been occurring near Hilton Head, South Carolina. A recent NMFS enforcement memorandum on feeding problems in the southeast makes mention of a small group of dolphins that are well known and frequently fed by numerous vessels. NMFS enforcement agents suspect the "head dolphin" is one of the former captive dolphins released in 1987 off the coast of Georgia. It appears that under the tutelage of the released dolphin, this group routinely approaches small boats and "act" for handouts (NMFS F/EN4, April, 1994). In 1989, a South Carolina Conservation Officer documented an encounter with a dolphin off Hilton Head in which the animal approached his boat, thrusted approximately a third of its body out of the water, and began vigorously shaking its head "similar to what Flipper would do on the television show." The Officer goes on to mention that the dolphin attempted to propel its body over the side of the vessel nearly capsizing the boat (Floyd, 1989).

The comments and documentation submitted to NMFS by various scientists and organizations since 1989 fall into four fundamental categories of problems observed to result from habitual feeding of wildlife by humans:

1) Substantially altering natural behavior, including foraging for food and migration. Juvenile animals may be especially at risk from alterations in the social structuring and survival skills which are learned within a pod;

2) The loss of wariness of humans. This not only places the animals at increased risk of injury or death from interaction with vessels, but also from intentional harm by individuals who may regard them as pests or a threat. Fishermen and others have been known to shoot dolphins either for sport or protection of their gear or catch;

3) Inappropriate or contaminated food. Regardless of any regulation to control the quality and quantity of food offered by commercial feeding enterprises, habituated animals, as noted above, are opportunistic and cannot discriminate between professional or amateur offers of food, and vandals may offer food containing foreign objects or poisons; and

4) Increased injuries to humans. Habituated animals predictably become more aggressive as they lose their wariness of humans and compete for handouts. Not only

are people who feed them at risk from injury, but swimmers and other water sport participants may be at increased risk from aggressive dolphins in search of a handout. This in turn places the animal at risk of retaliatory behavior from humans.

In addition to the behavioral and physical impacts resulting from intentional feeding, there are public health aspects and ramifications associated with feeding that are only now under consideration and study within the scientific community. The transmission of disease between species is well established from pinnipeds to humans and domestic livestock, with potential transmission to other terrestrial wildlife (pers.comm. Driscoll, 1994). Scientists are now only at the beginning of understanding disease relationships between cetaceans and other species (pers. comm. Driscoll, 1994).

There is concern over the increased frequency of unusual mortality events along the Gulf coastline in recent years. Presently, another unusual mortality is occurring in Texas with indications that morbillivirus may be involved. Morbillivirus, more commonly referred to as distemper in various species, was responsible for die-offs of seals in Europe and the Northeastern United States, and has been suspected as a cause of the 1987 die-off of Atlantic bottlenose dolphins off the Mid-Atlantic coast and the 1990-1992 die-off of striped dolphins in the Mediterranean. Because so little is understood about these diseases affecting dolphins and the manner in which they are transmitted, human interaction with wild populations of dolphins through the handling of food is unwise and imprudent at best. For example, an outbreak of duck virus (avian cholera) recently spread throughout the duck populations of the Finger Lakes. The cause was determined to be the artificial provision of feed by humans during the winter months (pers.comm. Malecki, 1994).

Lastly, one additional concern is that feeding wild marine mammals could increase the seasonal or short-term carrying capacity for those species favored by feeding operations -- thus increasing their populations by, for example, attracting non-local dolphins to feeding areas and thereby overburden local habitats. The artificial population growth may not be naturally sustainable by the ecosystem -- placing increased stress on the system as a whole. Because marine mammal feeding enterprises tend to operate in areas with dense boat traffic, an increase in the marine mammal population will likely result in increased incidental interactions between marine mammals and vessels as well. Similar problems in the management of migratory water fowl have prompted feeding and feeder prohibitions in areas along migratory flyways (Heusmann, 1988). People have provided bird feed in such abundance that local populations have grown larger and are delaying migration. This has placed increased stress on terrestrial plant life which in turn has affected aquatic life (pers.comm. Young, 1994).

DOCUMENTATION OF PROBLEM

1) Habituation and conditioning substantially alters normal behavior by creating dependency, negatively modifying foraging strategies, social behavior, migratory patterns, and encouraging animals to approach vessels and humans.

There is extensive documentation of the harmful effects of supplemental feeding by humans on wild animals such as bears, elephants, and monkeys. A number of studies show that wild animals that receive supplemental feeding from humans change their normal behavior in a number of ways, including altered daily activity profiles, altered dietary intake to include inappropriate or dangerous items, reduced home range size, increased aggression, abandoning group living for solitary existence, reduced fear of humans, and increased proximity to human activities (Samuels, 1994).

Adverse effects on normal behavioral patterns have been documented for bottlenose dolphins off South Carolina, Florida, Texas, and Australia acclimated to human feeding activities. They are distracted from their normal activities; repeated accounts show these dolphins to be actively attracted to small boats, approaching closely, and directing their attention to the people in the boats. In areas where there are many boats, the potential exists for these animals to spend a significant amount of their time "begging" rather than engaging in normal feeding or social behaviors which are observed in wild dolphins.

One of the primary arguments by feeding advocates is that because commercial feeding operations and feeding of dolphins by individual boats occurs primarily during the summer months rather than year-round, any adverse effects of the activities would affect the animals only during a small part of the year. Supporting arguments have been that the animals are migratory and not exposed to human feeding activities during non-summer months. However, these arguments are not supported by available evidence.

Throughout the coastal waters of the Atlantic Ocean and Gulf of Mexico, bottlenose dolphins' primary calving season is in the spring and early summer (Hohn, 1980). The greatest energetic and other demands on females with calves are shortly after giving birth and in the following months when the calf is completely dependent on the mother for nutrition, social development, and protection from predators -- a major source of mortality for otherwise healthy neonates (Wells & Scott, in press). In captivity, bottlenose dolphin females dramatically increase their food intake shortly before parturition and during the first few months of lactation. To meet the energetic requirements of nursing, a female in the wild must increase greatly the time spent foraging. On the surface the opportunity to obtain food easily from humans may seem one solution to fulfill the additional need. However, given the numbers of dolphins and amount of fish involved, the lack of knowledge on the amount of fish each dolphin receives, the likelihood that dolphins will be fed food not fit for dolphins,

and the amount of time the dolphins are distracted by boats once the dolphins make the association between boats and food, nursing females are not likely to receive sufficient caloric intake of appropriate nutritive value. Any nutritive effects on the calves or mothers would not be apparent for many months and, hence, possibly not seen by the advocates of dolphin feeding since the commercial feeding operates only in the spring and summer.

Bottlenose dolphins live in a complicated social environment with respect to the other dolphins in their area (Wells & Scott, in press). Like elephants, primates, and other long-lived, large-brained, socially-complex mammals, dolphins exhibit a lengthy period of infant dependency in which learning is a key component. During the 4 or so years that calves remain with their mothers, calves learn many social and survival skills. For example, young calves learn from their mothers how to interact within the social system, and calves even learn their signature whistle from their mothers (Sayigh et al., 1990). Hunting for fish is a skill that calves learn from their mothers, and at Monkey Mia, accepting fish handouts from humans is a habit that calves also learn from their mothers (pers. comm. Samuels, 1994). It is not known whether young dolphins who have learned to "make a living" by accepting fish handouts and begging from humans can also learn to be hunters expert enough to feed themselves. The evidence from Monkey Mia suggests that human-fed dolphin calves may not learn the skills necessary for their survival.

It is also not true that all dolphins in the areas where feeding occurs engage in long-distance migrations that remove them from the area, which might allow them a natural diet during non-summer months. Year-round residency of bottlenose dolphins occurs in many areas throughout the coastal Gulf of Mexico and southern mid-Atlantic coast (Wells & Scott, in press), and these animals, therefore, remain susceptible throughout the year, especially since dolphin feeding from pleasure boats has been reported year-round.

EXAMPLES:

* The dolphins in Monkey Mia, Australia, have shown increasing signs of dependency on handouts and aggressive behavior toward humans. "Finnick's incessant begging behavior as a youngster may be life-threatening if he does not learn to hunt for himself. Recent communications with colleagues in Monkey Mia suggest that he may not be learning essential foraging skills: Finnick is currently described as never leaving the beach area and as becoming very thin." (Samuels, 1994) **

* In Corpus Christi, Texas, dolphins which have habituated to handouts since 1988 have shown changes in social behavior between mother-calf pairs. The feeding behavior between mother-calf pairs in this pod contrasts sharply with that of pods observed in the wild not fed by humans. In pods not fed by humans, mothers teach

** Prior to publication of this report, NMFS was informed that "Finnick" had become severely depressed, wasted away, and finally disappeared. He has rarely missed "a day at the beach since birth". (Samuels, 1994)

their calves how to locate and forage for food. The mother-calf pairs observed in Corpus Christi are increasingly observed to compete against one another for handouts from vessels. "This goes against all known activities for this species." (May, 1994)

* Dolphins which have been fed by humans in the wild display feeding behaviors similar to those in captivity. Captive dolphins must be trained to prefer and accept handouts. Captive dolphins living in lagoons express modified behavior over time by eventually ignoring the vast quantity of "live" food readily available to them in their lagoons, preferring instead to wait for the fish provided to them by trainers (Tarule, 1994).

* Dolphins observed feeding from cruise or private vessels display increasing levels of antagonism toward one another during feeding. This is more typical of captive dolphins in a group-feeding context than of foraging by wild dolphins (Gaskin, 1982). Similarly, staff at the Center for Marine Conservation observed that, for dolphins in the vicinity of feeding cruises (Florida and South Carolina) the priority is to acquire fish from vessels. "...the arrival of [a] cruise marked the cessation of either solitary or group foraging, or normal social interactions. [Dolphins] waited open-mouthed for fish to be tossed ...becoming increasingly aggressive toward one another as they competed for access to the feeding vessel." (CMC, 1994)

2) Loss of wariness increases the vulnerability of dolphins to injuries and death from vessels and vandal behavior.

Animals spend substantial portions of their lives foraging for food, and finding food is a difficult, neverending search. Where humans have made food available, intentionally or not, animals respond. Setting traps with bait is an age-old means of catching animals for consumption, furs, or to remove nuisance individuals. Garbage cans in National Parks and other public natural areas have a history of attracting a variety of animals, including bears, raccoons, deer and mice. Garbage dumps in northeastern Canada have become regular feeding areas for polar bears, causing situations where both bears and people are at risk. The animals do not judge whether what they are eating is appropriate or safe, and learn quickly to associate human beings or human structures as convenient sources of food. When this occurs, the animals are driven more by their instincts to find food than by their instincts to be wary of humans. Such an instinct is a fundamental principle of ecology -- that most animals prefer "prey" that provides the greatest caloric reward for the least caloric expenditure. Thus, bears rummage through garbage dumps and campsites rather than forage for berries or salmon, and pinnipeds opt to forage at fish ladders or hatchery pens rather than forage in open waters. The ultimate outcome is conflict between humans and wild animals that often is detrimental or deadly to one or both.

The recent record of feeding of wild dolphins is replete with reports of dolphins losing their wariness towards humans, often with disregard to their own welfare and the adverse consequences.

EXAMPLES:

* Dr. Forrest Townsend, a veterinarian in Fort Walton Beach, Florida, reports a young dolphin which became a regular "moocher" at the Panama City Beach Fishing Pier. The animal eventually became entangled in a "double handful" of monofilament line, hooks, wires, and lead sinkers wrapped around his body and down his throat. He subsequently died of pneumonia. (Townsend, 1993)

* NMFS enforcement agents report problems at several public fishing piers in Florida associated with feeding dolphins. At two piers in the Panhandle, the problems escalated into dolphins being hooked by rod-and-reel fishing tackle. The dolphins there have become so accustomed to getting handouts, they soon started taking baited hooks meant for fishing. Soon, fishermen on the pier began trying to hook and "land" a dolphin, for the brief, "but furious fight that ensued". (Enforcement established surveillance at these piers which resulted in the arrest of two juveniles) . (NMFS, F/EN4 April 1994)

* Doug Reed of Ft. Walton Beach, Florida, describes a pod of dolphins, including three calves, that approached the Okaloosa pier. One of the calves immediately took a baited hook. By the end of the day all three calves had been hooked numerous times. Fishermen eventually break the line, leaving the hook embedded in the dolphin's jaw. As most hooks are made of rust resistant metal, these hooks are likely to remain in the dolphin's mouth for a long time. (Reed, 1993)

* The Texas Stranding Network reported two dolphins found in October 1993 swimming in the channel. One had the dorsal fin neatly sliced off, the other's left fluke was sliced 3/4 of the way off. Although there is no proof that these two animals were habituated to approaching vessels, the wounds are not characteristic of propeller strikes but instead appear to have been intentionally inflicted -- which would require extremely close association of dolphins and humans (pers. comm. May, 1994).

* Manatees are often found injured or dead after approaching vessels for food and being struck. They are increasingly becoming habituated to handouts in areas with heavy boat traffic. This is particularly devastating for the slow moving manatee. (Frohlich, 1993)

* Columnist Allan Horton described an encounter with "Grinder and Grinda", two previously mentioned dolphins that are well known for seeking handouts. Although

the author acknowledges that feeding is illegal, he explains "few are the boaters who can resist throwing - or in some cases handing - the dolphins baitfish or other tidbits." Particularly alarming is his description of the dolphins' reaction to loud music being amplified through the hull of their boat, with the dolphins swimming so close they would rub their tail flukes against the rudder (Horton, 1994) -- indicating a complete lack of natural wariness to boats and related human activities and presenting great risk of injury to the dolphins from spinning propellers.

3) Inappropriate or Contaminated Food.

As evidenced by the documentation collected by NMFS over the years, some of the most dangerous threats to marine mammal health posed by human feeding involve the types and quality of food being offered. Commercial cruise operations have been filmed and documented storing their dolphin food in buckets of water (CMC, 1993). This method of holding food breeds dangerous bacteria which can be lethal to marine mammals. Some feeding operations obtain baitfish from the bycatch of fishing or shrimp vessels. Although the freshness of food in bycatch slicks is generally not a concern, often these vessels will hold their bycatch for sometime before throwing it overboard (May, 1994). Fish is extremely perishable and, in the warmer climates of the Gulf and mid-southern Atlantic, spoils rapidly. Spoiled bycatch fish is more likely to appear "unappetizing" to a wild dolphin who relies more on its foraging skills to select its prey. However, dolphins which have become habituated to feeding from humans have, in essence, become trained to accept "rewards" and, as such, are less discriminating of what is offered to them, regardless of its quality (pers.comm. Driscoll, 1994).

This propensity to be easily trained makes dolphins vulnerable to the frequent vandalism documented since feeding enterprises began. While regulatory controls could be placed on commercial feeding operations to ensure the quality of food offered to dolphins by those operators, there is no way to ensure that the dolphins will seek food only from such regulated entities.

EXAMPLES:

* In a letter to the editor of a Florida newspaper, veterinarian Dr. Forrest Townsend, documents the excruciating death of a bottlenose dolphin in Choctohawtchee Bay, FL, which resulted from a bacteria called *Erysipelas*. The cause of death was determined to be acute meningitis (swelling of the brain). *Erysipelas* is a bacteria that becomes a problem when fish are allowed to spoil. Dr. Townsend links the death of that dolphin, and three others that died in the same area over a short period, with the recent dolphin feeding activities that had proliferated in the area. (Townsend, 1993)

NOTE: Prior to the veterinary profession becoming aware of the importance of feeding only fresh fish (fresh enough for human consumption) and proper means of refrigerating, thawing and holding fish, dolphins in oceanaria succumbed to this bacterium regularly.

* Similar to the incidents reported by zoo officials (people attempting to feed animals items including keys, coins and fried chicken), captains and mates on feeding cruises have reported observing private boaters feeding wild dolphins liquor, beer, pretzels, and, in one instance, attempting to throw firecrackers down the throat of a dolphin. (CMC, 1994)

* A researcher in South Carolina has reported observing commercial and private vessels feeding various items to dolphins, "including fish of various species, squid, shrimp, bologna, bread, soda crackers, candy bars, hard candy, a golf ball, a tennis ball, and other undetermined items." On one occasion, he saw a dolphin fed squid and bread. Later he observed the dolphin arching its back in a peculiar manner. Upon investigation, he observed what appeared to be regurgitated material from the dolphin floating in the water. (Petricig, 1991)

* John Floyd, a Conservation Officer with the South Carolina Wildlife & Marine Resources Department submitted a copy of a memorandum to NMFS in 1989 in which he reported observing many "...private and charter boats feeding [dolphins] any number of items, including fish, pretzels and beer...I have also been given two reports that individuals have fed dolphins fish and then baited a hook with the same type of fish and, in fact, hooked the dolphin and tried to land them." (Floyd, 1989)

4) Increased injuries to humans.

Wild animals can become aggressive in their quest for food. Wild bottlenose dolphins are large (about 2.5m or larger) (Read et al., 1993), powerful animals. They are aggressive with each other and dolphins that have been acclimated to accepting food from humans have proven in many instances that they can be aggressive toward people.

EXAMPLES:

* " A wild dolphin feeding operation in Nokomis, FL, that I cited in my affidavit (1991) has continued, spread to other dolphins, and has resulted in several instances in which people have required medical treatment for dolphin bites. On March 28, 1994, I was called before the Sarasota County Natural Resources and Recreational Advisory Board for the purpose of discussing possible solutions to what has become recognized widely as a serious problem." (Wells, 1994)

* A Regional Coordinator with the Texas Stranding Network related that in the last few years many people have reported being harassed by dolphins in Corpus Christi Bay. One elderly gentleman and his grandson were fishing when a large dolphin approached their boat and reared its body out of the water and heaved its body up over the side of the boat. (May, 1994)

* Increasing incidents of people being bitten and attacked by dolphins anticipating handouts have been reported. The most dramatic involved a woman in Sarasota who had been feeding a dolphin bait while boating with her family. After she and her 8 year-old entered the water to cool off, she and her son were attacked, resulting in her receiving 20 stitches in the leg and a week's stay in the hospital with a cholera infection. (Angilella, 1993)

CONCLUSION

In vacating the lower court's ruling, the Fifth Circuit Court of Appeals found that the Department of Commerce had substantial evidence to show that feeding wild dolphins disturbed their normal behavior and could make them less able to search for food on their own. The Fifth Circuit said that it is clearly reasonable for the agency to restrict or prohibit feeding dolphins as a potential hazard to them. As such, the Fifth Circuit finding supported NMFS original scientific deliberation of this issue and clearly validated NMFS' exercise of its authority under the MMPA to prohibit activities inconsistent with the mandates of that act.

Although not all interactions between humans and wild animals are negative, feeding wild animals is proximately and ultimately harmful. These activities are unanimously opposed by the scientific community. In view of the overwhelming evidence that feeding alters the natural behavior of wild dolphins and increases the potential of injury and death through vandalism, increased interactions with vessels, and inappropriate or contaminated food, NMFS finds the feeding of wild dolphins to be inconsistent with the mandates and goals of the Marine Mammal Protection Act.

Further, NMFS believes that a study to evaluate the impacts of feeding marine mammals in the wild is neither scientifically nor fiscally justifiable. Conducting a study, in view of the overwhelming evidence that feeding wild marine mammals is harmful, would set a dangerous precedent that would undermine the process of adopting a scientific opinion, contradict the judiciary's role in arbitrating environmental law, and weaken the credibility of wildlife management regulations in general.

One of the fundamental underpinnings of the MMPA is to reduce lethal incidental interactions between (commercial fishing) vessels and marine mammals to levels approaching zero mortality. In addition, opportunistic marine mammals habituated to readily available sources of food from fish ladders and hatcheries have prompted amendments directing NMFS to coordinate the development of a solution for "nuisance pinnipeds". Any activity which encourages marine mammals to identify vessels as potential sources of food will likely increase the rate of harmful interactions. The MMPA is designed to keep marine mammal mortality to a minimum and maintain marine mammal populations as functioning components of the ecosystem. Human feeding is inconsistent and disruptive of these goals.

The legal requirements involved with conducting a federally funded study would require scientific evaluation under the National Environmental Protection Act (NEPA). This process involves producing either an Environmental Assessment or an Environmental Impact Statement. Such analysis would rely on the existing body of evidence which demonstrates that feeding wildlife is harmful. As a result, such a study would have to be conducted under a finding of significant harm to the subject animals.

Lastly, it is uncertain whether such a study can be designed or conducted to produce results within scientifically acceptable standards of statistical validity. Such robustness would necessitate generational observations between comparable numbers of individuals within a "feeding" and a "wild" pod. With the uncertainties of mortality, such a study could require at least 8 to 10 years (pers. comm. Hohn, 1994).

In view of the above difficulties and likely federal expenses involved, it is very questionable whether a "study" can produce results any more "scientifically valid" than present observations of this activity currently allow. An analogous example would be to test whether leaving open food containers around campsites alters the behavior of bears in Yellowstone. We know for a fact from observations and common sense experience that is does alter their behavior in a manner harmful to both humans and bears.

In the best interest of dolphins forced to live in an environment surrounded by the human trappings of pollution, boats, harbors, etc., we should not intentionally further alter the behavior of these animals. It is in their best interest to maintain a healthy distance from humans and learn natural behavior despite our presence. Humans should recognize this fact and respect the wild nature of these animals by maintaining their distance and not habituating them to unnatural sources of food. The flourishing number of observational cruises where feeding is not involved demonstrates the fact that observing dolphins as wild creatures is a viable, lower risk, alternative.

CHRONOLOGY OF EVENTS

Early 1988 - NMFS was contacted by the Marine Mammal Commission (MMC) regarding the emergence of organized cruises being conducted to allow paying patrons to feed wild dolphins. During the summer of 1988 several "feed the dolphin" cruise operators in South Carolina and advised that their activities could be considered harassment under the Marine Mammal Protection Act (MMPA).

Fall 1988 - Participants at the Whale Watching Workshop in Monterey, California, recommended that NMFS issue regulations that would include prohibiting activities that involved feeding wild cetaceans.

January, 1989 - NMFS received the first application (Atkinson) for a permit to conduct feed-the-dolphin cruises in Corpus Christi for purposes of public display. Applicant suspended feeding activities pending outcome of permit review.

April 1989 - Southeast Regional Office (SERO) of NMFS solicited the opinions of six recognized marine mammal experts outside of NMFS to evaluate the possible effects of feeding wild populations of marine mammals, including effects on the behavior and health of wild pinnipeds and cetaceans. The report, completed in October, 1989, concluded that habitually feeding wild marine mammals alters their natural behavior and may increase their risk of injury or death.

December 1989 - Marine Mammal Commission recommended denial of the Atkinson permit application, concluding that "...wild dolphin feeding programs, even those conducted with the utmost care and best of intentions, could adversely affect the dolphins...and is contrary to provisions of the MMPA."

June 1990 - NMFS publishes a notice of denial on the Atkinson application in the Federal Register. According to recent reports, this applicant never resumed feeding activities but continues to operate observational cruises.

August 1990 - NMFS publishes a "policy statement" in the Federal Register announcing that it would no longer accept or review public display permit applications seeking authorization to feed marine mammals in the wild, and a proposed rule amending the definition of the term "take" to include feeding.

March 1991 - NMFS publishes Final Rule in the Federal Register amending the definition of the term "take" to include feeding or attempting to feed marine mammals in the wild.

April 1991 - The day the new regulations were to take effect, another tour boat operator in Corpus Christi, Texas, who had been conducting feeding cruises since 1988, filed a suit in the U.S. District Court for the Southern District of Texas (Strong vs United States) seeking to invalidate the regulations or compel issuance of a permit. The Court issued a temporary restraining order enjoining NMFS, enforcing the feeding ban as it pertained to dolphins.

October 1992 - Southern District Court of Texas granted summary judgment in plaintiffs' favor, prohibiting the enforcement of the marine mammal feeding prohibition as it pertained to dolphins.

October 1993 - The Fifth Circuit Court of Appeals vacated the lower court's ruling finding that the Department of Commerce had substantial evidence to show that feeding wild dolphins disturbed their normal behavior and could make them less able to search for food on their own.

October 1993 - NMFS published a proposed rule in the Federal Register to revise the regulations for public display and scientific research permits. The rule includes a proposed definition of "public display" which would exclude activities other than those at facilities holding captive marine mammals.

October 1993 - Eighth permit application received from Erv and Sonja Strong. Presently seeking to feed wild dolphins under a public display permit only. Public comment period closed April 18, 1994.

April 30, 1994 - Final amendments to the MMPA signed into law. NMFS will review the amendments to determine appropriate action on all pending applications including the Strongs' and issue appropriate permit regulations.

CITED REFERENCES

Angilella, J. 1993. "Moochers put bite on people", *Sarasota Herald-Trubune*, June 17, 1993.

Brown, J. 1994. Fishery biologist, Southeast Regional Offcie, National Marine Fisheries Service. Personal Communication.

Center for Marine Conservation, 1993. Video documentation of feeding wild dolphins in Ft. Walton Beach and Panama City, Florida, and Hilton Head, South Carolina; and comments submitted to NMFS regarding feeding of wild dolphins.

Driscoll, C., DVM. 1994. National Marine Fisheries Service, Protected Resources. Personal Communication.

Fernandez, S. and A.A. Hohn. 1994. Age structure, growth, and calving season of bottlenose dolphins stranded along the coast of Texas. Accepted for publication.

Floyd, J. A. 1989, Conservation Officer, South Carolina Wildlife and Marine Resources Department, Memorandum of August 31, 1989, "Dolphin Feeding in Beaufort County, South Carolina.

Frohlich, K. 1993. Biological Administrator III, Protected Species Managment, Florida Department of Environmental Protection. Correspondence regarding concern over risks of boat collisions with manatees and human feeding of manatees in Key Largo, Florida, September 14, 1993.

Gales, N.J. 1989. A Report to the Monkey Mia Reserve Management Committee: Recommendations for a Feeding Strategy for the Dolphins of Monkey Mia, Shark Bay, Australia. Submitted to NMFS in 1989.

Gaskin, D.E. 1982. The Ecology of Whales and Dolphins. Heinemann, London.

Gunther, K. 1992. "Changing Problems in Bear Management: Yellowstone National Park Twenty Years After the Dumps", 9th Annual International Bear Conference, Missoula, Montana, February, 1992.

Hardin, J., Klimstra, W., and Silvy, N. 1984. "Florida Keys" *in* White Tailed Deer Ecology and Management, Halls, Wildlife Management Institute.

Herrero, S. 1985. "The Dangers of Garbage Habituation in Bear Attacks - Their Causes and Avoidance". Nick Lyons Books, New York, NY 1985.

Heusmann, H.W. 1988. "The Role of Parks in the Range Expansion of the Mallard in the Northeast". Waterfowl In Winter. 1988 University of Minnesota Press, Minneapolis.

Hohn, A.A. 1980. Age determination and age related factors in the teeth of western North Atlantic bottlenose dolphins. Sci. Rep. Whales Res. Inst. 32:39-66.

Hohn, A.A., Ph.D. 1994. Marine mammal biologist, National Marine Fisheries Service, Office of Protected Resources, Personal Communication.

Horton, A. 1994. "Rap Music Won't Make Dolphins Dance", *Sarasota Herald-Tribune*, April, 1994.

Lee, P.C., Brennan, E.J., Else, J.G., and Altmann, J. 1986. Primate Ecology and Conservation. Cambridge.

Malecki, R., Ph.D. 1994. National Biological Survey, Cooperative Fish and Wildlife Research Unit, Cornell University, Personal Communication.

May, L. 1994. Grad. Student at Texas A&M, marine mammal biology, and Regional Coordinator, Texas Marine Mammal Stranding Network; Personal Communication and Comments submitted to NMFS regarding feeding of wild dolphins.

Mead, J.G. and C.W. Potter. 1990. Natural history of bottlenose dolphins along the central Atlantic coast of the United States. pp. 165-195 *in* S. Leatherwood and R.R. Reeves, eds. The bottlenose dolphin. Academic Press.

Meagher, M. and Fowler, S. 1989. "The Consequences of Protecting Problem Grizzly Bears" *at* Bear-People Conflicts, Proceedings of a Symposium on Management Strategies, Northwest Territories, Department of Renewable Resources.

Moss, C. 1988. Elephant Memories, William Morrow & Co.

Sugarman, R. 1994. "Sun, fun & dolphins - Frolicking with Flipper's friends in the Gulf", *New York Daily News*, March 27, 1994.

National Marine Fisheries Service (NMFS). 1994. Memorandum of April 21, 1994 on Dolphin Feeding, Southeast Area, NMFS Enforcement.

Petricig, R. 1991. Grad. Student, University of Rhode Island, 1991 Affidavit for the U.S. District Court, Southern District of Texas.

Read, A.J., R.S. Wells, A.A. Hohn, and M.S. Scott. 1993. Patterns of growth in wild bottlenose dolphins, *Tursiops truncatus*. J. Zool. Lond. 231:107-123.

Reed, D. 1994. Recreational fisherman and businessman, Ft. Walton Beach, Florida. Comments submitted to NMFS on permit application P462-G; and **1993** Declaration for the U.S. District Court, Southern District of Texas.

Samuels, A. 1994. Mammalian behavioralist biologist, Chicago Zoological Society Conservation Department, and Woods Hole Oceanographic Institute, Personal Communication and comments submitted to NMFS on permit application P462-G.

Sayigh, L.S., P.L. Tyack, R.S. Wells, and M.D. Scott. 1990. Signature whistles of free-ranging bottlenose dolphins *Tursiops truncatus*: stability and mother-offspring comparisions. Behav. Ecol. and Sociobiol. 26:247-260.

Shane, S., Ph.D. 1991. independent Marine Mammalogist, West Coast Whale Research Foundation, Declaration, in the U.S. District Court, Southern District of Taxas

Tarule, S. 1994. Marine mammals research interpreter, Dolphin Research Center. Comments submitted to NMFS regarding feeding of wild dolphins.

Townsend, F. DVM., 1993. Marine mammal verterinarian, Fort Walton Beach, Florida. Declaration to the U.S. District Court, Southern District of Texas.

Townsend, F. 1993. "Commercial Feeding of Wild Dolphins Must Be Stopped", *Northwest Florida Daily News*, March 7, 1993.

Wells, R.S., Ph.D. Chicago Zoological Society, Sarasota Dolphin Research Program *at* Mote Marine Laboratory. **1994** Comments submitted to NMFS regarding wild feeding of dolphins; **1991** Affidavit for the U.S. District Court, Southern District of Texas;

Wells, R.S. and M.D. Scott. in press. The bottlenose dolphin. *In* S.H. Ridgway and R.J. Harrison, eds. Handbook of Marine Mammals: Volume VI, The Second Book of Dolphins and Porpoises. Academic Press.

Wells, R.S., M.D. Scott, and A.B. Irvine. 1987. The social structure of free-ranging bottlenose dolphins. pp 247-305 *In* H.H. Genoways, eds. Current Mammalogy, Vol. 1.

Young, S. 1994. Policy Specialist, International Wildlife Coalition, Personal Communication.

AFFIDAVITS AND DECLARATIONS IN SUPPORT OF THE DEPARTMENT OF COMMERCE POSITION ON FEEDING

Petricig, Richard O. - Graduate student at the School of Oceanography of the University of Rhode Island, conducting research on feeding patterns of Atlantic bottlenose dolphins in estuaries of South Carolina. Affidavit, May 31, 1991.

Reynolds, John E. III, Ph.D. - Professor of Biology and Marine Sciences at Eckerd College in St. Petersburg, Florida, and Chair of the National Sciences Collegium. Declaration, May 16, 1991.

Shane, Susan H., Dr. - Independent marine mammalogist affiliated with the West Coast Whale Research Foundation. M.S. degree in Wildlife Science from Texas A&M University and a Ph.D. in Biology from the University of California at Santa Cruz. Declaration, May 14, 1991.

Wells, Randall S., Dr. - Conservation Biologist with the Chicago Zoological Society at Mote Marine Laboratory, Sarasota, Florida, conducting long-term study on the behavioral ecology of bottlenose dolphins in Florida waters. Affidavit, May 22, 1991, and a Declaration on July 21, 1993.

Worthy, Graham A.J., Ph.D - Assistant professor of marine mammalogy, Departments of Wildlife and Fisheries Science and Marine Biology at Texas A&M University in Galveston, Texas, and President and Acting Director of the Texas Marine Mammal Stranding Network. Affidavit, May 10, 1991.

Wursig, Bernd, Ph.D - Professor of marine mammalogy and Director of the Marine Mammal Research Program of the Department of Marine Biology at Texas A&M University in Galveston, Texas. Affidavit, April 29, 1991.

October 16, 1989

ANALYSIS OF EFFECTS OF FEEDING WILD POPULATIONS OF MARINE MAMMALS

Purpose

This report analyzes the possible effects of feeding wild populations of marine mammals. It includes possible effects to the behavior and health of wild pinnipeds and cetaceans.

Background

Since early 1988 the National Marine Fisheries Service (NMFS) has been aware that organized cruises were being conducted to allow paying patrons to feed wild dolphins. During the summer of 1988 several "feed the dolphin" cruise operators in South Carolina were advised that their activities could be considered harassment under the Marine Mammal Protection Act (MMPA), and that these operators should discontinue the practice of feeding wild dolphins. During the Whale Watching Workshop, held in Monterey, California in November 1988, the participants recommended that NMFS issue regulations that would include prohibiting activities that involved feeding wild cetaceans.

In response to the continuation and growth of this commercial activity and heightened public concern the Southeast Regional Office (SERO) of NMFS, in April 1989, solicited the opinions of recognized marine mammal experts for their opinions on the subject. SERO also requested an opinion from NOAA General Council (GC) on August 16, 1989 regarding the legality of "feed the dolphin" activities under the MMPA. The responses of the marine mammal scientists are included in this report. The GC has concluded that if scientific consensus considers this type of activity to alter or disrupt normal dolphin behavior it can be considered "harassment" under the provisions of the MMPA.

Extent of Present Activity

At this time there are "feed the dolphin" cruises known to be conducted from Corpus Christi, Texas, Hilton Head Island, South Carolina, and Panama City and Key West, Florida (See attached copies of brochures from several cruise operations). One cruise vessel in Jekyll Island, Georgia may also be conducting dolphin feeding during its trips. Pinniped feeding is known to occur in California and Oregon.

Corpus Christi, Texas:
Erv Strong runs a charter on the vessel "Bubble Drifter" that carries up to 6 passengers at $10.00 a head. He runs 2 to 4 trips a day and allows the passengers to hand feed bottlenose dolphins. The exact type of fish and amount he feeds to the dolphins is unknown. However, it is known that he obtains it from local shrimp vessels. He has been conducting these cruises since September, 1988.

James Atkinson runs dolphin watching cruises 3 to 4 times a day on the vessel "Hurricane Allen". His vessel accommodates 6 passengers. Mr. Atkinson has applied for a public display permit from NMFS and is not offering "feed the dolphin" opportunities to his patrons pending the outcome of the application.

Hilton Head Island, South Carolina:
Two 80 foot ultra-yachts, "Vagabond" and "Holiday", each offer 2 to 3 trips a day, 6 days a week. Both have a 140 person capacity and charge $10.00 for adults and $5.00 for children. The "Gypsy" is a 65 foot vessel with a capacity of approximately 70 passengers. During the summer months there are 3 trips per day, 7 days a week. In the spring and fall there is 1 trip per day, 4 to 5 days a week. All cruises are $7.50 for adults and $4.00 for children. In addition to these larger vessels there are 2 smaller boats offering dolphin feeding. The "Hero" and "Homeboy" each carry 6 passengers and make 2 trips per day, 6 days a week during the summer months. The source, type, and amount of food fed to the dolphins in this area is not known.

It has been reported that operators and passengers of the numerous rental boats, pleasure craft, and fishing charter boats also feed dolphins in Calibogue Sound and in the Atlantic off Hilton Head Island. The amount of feeding by these vessels may very well exceed that of the "feed the dolphin" cruises.

Florida:
Four large "feed the dolphin" cruise vessels operate out of Panama City, Florida. The "Glass Bottom Boat" is a 65 foot vessel run by Carl Anderson. It carries up to 150 passengers and runs 1 to 4 trips per day, 5 to 7 days a week depending upon the season. Cruise prices are $6.00 for adults and $3.00 for children. Each passenger receives about a half pound of mainly Spanish sardines or thread herrings, believed to be obtained locally, to feed to the dolphins. Charles (Max) Anderson operates the 65 foot "Capt. Anderson III" that has a capacity of 216 passengers. Cruises are offered 2 to 3 times a day, 3 to 7 days a week depending on the season. Costs are $5.00 for adults and $3.00 for children. During the cruises the crew feeds the dolphins 25 to 50 pounds of Spanish sardines. The source of this food is believed to be local fish houses. Another 65 foot vessel, with a capacity of 150 passengers, is the "Ashley Gorman". It is run by Bill Gorman and has been operating since

June 1989. Trips run 2 times per day, 7 days a week and cost $7.50 for adults and $5.50 for children. Each passenger is supplied with 5-6 bait fish to feed to the dolphins. Bait is usually cigar minnows or thread herring that is believed to be obtained locally. The 65 foot "Island Star", which can carry 150 passengers, conducts 2 to 3 trips per day, 6 to 7 day a week. Cruises cost $7.50 for adults and $5.50 for children. The crew feeds a total of about 5 pounds of Spanish sardines to the dolphins each trip. Again, the sardines are believed to be from local sources.

Also operating out of Panama City are dive boats from Holiday Scuba and Divers Den. Holiday Scuba is preparing to become operational in "feed the dolphin" outings. Divers Den does not offer scheduled feeding cruises but will charter special "feed the dolphin" trips.

In Key West the "Miss Key West", operated by Bill Groscup, runs dolphin watching cruises that also involve occasional feedings of thread herring or squid. Private charters can also be arranged for half-day trips out to the shrimping fleet for the purpose of feeding dolphins. The half-day charters run $250.00.

Jekyll Island, Georgia:
Richard Malone captains the "Trade Winds" on dolphin watches once a day, three days a week. His vessel carries 46 passengers and he charges $11.00 for adults and $9.00 for children. The cruises last about two hours. In July of 1988 he was informed by NMFS Special Agent Robert Spraitz that the practice of dolphin feeding on his cruises was a violation of the MMPA. There is no information available on Captain Malone's operation in 1989. Dolphin watches have been discontinued for the season and it is unknown if he intends to conduct feeding cruises in 1990.

Pinniped Feeding:
The known extent of pinniped feeding is rather limited. In Newport, Oregon tourists purchase bait fish to throw to pinnipeds that congregate in the water near the piers. As far as can be determined, the bait is not sold specifically as "seal food". However, in Monterey, California vendors at the piers specifically sell "seal food" for harbor seals and other pinnipeds in the bay. In addition to this type of feeding, SCUBA divers in Monterey Bay make their way into the kelp beds to feed pinnipeds and sea otters. These activities are carried out mostly by tourists. Many of the locals consider aggressive, food seeking seals and sea lions to be pests.

Expert Opinion

To our knowledge, no research on the effects of feeding wild marine mammals has been conducted. In the absence of specific

data we must rely on the opinion of expert biologists in the field of marine mammalogy. The Southeast Region contacted six marine mammalogists outside of NMFS for their opinions on "feed the dolphin" enterprises. The six scientists were: Dr. John Reynolds, III, Chair of the Natural Science Collegium at Eckerd College in St. Petersburg, Florida and a member of the Committee of Scientific Advisors to the Marine Mammal Commission; Dr. Randall Wells, marine mammalogist, Joseph M. Long Marine Laboratory, Santa Cruz, California; S. C. Jones, marine mammal researcher, Delmar College, Corpus Christi, Texas; Geoffrey Patton, Senior Biologist, Mote Marine Laboratory, Sarasota, Florida; Dr. Susan Shane, marine mammalogist and author, Santa Cruz, California; and Dr. Daniel Odell, Scientific Coordinator of the Southeast Region's Marine Mammal Stranding Network and Research Biologist at Sea World, Orlando, Florida. Copies of their responses are attached to this report. While all six experts expressed a number of misgivings about the practice of feeding wild marine mammals there were several recurrent concerns. 1) All of the scientists feared that habitual feeding cruises have or would substantially alter the dolphins' natural behavior. Some believed that the repeated feedings may impair the dolphins natural ability to hunt or cause them to be overly dependent on handouts. Several were concerned that dolphins habituated to food from vessels may loose their natural wariness and be susceptible to harm from humans or vessels. 2) Another major concern was the quality or appropriateness of foods offered to the dolphins. Permitted public display facilities must meet rigorous federal standards on the foods prepared for captive marine mammals. No such standards exist for "feed the dolphin" cruises. Food from vessels may be fish that is not fresh, fish not properly stored, or inappropriate items such as hot dogs and hamburgers. It was feared that dolphins accustomed to receiving meals from vessels may also ingest trash that is thrown or blown overboard. In any of these cases, illness, injury, or death could result. 3) Most of the experts also believed that intentional harm from humans is a real possibility. Vandals may offer food containing foreign objects or poisons. Fishermen and others have been known to shoot dolphins either for sport or because they believed that the dolphins were competing with them for fish. If dolphins are less wary and closely approach vessels with such individuals aboard there is an increased risk that they may be severely injured or killed. 4) Several of the experts also felt that there was a chance that the animals might accidentally injure someone offering them food.

Dr. Gerald Scott, of the NMFS Miami Laboratory, felt that there was insufficient data on "feed the dolphin" activities to make a judgement on their effects on dolphin populations. He believed detrimental effects such as those expressed by the non-NMFS scientists could occur. However, he added, supplemental feedings could also have beneficial population results such as increasing the effective carrying capacity of the environment. Alternately,

he felt there could be no positive or negative effects to the dolphin population at large.

The Southeast Region also contacted the NMFS National Marine Mammal Laboratory in Seattle, Washington. Cetacean biologist Richard Ferrero echoed some of the same concerns expressed by the non-NMFS scientists. He believed that habitual feeding of small cetaceans may cause a change in their normal feeding behavior. However, he felt that if the feeding cruises were stopped that the dolphins would resume normal hunting activities. One of his major concerns was that dolphins habituated to being fed from vessels would loose their natural wariness and be subject to intentional harm from humans. He also felt that dolphins accustomed to taking dead fish may be more likely to remove bait from hooks or take fish out of nets. In either case humans may retaliate by injuring the cetacean. He agreed that inappropriate food may be offered to dolphins but felt that ingestion of trash is probably not very likely.

On the west coast of the United States large numbers of pinnipeds congregate close to or on shore near populated areas. In some of these areas such as Newport, Oregon and Monterey, California pinnipeds are fed from the docks or piers by tourists. Pinniped biologist George Antonelis of the National Marine Mammal Laboratory felt that this type of activity is potentially harmful to the animals. He believed that it is an artificial food source that reduces the animal's natural wariness of humans and accustoms them to eating dead fish. This may lead to increased fisheries interactions and result in harm or death to the pinnipeds from disgruntled commercial or recreational fishermen. Mr. Antonelis also expressed concern that human close encounters with pinnipeds or hand feeding these mammals may increase the risk of transmitting diseases between the species.

Both Mr. Ferrero and Mr. Antonelis emphasized that their statements were opinion. They agreed that there is no specific research documenting the effects of feeding wild marine mammals. Their opinions were based on their knowledge of marine mammal biology and behavior.

Other Information

Additional information on dolphin feeding has been obtained from several sources. Attached to this report are copies of several newspaper articles that document to some extent the effects of this activity and the concerns of some citizens regarding feeding wild dolphins. These articles reported, among other things, that dolphins have nipped people trying to feed them and that they now boldly approach all sorts of boats. Also attached is an "Incident Report" filed by South Carolina Wildlife Officer John Floyd that described a situation in which a dolphin propelled

itself onto his boat presumably looking for a handout. Officer Floyd also indicated that he has received reports of dolphins being caught on baited hooks after having been fed. Anecdotal information has indicated that bottlenose dolphins in the waters off Hilton Head Island, Panama City, and Corpus Christi have started to follow or approach all sorts of vessels looking for handouts and that dolphin feeding activities are on the increase.

Analysis

There are no scientific studies to demonstrate the effects that "feed" activities have on involved marine mammals. However, there is a general consensus of expert scientific opinion that this type of activity may be harmful to individual marine mammals and marine mammal populations. In addition, there are newspaper and anecdotal accounts of changes in dolphin and pinniped behavior believed to have been brought about by habitual feeding from humans. These accounts corroborate some of the concerns expressed by the experts. There is no evidence that habitual feeding activities have a positive impact on marine mammals.

There are presently 7 large vessels and 6 smaller vessels conducting regularly scheduled cruises to feed dolphins. "Feed the dolphin" cruises bring in hundreds of thousands of dollars each year to areas such as Panama City, Florida and Hilton Head Island, South Carolina. However, many of these cruise vessels operated dolphin watch trips before feeding activities became popular. It is not known what monetary impact the addition of feeding dolphins has had on the cruise business in these areas.

According to the Marine Mammal Protection Act of 1972 it is unlawful to take marine mammals by harassment unless the activity is allowed by a scientific or public display permit. Harassment is not defined in the MMPA or regulations implementing the Act but is defined in the U. S. Fish and Wildlife regulations implementing the Endangered Species Act (ESA) of 1973 as follows:

> "Harass" in the definition of "take" in the Act means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering.

50 C.F.R. Section 17.3

The Southeast Regional Office believes that a like definition of harassment should be used in MMPA regulations.

If expert opinion and anecdotal information are correct, feeding marine mammals alters their normal behavior patterns and can be

considered harassment under the MMPA. As such, this activity is prohibited under the MMPA unless the activity is conducted pursuant to a scientific or public display permit. Since the cruises are strictly commercial and show no evidence of research activity, permit for scientific purposes is probably not an option. The only alternative is to issue public display permits for this activity. However, public display has not been defined. If it is defined to include public feeding of wild animals, then new regulations must be developed to cover such items as proper food types and amounts, number of animals to be fed, frequency of trips, and procedures for emergency care if a marine mammal or human is injured in an encounter.

If reports are true that dolphins are being fed improper foods and have been intentionally caught on baited hooks, then it is reasonable to assume that some of the expert's fears of deliberate or negligent injury to marine mammals are justified. It is contrary to the MMPA to allow activities that put marine mammals at risk. The positive benefits to human recreation and commercial enterprises must be weighed against the possible and probable negative effects that feeding wild marine mammals can cause.

Based on the best available information, the Southeast Regional Office (SERO) believes that habitually feeding wild marine mammals alters their natural behavior and may increase their risk of injury or death. As such, SERO believes that activities such as "feed the dolphin" should not be issued public display permits.

MARINE MAMMAL STRANDING NETWORK

SOUTHEASTERN UNITED STATES

c/o Daniel K. Odell
Sea World of Florida
7007 Sea World Drive
Orlando, FL 32821

Phone: 407-351-3600 ext 158

REF.:SEUS-045:DKO:dko
23 FEBRUARY 1989

TO: E. ROCHE, PROTECTED SPECIES, NMFS

FROM: D.K. Odell, Scientific Coordinator DKOdell

SUBJECT: FEED THE DOLPHINS CRUISES

I have reviewed the literature that you sent me on two feed the dolphins cruises (Corpus Christi, TX and Panama City, FL).

It is my opinion that these programs purposefully alter the normal behavior of bottlenose dolphins and, therefore, that these activities come under the term 'take' as defined by the Marine Mammal Protection Act of 1972 and its subsequent amendments.

These activities encourage dolphins to approach boats to seek 'handouts' of food. There is no control over the quality of the fish fed to the dolphins. There is the possibility that an 'over-friendly' dolphin could injure a human attempting to feed it. On the other hand, vandals could injure/kill dolphins by placing foreign material in the fish.

1600 CITY ISLAND PARK
SARASOTA, FLORIDA 34236
PHONE: (813) 388-4441

"A nonprofit organization dedicated to excellence in marine sciences"

March 14, 1989

Ellie Roche
Permit Specialist
National Marine Fisheries Service
9450 Koger Boulevard
St. Petersburg, FL 33702

Dear Ellie:

I have reviewed the information you sent me regarding "dolphin feeding cruises" and find the existence and conduct of such programs to be most disconcerting. It is my professional opinion that such intentional alteration of the animals' natural behavior is a violation of the Marine Mammal Protection Act.

To illustrate the inevitable problems to result from continuation of these activities, allow me to describe a similar situation:

> In 1984, I was contacted by an insurance salesman who related several incidents in which he was harassed by a sexually aggressive dolphin. While rowing a racing shell in Little Sarasota Bay, the dolphin, on various occasions, would bump the boat from beneath. The man was very serious that the animal had repeatedly struck the small craft, nearly capsizing it. The fellow wanted "something done" about the animal.
>
> On investigation, it was learned that the animal was well-known to a community of boaters who regularly utilized the bay. The dolphin had become somewhat of a local attraction with people intentionally going out to see it, taking friends along, attempting to feed it, and, often, attempting to swim with the animal.
>
> Unfortunately, the dolphin had reportedly scared one lady badly when it "got rough" with her, to the point that she cried to be taken out of the water. Another person I spoke with told of a young man who had been butted by the dolphin, not breaking any bones but disabling him to the point that he had to stay out of the water for the entire summer. More than one person suggested the likelihood that someone might get more seriously injured and that "vigilantes" might resolve the problem in their own way rather than bother with any attempt at an official resolution of the problem. The dolphin disappeared a couple months later. (From reports, I believe the animal moved south out of the area as winter approached.)

My point with this story is the old saw "Don't feed the bears". Uncontrolled and unregulated human activities that promote close human interactions with protected species can only be detrimental to those

ROBERT M. JOHNSON
CHAIRMAN OF THE BOARD

WILLIAM R. MOTE
PRESIDENT

KUMAR MAHADEVAN, Ph.D
DIRECTOR

RICHARD H. PIERCE, Ph.D
ASSOCIATE DIRECTOR

1600 CITY ISLAND PARK
SARASOTA, FLORIDA 34236
PHONE: (813) 388-4441

"A nonprofit organization dedicated to excellence in marine sciences"

species. Concerns with "exploitation", quality of the fish being offered, and legal liability aside, the intent of the Marine Mammal Protection Act is to preserve the biological integrity of marine mammals. Alteration of natural behavior patterns is not in the best interest of the species in the wild.

Enclosed is a photograph of the dolphin I described above. I trust you will do everything in your power to curtail "dolphin feeding cruises". Should you need any additional information, please feel free to call me at (813) 388-4441.

Sincerely,

Geoffrey W. Patton
Senior Biologist

GWP:moi/lmf
Enclosure

ROBERT M. JOHNSON
CHAIRMAN OF THE BOARD

WILLIAM R. MOTE
PRESIDENT

KUMAR MAHADEVAN, Ph.D.
DIRECTOR

RICHARD H. PIERCE, Ph.D.
ASSOCIATE DIRECTOR

DEL MAR COLLEGE

Marine Mammal Project
Department of Natural Sciences

Corpus Christi, TX 78404-3897

March 15, 1989

Ellie Roche, Permit Specialist
Protected Species Management Branch
National Marine Fisheries Service, S.E. Region
9450 Koger Boulevard
St. Petersburg, Florida 33702

Dear Ms. Roche,

I am writing this letter to express my concern about the commercialization of animals protected under the Marine Mammal Protection Act of 1972. We have in Corpus Christi an operation that takes passengers for short cruises into the bay specifically to feed our wild bottlenose dolphins. I am very opposed to operations such as this one for the following reasons:

1. Health. While living in Galveston prior to my moving to Corpus Christi, I worked as a curator for the marinelife park there named Sea-Arama Marineworld. There I learned that park veterinarians have extremely strict requirements that apply to the food fed to marine mammals (especially bottlenose dolphins). All of their food was ordered fresh frozen and, when thawed, was not fed to these animals if it had the slightest "mushy" texture. Gastro-intestinal illnesses caused by eating unsuitable foods often set the stage for other disorders that we conveniently call "complications". I must hasten to add that the Texas coast has endured high levels of dolphin stranding mortalities during the years since 1984, and that although an exact "cause of death" can seldom be pronounced, the presence of "complicating" conditions is typical. These animals seem to carry high parasite loads, a factor that pre-disposes the host to weakening upon the onset of a simple illness. Incidentally, the fish that are fed to dolphins during these trips are frozen by-catch from shrimp culls; there is no responsible mechanism to assure a degree of freshness.

2. Dependence. If these operations are allowed to continue, dolphins which participate are likely to become dependent on this as a source of food. Additionally, there are documented cases of socio-psychological phenomena similar to "depression" in marinelife parks when certain individuals or activities are suddenly absent. Dolphin feeding operations are commercially-inspired and will continue only as long as they hold the financial interest of the proprietors. The abrupt discontinuation of a long-term feeding operation may significantly alter the lifestyles of some dolphins enough to make them much more vulnerable to the dangers present in our hazardous coastal environment.

3. Habituation. Continued close contact with humans in boats lowers the natural, instinctive defense against intentional or unintentional harm by humans. Bizzarre as it may seem, there are still people along this coast who shoot dolphins; we generally find one or two each year dead on the beach having been gunshot, and a man was convicted in Rockport (20 miles away) this year for having wantonly shot and killed a dolphin. Although it has never been documented here, some of our dead stranded dolphins may have died of poisoning; necropsies of internal organs are not inconsistent with a poisoning etiology. Unless we can create a mechanism for overseeing such operations, I feel strongly that it is inadvisable to freely allow competing commercial interests and the general public-at-large to feed these animals.

REGULATION, MANAGEMENT, AND SUPERVISION

Unfortunately, we have a serious problem with enforcement of existing regulations; there is only one NMFS enforcement agent for the entire Texas coast. Therefore it should come as no surprise that when the shrimper from Rockport was fined $5,000 for shooting the dolphin, he told the news media that he will continue to shoot them because he thinks they are causing him to lose profits. Therefore, it would seem that we need a workable mechanism to manage operations that may involve contact with protected marine mammals. I have several recommendations:

1. Feeding Operations. All operations involving the feeding of wild marine mammals should be specifically prohibited.

2. Permits. Any operation which may involve contact with wild marine mammals should be permissible by permit only (similar to the permits that scientists must acquire for simple surveys or photographic studies). Permits may be issued through organizations and agencies, though (for example, the shrimping industry) may be permitted with the Texas Department of Parks and Wildlife attending to permit maintenence.

3. Observers. Such permitted operations should be required to host NMFS-certified observers to periodically oversee their operations. Those operations which have closer contact with the animals should be observed more frequently. If dolphin feeding operations are allowed, an observer should always be aboard to document which animals are present, observe the operation and assure that it is conducted in accordance with permit requirements.

4. Research. We simply must have some assistance in our efforts toward establishing baseline population data on these animals. If there are commercial activities involved, I suggest that they help to pay for the necessary research. We already know of such commercial interfaces: (1)At least one shrimper kills them, (2) to the east, the menhaden fishery (purse seines) has been implicated several times in dolphin stranding events, (3)

the offshore petroleum industry may be terminally handicapping, if not killing dolphins through the use of demolitions to remove structures from the sea-floor, and (4) now we have dolphin feeding operations, there are probably more entities along the marine mammal/commercial operation interface.

5. Surveillance. We should make every effort to increase law enforcement surveillance of coastal and offshore waters. The U.S. Coast Guard flies routine patrols daily over these areas but USCG officers are almost totally unaware of marine mammal protective regulations (even fishery regulations, for that matter). We should establish workshops or seminars for these personnel (and state enforcement officials as well) to enable them to evaluate operations for compliance with marine mammal protective legislation.

Please distribute this letter to others in NMFS who may be able to evaluate the dangers of these operations and contribute to a management plan that will parallel the spirit of the Marine Mammal Protection Act. I thank you for your kind consideration and time.

Sincerely,

S. C. Jones III

Ms. Ellie Roche
NMFS
9450 Koger Blvd.
St. Petersburg, FL 33702

April 30, 1989

Dear Ellie,

As we discussed over the phone on 24 April 1989, businesses in which people charge the public to accompany them on boats to feed wild bottlenose dolphins are sprouting up around the Atlantic and Gulf coasts of the U.S. I wanted to express some concerns about this practice and to state emphatically that I believe these businesses are violating the Marine Mammal Protection Act if they do not apply for and receive permits for their activities.

First, on the permit issue: I have applied for and received permits from NMFS for the work I have done on cetaceans for the past 14 years. My permits have been issued to allow me to "harass" animals. As I understand it "harassment", in this case, means altering the natural behavior of the animals. As documenting the natural behavior of cetaceans has always been my objective, I go to great lengths in my research to avoid altering this natural behavior. If I do harass animals, it is only for a very brief period (seconds or a few minutes) and then I move farther away, so as not to alter the animals' behavior. Despite my painstaking attempts to avoid influencing dolphin behavior, I still must apply for a marine mammal permit.

Clearly, the businesses which set out for the sole purpose of attracting bottlenose dolphins to them, using food, are dramatically influencing the dolphins' behavior. In my view, this constitutes dramatic and purposeful harassment of dolphins. Bottlenose dolphins may be the most behaviorally-flexible of all the cetaceans. They often exploit fisheries (e.g. shrimp fisheries, crab fisheries) to get food, so the businesses set up to feed dolphins are merely taking advantage of the natural tendency of bottlenose dolphins to get an easy meal. However, these businesses are altering the behavior of the dolphins from what it was when the boats first approached them and are, thus, clearly harassing them. If NMFS decides that the feed-the-dolphin businesses need not apply for MMPA permits, then I would consider it unnecessary for me or other cetacean behaviorists to apply for such permits.

I have a few concerns about the effects of these businesses on local dolphin populations. One concern is about the lack of quality control of the food being fed to the dolphins. Unlike oceanaria which must meet certain standards in the fish they feed their dolphins, the businesses in question are unregulated, and low quality, rotting or inappropriate food might be given to the dolphins. Of course, the dolphins can choose whether or not to eat it, but this problem should be considered. Second, I wonder whether certain individual dolphins might become completely

dependent upon these boats for their food. It is likely that only certain individual dolphins will become habituated to these boats, so the effects will be focussed on a relatively small number of individuals in a population. If dolphins did become dependent on the boats, it is difficult to know if they would suffer from a later loss of this food source (if the business closed). A comparable situation is seen in the West Indian manatee which has become dependent upon power plants in Florida as warm water refuges during winter; the shut-down of power plants puts manatees at mortal risk.

My recommendations are the following: 1) Notify all existing feed-the-dolphin businesses that they are in violation of the MMPA and must apply immediately for permits; 2) Issue permits only to those businesses which demonstrate that they have an educational program (spoken and/or brochures) built into their business; 3) Establish standards for food quality and institute periodic inspections such as those for oceanaria; 4) Support research into the dolphin-feeding business interactions. Specific research questions might include: How many individually-recognizable dolphins are associated with each business? What is the age (i.e. relative size) and sex (if determinable) distribution of these dolphins? Do dolphins which take food from the businesses also feed on their own (this question can be answered by following naturally marked individuals for hours over several days)? Do new dolphins continue to come to the boats or is there a finite group of animals involved? Do the dolphins which feed at these boats approach other boats, as well?

I don't know if you've seen my dolphin book or not. I have enclosed a copy. I don't mean to over-promote my own work, but I feel that each feed-the-dolphin business should have this book for its own edification and, perhaps, for sale to its customers. The dolphins have provided these businesses with an obviously profitable activity; it seems only appropriate that they give back in the form of educating the public about the natural behavior of the bottlenose dolphin.

Ellie, I hope these comments are useful to you. I am <u>very</u> interested in the final decision that NMFS makes on this issue and do hope you'll keep me informed. Thanks so much for giving me the chance to comment!

Sincerely,

Susie

Susan H. Shane, Ph.D.
250 Cottini Way
Santa Cruz, CA 95060

cc: John Twiss, Marine Mammal Commission

ECKERD COLLEGE

P.O. Box 12560
St. Petersburg, FL 33733
813/867-1166

5 May 1989

Ms. Ellie F. Roche
Permit Specialist
Protected Species Management Branch
NOAA-NMFS
Southeast Regional Office
9450 Koger Boulevard
St. Petersburg, Florida 33702

Dear Ellie:

You recently described for me a situation in which some boat captains in the southeastern United States were taking boat-loads of passengers to areas where they attracted and fed groups of bottlenose dolphins. You requested my opinion of this activity.

Although I am not a lawyer and am, hence, not the best person to interpret legislation regarding marine mammals, it appears to me that the dolphin feeding operations have the potential to cause problems for both the people and the animals involved. In terms of human safety, it seems that the possibility exists where someone leaning over the side of the boat and holding some "dolphin food" could be injured if a dolphin were to lunge for the food and bite the person's hand or arm in the process.

I have great concerns regarding the effect of this operation on the dolphins involved. First, the dolphin feeding promotes behavior that is not natural for the animals. In fact, it is possible that, over time, the dolphins could even become dependent on food provided by people, creating a survival problem if the food source were eliminated. Changes in "normal behavior patterns" are not desirable, and I have heard harassment (something prohibited under the Marine Mammal Protection Act) defined in terms of changing natural or "normal" behavior. Recently, I understand that certain whale watching activities have been modified to reduce the likelihood that normal behaviors would be interrupted.

A specific concern in the case you raised involves direct harm to the dolphins that become accustomed to eating materials thrown from boats or otherwise provided by people. Let me propose two possible scenarios that could lead to dolphin mortality or injury. If dolphins get used to consuming materials that come from boats, how would they react to trash (e.g., plastic bags) that blows off vessels, or that someone discards as litter? Consumption of such material could result in death. As another scenario, the possibility exists that someone might want to harm dolphins; such an individual might deliberately toss the animals toxic or harmful materials that could be ingested. Similarly, animals that approach a boat expecting to be fed could be physically injured if someone wished to do so.

Certainly people enjoy encountering dolphins in the wild. I share this enjoyment. I am not opposed to tours that provide opportunities where people can enjoy watching the animals in their natural setting, as long as the activity causes no detrimental impacts to the animals. As indicated above, however, I do have serious concerns regarding the attraction and feeding of wild dolphins.

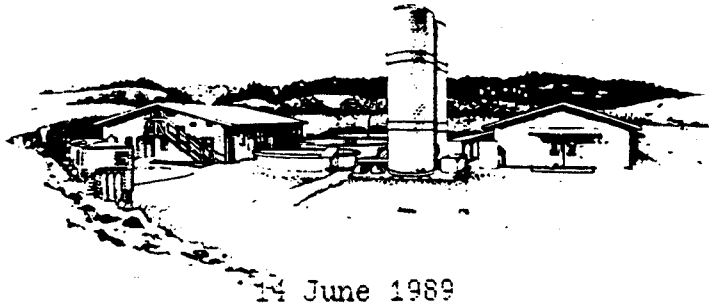
Although I am a member of the Committee of Scientific Advisors to the Marine Mammal Commission, the comments I have made above reflect only my own opinion; my comments should not be taken as representative of opinions by other Committee members or by members of the Commission staff. I hope that my comments have been helpful.

Best wishes,

John E. Reynolds, III, Ph. D.
Chair, Natural Sciences Collegium

cc: John R. Twiss, Jr., Marine Mammal Commission

JOSEPH M. LONG
MARINE LABORATORY
Institute of Marine Sciences
100 Shaffer Road
Santa Cruz, CA 95060



14 June 1989

Ellie F. Roche
Protected Species Management Branch
Southeast Regional Office
National Marine Fisheries Service
9450 Koger Blvd.
St. Petersburg, FL 33702

Dear Ellie,

As you are aware, I have some concerns regarding the wild dolphin feeding operations that are currently being conducted in Florida, Texas, Georgia, and South Carolina. My experience with these programs is limited primarily to newspaper accounts, so I can not comment on specific details of any given program. I would, however, like to discourage these programs based on broader concerns. It is difficult for me to marshall hard and fast facts about the negative aspects of dolphin feeding programs, since I am unaware of any studies that have been done on these relatively new programs. I feel, however, that there is enough information available from captive facilities and field studies to warrant close scrutiny of the potential threats posed by these programs.

My main concern is for the health and well-being of the dolphins. Serious health problems can arise from feeding poor quality or improperly prepared fish to the dolphins, or from their ingestion of foreign objects. Stringent standards and regulations have been established for the care of captive dolphins. These standards are based on many years of experience and nothing less than these standards should be followed for any other kind of activity that involves providing food to dolphins. Prompt medical care is available in captivity if a dolphin should develop an illness resulting from food or ingestion of foreign objects--no such treatment is possible in the wild.

The existence of regular commercial operations for dolphin feeding establishes a dangerous precedent. Once knowledge of the regular feeding spots becomes more widespread, what is to prevent private boaters with even less knowledge of proper dolphin care from feeding the dolphins on their own?

Encouraging dolphins to approach boats for feeding is probably not in the animals' best interest. From observations of captives we know that these animals are good at generalizing. If they begin to associate boats with food, then the frequency of boat/dolphin interactions may increase, leading to a possible increase in the frequency of collisions, gunshot wounds, ingestion of foreign objects, or other health threats.

In the absence of human activities, bottlenose dolphins are not scavengers, rather, they take live, presumably healthy prey. Training a newly-captive dolphin to eat dead fish can take time. This preference for live fish may be viewed as a mechanism for ensuring that the dolphins

consume high quality fish in the wild. One can speculate that encouraging these animals to eat dead fish may lower their standards for prey selection on their own, and indirectly lead to health threats.

Teaching the wild dolphins to eat dead fish might also lead to fisheries conflicts. In Hawaii, for example, many dolphins are shot by longline fishermen because they are alleged to steal bait, in the form of dead fish, from the lines. It is not inconceivable that the dolphins might begin to take fish caught in commercial nets as well, resulting potentially in ill will from the fisherman, and incidental mortality in the nets.

If you wish to discuss any of these concerns I can be reached in Florida through 4 July, and at the letterhead address back in California thereafter.

Sincerely,

Randall S. Wells, Ph.D.

South Carolina
Wildlife & Marine
Resources Department

Equal Opportunity Agency

James A. Timmerman, Jr., Ph.D.
Executive Director
W.K. Chastain
Director of
Law Enforcement and Boating

TO: Capt. J.E. McTeer, Jr.

FROM: PFC John A. Floyd

DATE: August 31, 1989

SUBJECT: Dolphin Feeding in Beaufort County

This is in reference to the local interest of people in this area to hand feeding bottle-nosed dolphins (Toursiops truncatus). While on a boat patrol on August 23, 1989 with CO Gentry Thames we had two occasions to observe sightings of dolphins. Officer Thames and myself were dispatched to serve two arrest warrants on a Captain of a shrimp trawler that we located just offshore of Calibogue Sound near Hilton Head Island. I placed Officer Thames aboard the trawler, at which time he placed the Captain under arrest. The trawler then proceeded into Calibogue Sound for the purpose of retrieving his nets onto the boat. When the trawler reduced speed to allow bringing the nets on board, five bottle-nosed dolphins surfaced and encircled my patrol boat within arms length. The dolphins were, without a doubt, looking to be hand fed fish.

In my experience as an owner and Captain of a shrimp trawler and as a Conservation Officer, I have found that it is not unusual for dolphins to follow trawlers and feed on the discarded "trash" fish that is pushed overboard as the catch is being sorted. However, what I did find, on this particular day, that was highly unusual was that the dolphins were more interested in what I had to offer in my 21' patrol boat rather than the shrimp trawler that was only 30 yards from me. Once underway again, the dolphins went on about their normal activity.

After completing the arrest of the trawler Captain, Officer Thames and myself proceeded by boat from Skull Creek behind Hilton Head to the Maye River near Bluffton so that we could dock our patrol boat. While enroute in the Maye River, at a speed of approximately 40 mph, I observed a dolphin in from of the bow of our boat which was extending about 1/3 of it's body out of the water and shaking it's head vigorously at us (similar to what "Flipper" would do on the television show). At once I slowed the boat down to idle speed and directed Officer Thames' attention to the dolphin. Officer Thames went to the side of our boat and instantly the dolphin came alongside and propelled itself up onto the side of the rail of the boat, which is over two feet out of the water. Officer Thames was totally unprepared for the boldness of the dolphin and immediately removed himself to the center of the boat.

This dolphin and another remained with us, clearly looking for food. After several minutes these dolphins left us, realizing we had no "hand-outs" for them. These dolphins were clearly not members of the group of dolphins that we had sighted earlier in the day.

On Monday, August 28, 1989, I returned to the Maye River for the purpose of photographing this dolphin and his activity. After stopping two times I did not observe the dolphin that I had observed on August 23, 1989. I began to proceed out of the Maye River. At the junction of the Maye River and Bull Creek I observed approximately three dolphins surfacing. I idled my patrol boat to a stop and immediately one of these dolphins came alongside and exposed itself to me looking for food. This dolphin was not the same one that I had seen previously because of the amount of wear on it's teeth. The dolphin sighted at this time was a very young specimen. After taking several photographs I proceeded on my normal boat patrol.

In addition to these instances, I have observed personally many private and charter boats feeding these dolphins any number of items, including fish, pretzels and beer. This is wrong. I have also been given two reports that individuals have fed dolphins fish and then baited a hook with the same type of fish and, in fact, hooked the dolphin and tried to land them.

Included with this letter are several articles that have appeared in local newspapers. This situation of hand feeding dolphins in our area is a serious problem which I hope will be addressed by the Committee of the National Marine Fisheries in Washington, D.C. Feeding wild animals or fish in this area, including deer, raccoons and alligators, has proved to do nothing but create serious problems for both the wildlife and the people in this area. If a dolphin the size of which I normally encounter in these waters would place itself on the rail of a small aluminum boat, it would probably capsize! If a dolphin would approach a boat for a hand-out and the occupants didn't like it, the dolphin could be harmed or killed. When charter boat Captains take their passengers out to catch sport fish and dolphins constantly encircle their vessels, nothing will be caught and the Captains' businesses would suffer.

These bottle-nosed dolphin are beautiful and very intelligent cratures. I only hope that we, as wildlife managers, realize and deal with the severity of this problem before it becomes harmful to our friends, the dolphins. Too seldom do we human beings realize that what affects the game, fish and environment directly affects us.

John F. Bl

JAF/swp
Enclosures

UNITED STATES GOVERNMENT

memorandum

DATE: September 06, 1989

REPLY TO ATTN OF: S/A Robert M. Spraitz
Brunswick, GA Field Station

SUBJECT: Dolphin "Incident"

TO: ASAC Eugene F. Proulx
St. Petersburg, FL Regional Office

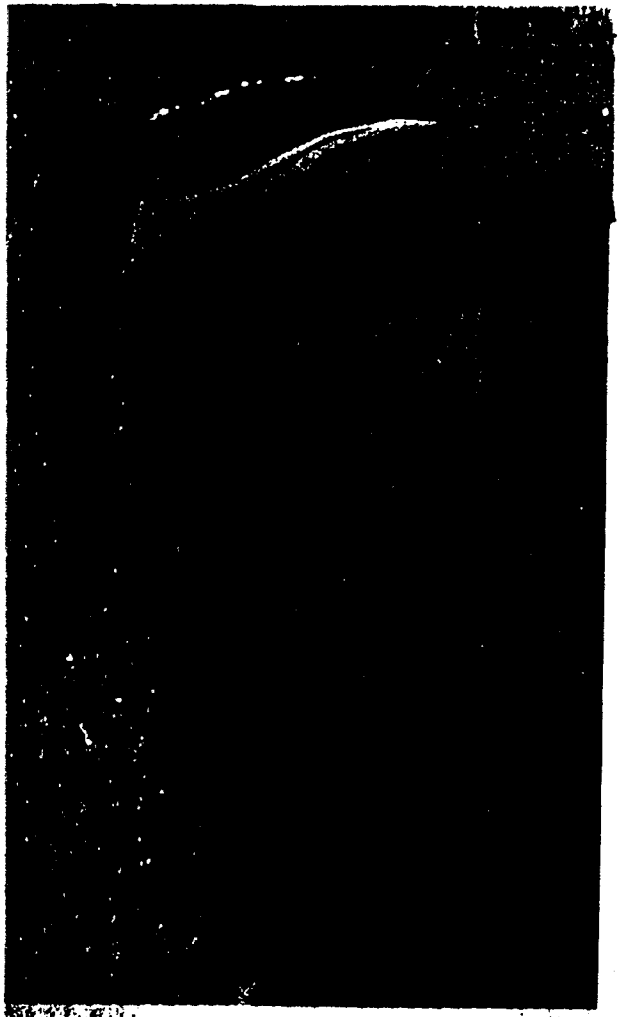
Attached for your information is an "Incident Report" from SC Wildlife Officer John Floyd, relating the extent that the dolphin feeding has gotten to in respect to the animals becoming a nuissance and hazard to people and property. I was not aware of the rumored hooking incident and will try to run down some leads on that as soon as I have time. Will keep you posted. Hopefully NOAA GC in DC will let us stop this activity soon. Let me know of any decisions. Thanks.

Bob

RECEIVED
SEP - 8 1989
Law Enforcement Office NMFS

OPTIONAL FORM NO. 10
(REV. 1-80)
GSA FPMR (41 CFR) 101-11.6
5010-112

★ U.S. GOVERNMENT PRINTING OFFICE 1983 381-526/8335



THE BOTTLENOSED DOLPHIN

Tursiops Truncatus ("Truncated dolphin-face")

Approximate maximum length & weight: 13 feet, 1,450 pounds.

Coloring: Dark to light gray dorsally, white to pink ventrally.

Food: Small fish, crustaceans, eels, mullet, & squid.

Distribution: All temperate and tropical waters.

Estimated maximum age: 35 years.

Females bear a single offspring every 2 to 3 years after a gestation of 12 months. Calves are born about three to four feet in length and are nursed for the first year of life.

DOLPHIN WATCH CRUISE

$7.50 ADULTS **$4.00** CHILDREN 12 & UNDER

OUT OF
SOUTH BEACH MARINA VILLAGE
ABOARD THE **GYPSY**
Reservations Not Necessary

1989 CRUISE SCHEDULE

March	Tues. thru Fri	4:00 to 5:30
April & May	Mon. thru Fri	4:00 to 5:30
June, July, August thru Labor Day	Mon. thru Sat	9:30 to 11:00 4:00 to 5:30 6:30 to 8:00
Sept. & Oct	Tues. thru Fri	4:00 to 5:30
November	Tues. thru Fri.	3:00 to 4:30

FOURTH OF JULY FIREWORKS CRUISE
For time, price and reservations call 842-9320

Come aboard! Join us for a cruise on the beautiful waters of Calibogue Sound. During the fully narrated cruise, you'll see pelicans, herons, other sea birds, and playful DOLPHINS in their natural habitat.

Our departure point is the picturesque South Beach Marina Village in Sea Pines Plantation. You can explore the specialty shops of the Village or enjoy a meal at one of the fine restaurants, before or after your cruise.

Snacks, soft drinks, beer and wine are available at our snack bar. Clean restrooms on board. Tickets purchased aboard.

Vessel and Captain licensed by U.S. Coast Guard.

(803) 842-9320

No cruises scheduled for Dec., Jan., Feb

DOLPHIN FEEDING CRUISES

ABOARD THE
ULTRA-YACHT **VAGABOND**
Docked by the 18th Green

Departing from Harbour Town Marina
1989 CRUISE SCHEDULE

OCEAN • DOLPHIN FEEDING

$8 adults — $4 Children 12 & under
3:00 p.m. to 4:30 p.m.

March, April & May	Daily Except Sunday
June, July & August thru Labor Day	Daily Except Sunday
September, October & November	Daily Except Sunday

Join us for a relaxing cruise of Calibogue Sound and the Atlantic Ocean surrounding Hilton Head Island. Comfortable seating aboard our 80-foot Coast Guard licensed ultra-yacht with open or covered seating. See shrimp boats in action; seabirds, other wildlife and dolphins in training in hand feeding. We have several spots selected where dolphins usually are located and waiting for their daily rations.

call 842-4155 ***See reverse side for additional cruises.***

DEEP SEA FISHING

(SCHEDULE)

12 HOUR TRIP — 5 AM to 5 PM

Electric Reel with Bunk — $41.00
Electric Reel without Bunk — $40.00

10 HOUR TRIP — 7 AM to 5 PM

Manual Reel — $28.00
Rider — $12.50
Children Under 12 Manual Reel — $20.00

½ DAY TRIPS

$16.00 ★ 7 AM to Noon
or 12:15 PM to 5:15 PM
Riders — $9.00
(March-Memorial Day Schedule Subject to Change)

Enjoy Fishing Aboard these Boats

½ Day Trip Aboard the 65 Foot Catamaran S.W. Anderson

All Other Trips Aboard These Boats

★ Captain Anderson #10
65 ft. Catamaran
50 Passengers (7 am to 5 pm Trip Only)
★ Star Queen - 85 ft. — 60 Passengers
★ Florida Queen - 85 ft. — 60 Passengers
★ Ocean Queen - 85 ft. — 60 Passengers
★ Gemini Queen - 85 ft. — Catamaran
68 Passengers

All Vessels Galley Equipped • Bait & Tackle Furnished • No Alcoholic Beverages or Coolers Allowed On Board • Beer & Soda Sold On Board • We also Have One & Two Day Charters (By Request)

CHARTER BOATS AVAILABLE

ENJOY A CRUISE ON THE

Capt. Anderson

DINNERBOAT

Sunset Dinner & Dance Cruise

★ Three hour inland water cruise on beautiful St. Andrews Bay
★ Three piece band for entertainment
★ Air-conditioned and heated for your convenience
★ Complete sit-down dinner with choice of five entrees

What a romantic way to spend an evening!

Monday through Friday — 7 pm - 10 pm
Adults $18.95 / Kids $16.95

Saturday Dinner Cruise
7 pm - 10 pm — Adults $22.50 / Kids $20.00

(All prices include taxes and tip)

★ *Cocktails available on board* ★

For Reservations Call: (904) 234-5940

Capt. Anderson's

Shell Island Cruises

—SAILING TIME—

9 am to 11:45 and 1 pm to 3:45 pm

- See Beautiful Shell Island
- Go Shell Collecting
- Wade in the Crystal Clear Water

Sandwiches, soft drinks and beer available at the snack bar. Clean restrooms are on board. The Captain's informative narration, courteous crew and this spacious modern vessel all add up to a pleasant family outing.

$6.00 Adults — $3.00 Children

Dolphin Feeding Cruise

Sailing 5:15 pm to 6:30 pm
$5.00 Adults — $2.50 Children

FOR RESERVATIONS ONLY TOLL FREE 1 (800) 874-2415

For the following states only: Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee

Do we jeopardize native dolphin

Everybody loves dolphins.

Who can resist *Toursiops truncatus* the sleek Atlantic bottle-nosed dolphin of "Flipper" fame when it whooshes to the ocean surface, cavorts with its swimming mates and plunges like a gray torpedo into the surf?

The little whales have been dubbed he island's unofficial mascots. Their :miling faces adorn local restaurant nenus, business cards and even foot- all helmets at a local school.

Elsewhere in the United States, hu- nan being feed their infatuation with olphins in the strangest ways. We apture them and train them to wear inny hats and leap through burning oops in sea-life circuses. The ne- est craze is to purchase "Swim ith a Dolphin" (meaning ride on the imal) experiences for $50 a pop.

Such activities yield questionable, any, scientific information about ·ar *Tursiops*. What they do produce big profits for those who would ·mmercialize the public's passion - porpoises and whales in general.

Now our need to get up close and rsonal with bottle-nosed dolphins s spawned a new business right re on Hilton Head Island. It's lled the "Feed the Dolphin ise." Leaf through any tourist debook or venture down to the irest marina. You'll learn that irter boats of all sizes offer scenic rs of our inshore waterways ere the main feature is throwing to the eagerly awaiting cetans.

hough the idea of feeding a mullet wo to friendly marine mammals ns innocent enough, the preva- e of these commercial cruises es disturbing ecologic questions.

oremost is the real possibility routine and numerous feedings train dolphins to become beg- instead of natural foragers. Re- nber that these are most intelli- t animals. If the cruising inues, our dolphins get the mes- that *all boats are food boats*.

ll they soon linger around boats, andling rather than hunting on own? Will these sleek masters e deep be reduced to cosmopoli- vildlife which, like deer and ra- s and alligators, have grown and dependent on man for re- d hand-outs?

cent research on Florida dol- populations has established the hood that local communities of re dolphin are permanent resi- . Pods (groups) in Calibogue l, for example, may not mi- or interbreed with their ocean- thren. It is troubling to imagine offspring born in Hilton Head s may learn that *begging fish is al* and that hunting is not.

ding dolphins for fun and profit other disturbing scientific ons:

the right food being provided? olphin consume squid, menha- mullet and herring. Let's hope are kept aboard the cruise ves- But one doubts that captains have total control over their paid customers who, through curiosity or ignorance, decide to experiment. Some island boaters have witnessed humans throwing hot dogs and hamburgers to dolphins.

■ Is the food properly prepared? If consumed, old decaying fish can cause serious bacterial infections in marine mammals.

■ As dolphins become too familiar with humans, who will protect them from harassment? Wildlife biologists have reported stranded dolphins with nooses around their beaks and bullet holes in their heads. For these hapless mammals, was friendliness their curse?

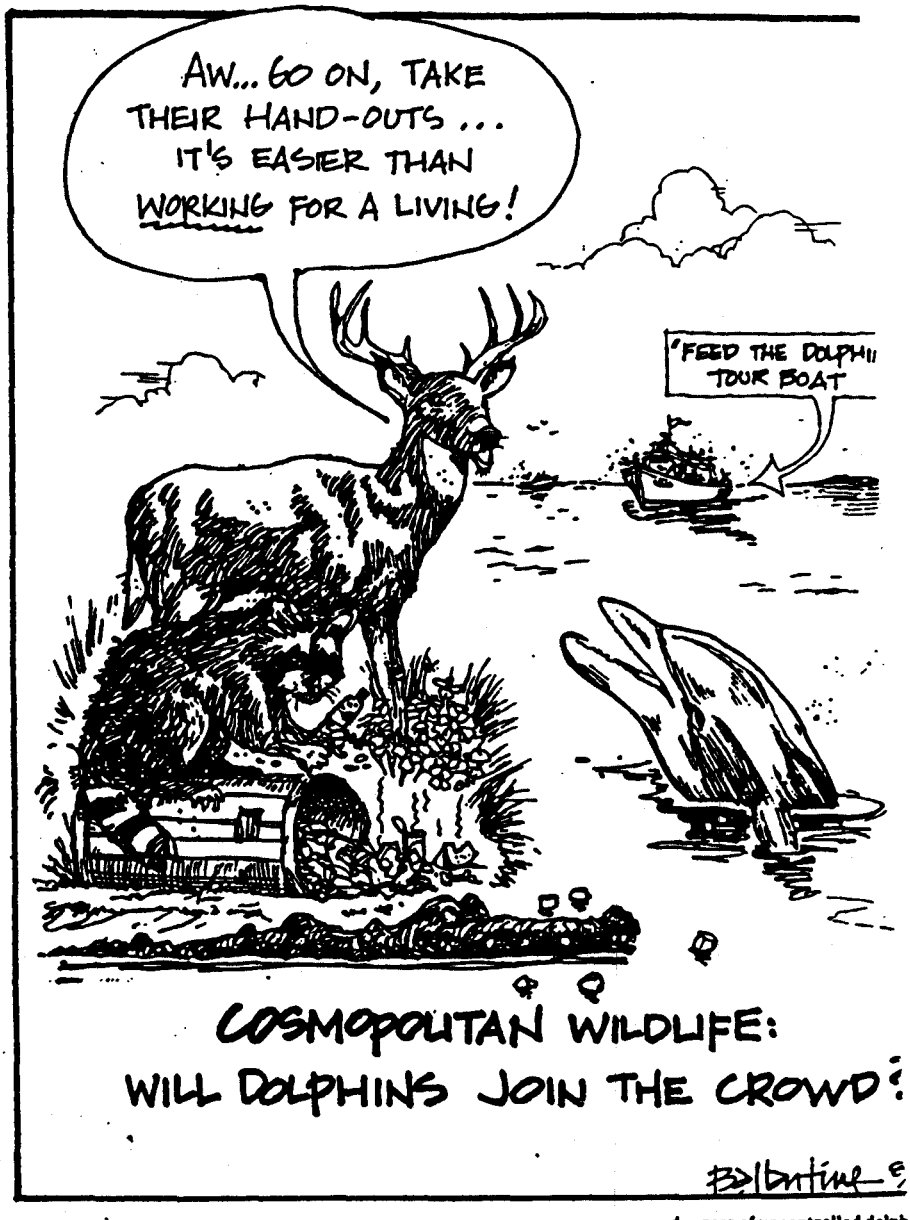
■ And will bold dolphins make it difficult for fishermen to set their lines and maximize catches?

Presently, *Toursiops* is not protected from the potential impacts related to feeding cruises. The key federal legislation that regulates dolphins is the Marine Protection Act (1972). Administered by the National Marine Fisheries Service, the act concentrates on conserving population stocks of marine mammals from depletion or extinction. The real problem of harassment by enticement is not addressed in the law.

But all that could change. The Fisheries Service has compiled a number of expert opinions on the dangers of uncontrolled dolph ings and is studying the feasi restricting commercial feedi er its display permit authori mitting would involve stand quality control for food prep and regular vehicle inspectio Department of Agriculture.

Before changing regulatio Fisheries Service needs mor research to assess whether th ing cruises are merely an int tent influence on the biology phins or a serious, cumul impact on the health and well the species.

Such research will require ing. It is logical and fair to p that the best source of dollars t study should come from the co cial cruises themselves. If eac sel would return a percentage percent of its profits to the Fish Service to study the impacts of ing dolphin, then perhaps ever — conservationist, fishermen, ter operators and regulators — learn how to best protect Tur from becoming just another co politan pet.



Naturalist's journal

TODD BALLANTINE

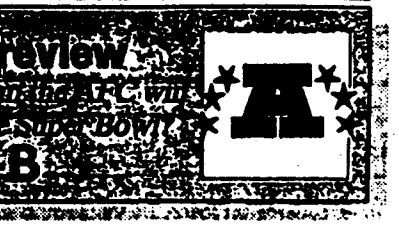
Craft must have clothes, but truth goes naked.
Scottish proverb

NATURALIST'S JOURNAL

Dolphin
Should public feed Flippers?
8-A

SPORTS

Preview
Scouting the AFC with the Super Bowl
B



THE ISLAND PACKET

Hilton Head Island, South Carolina

25 cents/22 pages 2 sections

Monday, August 28, 1989

behind them, without wondering where the years went and why they went so swiftly, without the sad feeling that maybe the best is behind them?

Having to relive memories of Woodstock must affect people on the razor's edge of 40 much the same way. Hey, kids, you're not kids anymore. You're twice as old as you were back then when you never trusted anybody over 30, and look what's happened to you. Forty is knocking on the door, squatting in the bedroom, and you're an old-timer now, just like the old-timers you were running away from when you went to Woodstock, except you making engines continue to cannibalize her.

It is one of the greatest of all American horror stories, the ultimate nightmare to which fame may lead if you don't watch out. You know what? In this country you can become so famous that it isn't even safe to die.

The anniversary of the Hitler-Stalin pact is unlikely to affect the masses moved by Woodstock, Elvis and Marilyn Monroe. For one thing, you'd have to be 60 even to remember it and probably 65 or 70 to have known back then in 1939 how ominous it was.

That year, deep in their world-ignorance and isolation, not many an instant.

All this looking back is the characteristic of a country in old age. We have in the past quarter-century started treating the past as cud, chewing and re-chewing it. Not that it nourishes us much, except in amusement and melancholy. In fact, we have re-chewed the history of World War II so exhaustively that, as Paul Fussell says in his new book, "Wartime," we have turned its horror into jolly good fun.

Young people look ahead to Saturday night. Anniversaries go with nodding by the fire.

(Russell Baker is a syndicated columnist.)

ISLAND PACKET
AUG 31, 1989

LETTERS TO THE PACKET

how naive and ludicrous this statement is?

I wonder if she and others truly understand what pro-choice is all about. It is not necessarily pro-abortion, but the ability for each person to make a choice, the right choice for each and every different situation. Abortion may not be the approach for Ruth Stockstill but for others it may be the appropriate choice. Neither she nor any other person should have the right to interfere with such a private decision.

I don't believe that the pro-choicers are manipulating anyone's rights to prayer, values or Jesus Christ. In fact, it's some anti-abortionists that are the manipulators.

Pro-choice is just what it says — the freedom to make a decision. That's what this country is all about.

Margie Vasallo
47 Salt Marsh Drive

Wild dolphin may be abused

To The Packet:

I would like to call your attention to the exploitation of the bottle-nosed dolphins occurring just off our island in Calibogue Sound. This exploitation has many names, such as "Dolphin Watch," "Dolphin Round-Up," "Dolphin Hunt" and "Dolphin Feed." Basically it involves renting a boat or chartering a boat to feed the dolphins.

Up until a few years ago, this was tricky. The dolphins were shy and not as willing to approach man. However, this has changed and the number of people wanting to feed the dolphins has increased. This in turn has increased the number of boats (private, rental and charter boats) willing to take people to the dolphins. This has prompted a wave of advertisements to lure more people to this activity.

I understand from the people's point of view that this is a special experience between man and nature. I also understand from the charter boats' point of view that this is a lucrative way to make money. But has anyone thought of how this may affect the dolphin in the long run?

The feeding of the dolphin is nothing new. Dolphin have been fed by crabbers, shrimpers and fisherman for years. However, this involved a few dolphin who were interested enough to approach us. These dolphin in Calibogue Sound have become so conditioned that they show up as soon as you turn off the engine, expecting to be fed.

This is not "Flipper!" These are wild dolphins. One only has to think of the bears in Yellowstone to think of what may happen. I have already heard reports of hot dogs and brined fish being fed to them.

Also, there are reports of dolphins being hooked by fishermen. These incidents will only increase as the dolphins become more and more familiar with man. What is going to happen when the dolphins become such a nuisance that they won't leave you alone ? I hope it doesn't take the dolphin being maimed or shot to get this point across.

My point is that the promotion of dolphin-feeding is only going to increase the likelihood of a tragic incident. The dolphin-feeding has gotten way out of hand. We are taking a trust and making a "fast buck" off of it at the expense of the dolphin. By conditioning the dolphins to feed from man on a regular basis, we have changed their natural behavior.

Just watching the dolphins was enough in the past.

In the whale watches on the West Coast, the spectators don't feed or interfere in the whales' normal activities. People continue to pay to see them just swim by. This used to be how it was here with the dolphin-watches. But now we have to top that and interfere in their natural activities. Do we want these beautiful creatures to remain free or do we want them to perform circus tricks? I say let the tricks stay at Sea World and let the dolphins in Calibogue Sound remain free from man's commercialism.

Lisa Fall
North Forest Beach
(FORMER CHARTER BOAT CAPT)

Thanks for story

To The Packet:

On behalf of the Kiwanis Club of Hilton Head, I would like to express our thanks for the excellent coverage of project Bright Star that appeared in the Sunday, Aug. 20, edition of The Island Packet.

Carolyn Grant deserves special credit for having presented a very accurate and complete report on the project. It was a pleasure for me to work with her on the story.

The article will go a long way toward helping us to acheive one our major objectives and that is to build confidence and self esteem in the students who are participating.

Joe Jagan
Kiwanis Club of Hilton Head

Letters policy

Readers' letters are among the most important features of The Island Packet. In order for a letter to be published, it should be no longer than approximately 250 words and must include the writer's address and telephone number.

We try to publish them in the order in which they arrive in our office.

Sea World will never be the same again

PRINTED IN ISLAND PACKET

Fine print

TERRY BUNTON

Like many, my wife has long been fascinated with dolphins. Sea World was Valhalla as far as she was concerned.

Now, she doesn't have to go to Sea World anymore.

Sunday was a typical August day: hot and muggy with clouds, shaped like old men's profiles, scudding along, threatening to bank up by later afternoon. A good afternoon to retire to the May River to crab and shrimp the falling tide while keeping a keen weather eye.

That was the plan at least when I slipped the little fishing boat into the water at All Joy landing. The little Evinrude cranked with little protest, but the water pump wasn't pumping.

Mechanically-impaired though I am, I do know that you aren't going to go far without a water pump. I cleared the boat ramp and steered slowly into the current to ponder the meaning of the universe and the working of impellers, matters equally mysterious to me.

I raised the foot of the motor for examination, though I had no idea what I was looking for, nor what I'd have done had I found some anomaly to explain the water pump malfunction.

Next, I removed the cowling to conduct a similar inspection of the head. Looked fine to me but what do I know?

It was at that moment that I noticed a pair of dolphins about 40 yards away approaching to starboard. Nothing at all unusual about seeing dolphins, but I mentioned the approach to my wife and daughter anyway.

But instead of sounding, these two set a course for our boat. A few moments later, an adult dolphin was standing on his tail peering over the gunwale within arm's reach.

Astonished by this close encounter with her favorite marine mammal, my wife reflexively reached out to touch the dolphin. Whereupon the dolphin reflexively reached up to take the fish he supposed she was offering.

"He bit me," my wife exclaimed in a tone mixed with wonder and excitement, "he wants a fish."

Dolphins apparently don't care for "finger" food, but he seemed pleased when my wife offered him a mullet instead of fingers. He dove, swam around the boat twice and suddenly sounded, long gone.

As we scanned the horizon for our new friend, the other dolphin surfaced just as the first had, clearly soliciting a handout. This one allowed my wife and daughter to feed him and touch him until the mullet ran out, whereupon he seemed to get bored and sounded, too.

Nonplussed by the encounter with the dolphins, I still had the problem of the water pump which paradoxically started working properly as soon as I cranked up to head for the landing.

Instead, we headed upriver and crabbed for several hours before returning to the landing. Laying off the landing, waiting for several other boaters to finish loading up, we were idling along in a lazy circle when our friend suddenly reappeared. It was the second dolphin, not the biter, and this time he communicated with the dolphin's distinctive clicking sound.

Unfortunately, I don't speak dolphin so I can't translate, but I rather imagine he was simply greeting us and wondering if perhaps we might have some more mullet.

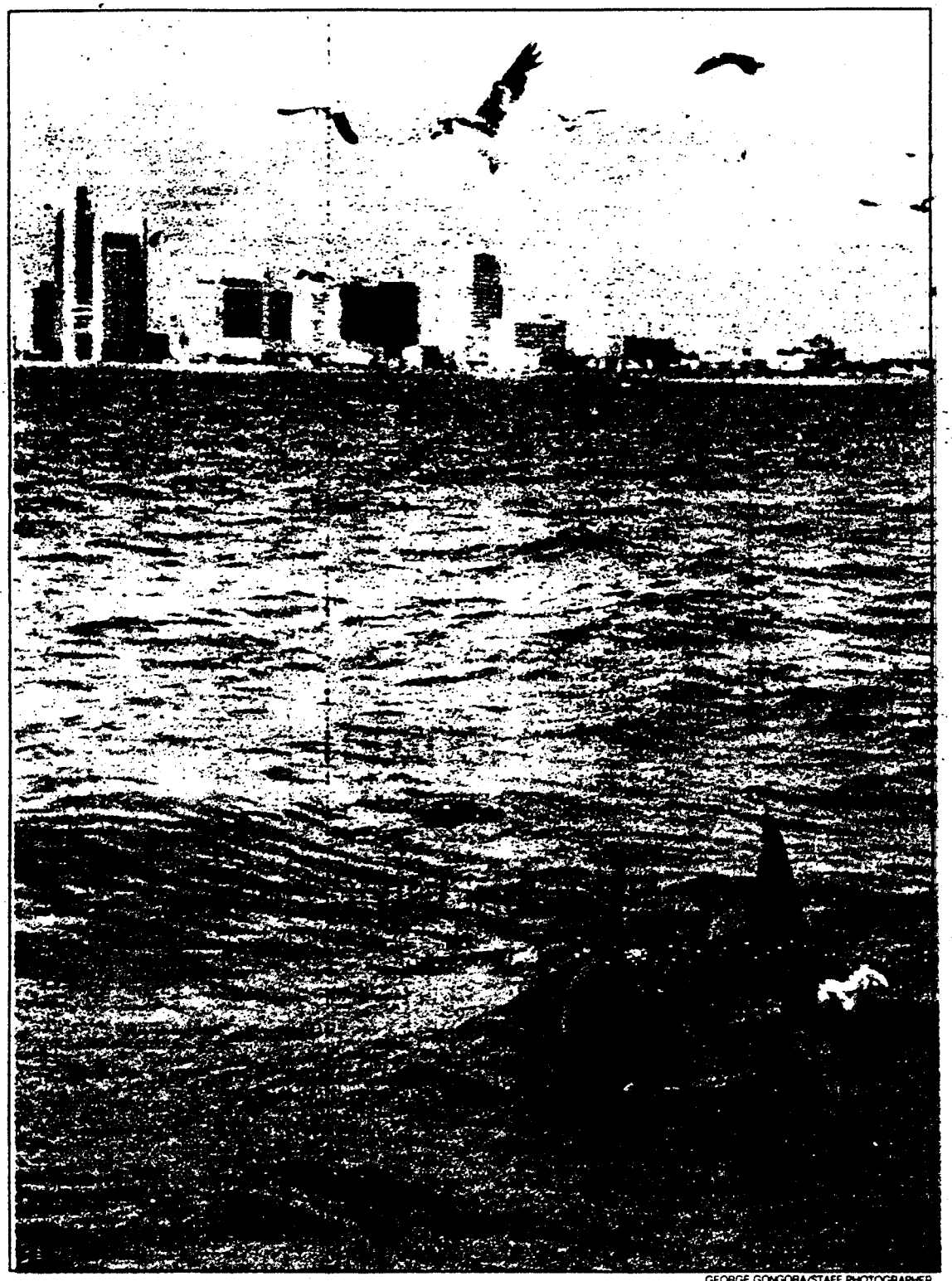
We chatted a while before he swam down to nearby Brighton Beach, intent, it seemed, on playing with the children swimming there.

For many years, I have watched dolphins feed and play and enact rather peculiar rituals in the wild, but until Sunday, I had never met a dolphin interested in a human encounter.

As for my wife, her finger wasn't injured, but, for her, Sea World will never be the same again.

Weekend MAGAZINE

Corpus Christi Caller-Times
Friday, Aug. 26, 1988
Section F



GEORGE GONGORA/STAFF PHOTOGRAPHER

Feeding the dolphins

Page 10.

Music

Beto y Los Fairlanes. Page 3.
Clubs. Page 3.
Bushbullit. Page 4.
'The Coffee Cantata.' Page 8.
Silent Slim. Page 9.
End of Summer Slam. Page 16.
Frenchie Burke. Page 17.

Movies

Debra Winger in 'Betrayed.'
Chuck Norris in 'Hero and the Terror.'
Bob Goldthwait in 'Hot to Trot.'
Mark Harmon in 'Stealing Home.'
Page 12.

More

Dick Turner. Page 4.
Bilingual Theater. Page 8.
Ice Capades. Page 8.
Houston Tunnel Hike. Page 19.

Frank Fowler/Special to The Packet

Face to face: Westin Fowler gives a friendly dolphin a snack recently in Calibogue Sound. Beside Westin is Keeper.

Erv Strong (top) pilots the boat out to the dolphin pod where one of the hungry creatures takes a fish from a human hand. Josh Wolaver, 11, and his mom, Carolyn, of Abilene try to attract another dolphin's attention while Mike Wolaver watches.

Photos by George Gongora

FEEDING *the* DOLPHINS

By Nita Peterson
WEEKEND EDITOR

It's a magical moment.

You lean over the side of the boat and dangle a dead fish in the water. If you think about it, you feel kind of silly. Then you see a little ring of bubbles break the surface of the water. Suddenly, there is the dolphin. Eyes bright, mouth open. Gently it takes the fish out of your hand and swims off.

Magical moment.

Erv and Sonja Strong operate a "feed the dolphins" cruise twice a day every day from the Peoples Street T-Head.

They've worked hard to get the trust of two pods of dolphins that live in Corpus Christi Bay.

"One family we're really good friends with and another family we know pretty well," said Sonja Strong. "That sounds strange but you'll understand."

They take out two small boats each will hold six passengers. She operates one, he the other. They stop when they see a dorsal fin. They toss a few handfuls of fish into the water and if that dorsal fin belongs to one of "their" dolphins, it will approach the boat. If not, they head farther out.

When the boats reach one of the two pods of dolphins the Strongs have been working with, you do understand her earlier statement about "friends." These creatures are familiar with these humans. The dolphins feed out of human hands and occasionally, allow human hands to get them. They jump and caort and play. It is very obvious that, in this case, dolphins and humans are friends.

One dolphin even rolled over and hung on the surface of the water on his back — his soft pink bells exposed.

The dolphins are not trained, make no mistake. They're still wild, free creatures. But they are also smart enough to recognize the motors on the two boats the Strongs operate and to know that with these motor sounds, there is food. And affection. And awe.

"We went out every day to feed them. Every day for a month and a half. We'd toss fish into the water, but the dolphins wouldn't come up to the boat. They'd hang off and let the fish drift out to them," Erv Strong said.

"Then one day three of them came in a little closer to the boat. Suddenly there were 10. They were all in a circle with their heads up out of the water. Facing each other. Sort of talking it over. Then they went back down into the water and three of them surfaced again — a little closer — and looked at the boat. Then all 10 were back up in the circle. They'd look over at the boat and back into the circle. Suddenly the circle broke up and all 10 came over to the boat."

Magical.

The Strongs have been feeding the dolphins for five and a half months. So far, they've gone through [illegible] pounds of fish.

"Sometimes," Strong said, "they'll hear the motor and come on down."

The Strongs have operated a water taxi service on the Peoples Street T-Head for four years and had seen the dolphins in the harbor long before they decided to try to make friends. "When we decided to feed them," she said, "we went out and bought fish. We bought like five fish — we didn't know."

Now they know a lot more.

Now shrimpers save the fish they pull from their nets and give this supply of dolphin food to the Strongs. The Hard Head, the Panasoo, Miss Cindy and the Peggy G contribute to the dolphin-feeding operations. "We couldn't exist without these guys," Strong said.

They have also read a lot of books on dolphins and, he said, they are trying to get tapes of computer-generated conversations with dolphins. "But these are not available," he said.

Perhaps to impress passengers with his knowledge, or perhaps because it is his favorite subject, Strong launched into dolphin lore on the trip out.

"Dolphins," he said, "sleep with half their brains. They just hang in the water with one eye open to see what's coming up. They never really get total rest the way we do."

There are bottlenosed dolphins. They reach approximately 13 feet in length and an approximate weight of 1,100 pounds. They range from dark to light gray dorsally and white to pink ventrally.

They reach an estimated age of 35 years. Strong estimates the ones they have been dealing with are about 10 years old.

Dolphins bear a single offspring every two to three years after a gestation of 12 months. Calves are about three to four feet long when born and they are nursed for the first year of their lives.

There are a couple of calves in the pods the Strongs have worked with.

"They have a unique baby-sitting operation," he said. "A mother will leave her baby with another dolphin while she feeds. If the baby leaves that sitter when the family gets back, they'll hold the baby under water until it almost drowns — as punishment."

Dolphins eat small fish, crustaceans, eels, mullet and squid. "But they really like ribbon fish," Strong said. And it was ribbon fish they would most often take out of human hands.

"And the colder the fish, the better they like them."

Once, he said, they had packed the fish in ice and some of them were frozen. "They seemed to really like the frozen fish," he said. "And when the fish were about gone, we dumped what was left in the coolers into the water. There were a few pieces of ice. One of the dolphins took a piece of ice in his mouth and sucked on it."

Before this sailor can tell you a little ring of bubbles pop up — the dolphins breathing. The Strongs plan to change the name of their operation to The Bubble Dolphin. He is from Wisconsin, she is from Missouri and they've been here eight years.

They've named many of the dolphins. There's Scarface, who has scars all over both sides of his face. And then there's Miss Piggy. "Miss Piggy has a big chin and a lot of scars and she tries to eat all the fish. One day, there were six dolphins lined up at the side of the boat. They didn't want you to throw the fish in the water, they wanted you to drop it into their mouths. But Miss Piggy wasn't getting any. So she swam in and lay down across the top of the other six. They used their noses to toss her up over their backs."

Strong said there are about 10 to 15 in a pod or family.

"We saw about 120 on the other side of the bay recently. Last year it was over by Oleander Point. They seem to get together once a year for a family reunion."

They've read of people in Florida who operate "swim-with-the-dolphins" tourist attractions. These people charge up to $50 for a 15-minute "dolphin encounter."

The Strongs disapprove strongly. "I'd never want to see one of these mammals penned up. They're free and they should stay that way," he said.

Sometimes Strong admits, he swims with them. "I get in and tread water and they push up on the bottom of my feet. It's as if they were trying to get me back on the boat. A very gentle but very firm push." That, so far, has been the total of his physical contact.

And said his wife, "we never allow any of our passengers into the water. No matter how much they want to. And they do."

The Strongs believe their feeding operation is not exploitative. They are, in fact, quite concerned about these mammals. They won't tell people — any people — where the dolphins may be found. And it is not for fear of competition but fear some people may attempt to harm these gentle creatures.

The Strongs aren't sure how long the dolphins stay in Corpus Christi water. "Some shrimpers say they leave in December and come back in March," Strong said. "Other shrimpers say they never leave."

The Strongs say they find the dolphins in different places. Sometimes they are close into the harbor, other times they're farther out. And they don't guarantee they'll find the dolphins every time they go out.

But most of the time they do. And when they do, nobody wants to come back into port.

"My wife is the worst of the lot," Strong said. "Several times I've gone back to see if she's had trouble with the boat or the motor, and there she'll be, sitting, watching. She loses track of time."

"They're different every day," she said. "No two days are ever the same. Some days they're moody, some days they're playful. You never know. They're always fascinating. I never get tired of watching them."

Magical.

The Feed the Dolphins boat trips are $30 and $6 for a child and the cost is $10 per person. For reservations, call 882-[illegible].

ATTACHMENT #2

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, Maryland 20910

JUN 15 1990

MEMORANDUM FOR: F - William W. Fox, Jr.

FROM: F/PR - Nancy Foster Nancy Foster /s/

SUBJECT: Report on the Application Submitted by **Mr. James Baker Atkinson** for a Public Display Permit under Section 101(a)(1) of the Marine Mammal Protection Act **(P446)**

Chronology of Events:

November 14, 1988 - Workshop to Review and Evaluate Whale Watching Programs and Management Needs
February 6, 1989 - Atkinson application received and complete
August 14, 1989 - NMFS requests report from SER to include analysis of probable effects of feeding wild populations of marine mammals
August 17, 1989 - NMFS request to Regions to develop regulations for approaching marine mammals
October 6, 1989 - Atkinson application distributed
October 16, 1989 - Notice of Receipt published in the FEDERAL REGISTER
October 17, 1989 - SER report on the analysis of effects of feeding wild populations of marine mammals
October 19, 1989 - FEDERAL REGISTER Notice of Availability of November workshop proceedings
November 14, 1989 - Close of Atkinson public comment period
December 21, 1989 - MMC comments received on Atkinson

Summary of the Application:

The Applicant requests a public display permit authorizing the harassment of Atlantic bottlenose dolphins (Tursiops truncatus) during the observation and feeding of animals in the wild. Mr. Atkinson plans on "cruises lasting no more than an hour and ... one half with part of the cruise being a sight seeing trip and part being watching and feeding the dolphins. (H)e may have as many as four cruises a day with no more than six or eight dolphin feedings per cruise. ..."

FILE COPY
Surname:

6/13
6/14

Comments:

Marine Mammal Commission - "...The Commission believes that wild dolphin feeding programs, even those conducted with the utmost care and best of intentions, could adversely affect the dolphins. The considerations which led to this position include the following:

- Feeding programs may cause dolphins to be attracted to fishing boats and other vessels not engaged in feeding programs and thus increase the likelihood that they will be entangled in fishing gear, be shot by fishermen, or be fed foreign objects;

- Dolphins, if dependent upon food provided by people, may become less able to find and catch natural prey when feeding is discontinued. In addition, artificial feeding programs may cause migratory dolphins to remain in areas after their primary prey species have left or otherwise reached their seasonal low and thereby cause the dolphins to be subjected to food shortages, inhospitable conditions, or both;

- Dolphins, having come to expect to be fed when around boats and/or people in the water, could, if food were not provided, become aggressive in their efforts to get food and thereby injure swimmers;

- Development and advertising of commercial feed-the-dolphin programs likely would increase the opportunity and encourage recreational and other boaters to feed and harass dolphins;

- Although it might be possible to regulate the types and quality of fish fed to dolphins during commercial feed-the-dolphins programs, it would not be possible to regulate the types and quality of food provided by others or to prevent unnatural foods or foreign objects from being thrown to dolphins. Thus, there is good reason to believe that feed-the-dolphins programs would lead, directly and indirectly, to dolphins eating foreign objects thrown from boats, unnatural foods, spoiled fish, and fish laced with poison;

- Feeding dolphins would cause them to be attracted to and increase the probability of their being struck by vessels; and

- Feeding programs also may expose dolphins to and make them more susceptible to diseases.

In light of the above, the Commission believes that approval of this or other requests to feed bottlenose dolphins, or any other cetacean in the wild, would be contrary to the intent and provisions of the Marine Mammal Protection Act. It therefore recommends that the applicant's request be denied and that future applications for such programs be returned on that basis. It also recommends that you advise any others known to be conducting or contemplating programs in which wild marine mammals are fed that such programs constitute an unauthorized take under the Marine Mammal Protection Act.

The Commission believes that the applicant, without benefit of a permit, would be able to conduct tours from which observers view dolphins from the boat, and that these tours could provide opportunities for observations of dolphins in their natural environment provided that those activities do not potentially harass or otherwise take the subject animals. In this regard, such activities would appropriately be addressed in the Service's guidelines for whale watching which should also include a prohibition on feeding."

Animal and Plant Health Inspection Service (APHIS) - APHIS states that "(t)he Animal Welfare Act pertains only to animals in a captive environment used for research or exhibition purposes; or sold as pets; or transported in commerce. The actions described by Mr. Atkinson do not fall within the authorities of the Act."

NMFS - The Northwest, Northeast, Southeast, and Southwest Regions and the National Marine Mammal Laboratory all objected to the issuance of a permit for feeding marine mammals in the wild. Copies of the regions' comments are attached.

Public Comments - Organizations

Center for Coastal Studies (CCS) - Ms. Karen Steuer, Executive Director, CCS, believed that feeding programs, if authorized, should be conducted in compliance with APHIS regulations. CCS believes that "the resultant modification of natural feed and behavior of the animals involved also presents a potential hazard to both the dolphins and to the public" from increased vessel traffic and from dolphins habituated to feeding from the vessels. In addition, the CCS believes it unwise to grant the permit as requested until NMFS determines its position on commercial whalewatching, and until ecosystem impact can be determined to a satisfactory degree.

Entertainment Plus (EP) - Mr. Doug Messenger, Supervisor of Training, EP, was against issuance of a permit to Mr. Atkinson. Mr. Messenger expressed concern for dolphins habituated to feeding, monitoring sanitation and proper food type and preparation, the affect upon wild dolphin migration of groups of dolphin dependent upon boat feedings, and NMFS' plans for regulation of a new feeding industry.

Monitor - Mr. Craig Van Note, Executive Vice President, Monitor, listed the following eight organizations as opposed to issuance of a permit to Mr. Atkinson: American Humane Society; American Society for the Prevention of Cruelty to Animals; Animal Protection Institute; Earth Island Institute; The Fund for Animals; Greenpeace U.S.A.; International Fund for Animal Welfare; and Washington Humane Society.

Mr. Van Note stated that "The requested activity ... constitutes harassment under the definition of the term currently used by the National Marine Fisheries Service and is therefore a violation of the Marine Mammal Protection Act. Approaching the animals this closely is, in itself, a violation of the Act, but the proposed feeding of the dolphins will also cause serious harm to the population. The proposed feeding will increase the attraction of the animals to boats, including fishing vessels. This behavior will place the animals at risk of human/dolphin interactions which will threaten their welfare. ... This result would be cause for serious concern even if only a handful of animals were involved.

If ... the individual dolphins approached by the cruise would change frequently due to dolphin migration patterns, the impact of the proposed activity could be even greater." In addition, "the establishment of a large number of these ventures could cause enough modification in the behavior of the dolphins to threaten substantial disruption of the entire Gulf of Mexico marine ecosystem.

"The dangers of such activities were recognized by the National Marine Fisheries Service, the research community, conservation groups and the whale watching industry in the recently-published proceedings of a workshop on whale watching. The final recommendations of the gathering specified that each NMFS region should issue regulations on whale watching and that such regulations "should include a prohibition on whale watching activities that involve the feeding of wild populations of cetaceans. (Federal Register, Vol. 54, No. 201, October 19, 1989)."

Mr. Van Note further states that if the agency were to issue a permit it would need to follow the procedures specified in Sec. 101(a)(3)(A), which include issuance of regulations in a formal, on-the-record rulemaking under Sec. 103; and that the activity requested in this application, "...which involves disruption of an indeterminate number of animals in the wild and the ecosystem of which they are a part, does not fall within even the broadest possible notion of "public display," which entails removal of certain individuals from the wild so that the impact of intrusive human-animal interactions is limited to the removed individuals and does not affect the animals remaining in the wild."

American Cetacean Society (ACS) - Ms. Barbara Britten, Washington Representative, ACS, stated that the ACS opposed issuance of a permit as "contrary to the purposes of the MMPA, which is supposed to provide protection to marine mammals and the ecosystems they inhabit, to deliberately attract dolphins by offering them food, thus conditioning them to expect it. This activity may substantially alter their natural behavior and ... could cause

the dolphins to become "public nuisances." Conversely, it could put the dolphins at risk, both as to the quality and safety of the preferred (sic) food."

Mr. Larry Young, President, Galveston Chapter, ACS, stated that wild feeding activities are in direct violation of the MMPA and alters wild dolphins' normally guarded behaviors, which prevent frequent contact with mankind, leading to an increase the odds that contact would lead to morbidity and mortality in that population, e.g. animals involved in fishery interactions. In addition, Mr. Young stated that necessary studies of the normal patterns of behavior of dolphin populations by marine scientists could continue uninterrupted. Mr. Young believes that dolphin watching cruises are highly educational and entertaining, and can be conducted within the limitations of the MMPA without altering the animals' behavior.

International Wildlife Coalition (IWC) - Ms. Nathalie F.R. Ward, Marine Mammals Program Director, IWC, stated that the IWC is opposed to issuance of a permit to Mr. Atkinson because the issuance of a whalewatching permit under "public display" is not consistent with NMFS' current policies concerning whalewatching. To date, NMFS has not determined that whalewatching is public display under the Marine Mammal protection Act. IWC states that feed-the-dolphin programs in the wild are contrary to the purposes of the MMPA in that these activities may have an adverse effect on the dolphins that are involved and a cumulative effect on the population stock by modifying the dolphin's behavior to rely on a non-natural food source. Additionally, habituation to vessels may increase boat/dolphin related injuries and potential harassment problems.

The IWC also believes that "such programs may expose dolphins and make them more susceptible to disease. Feeding would be difficult to monitor and harmful objects which dolphins could ingest may also be thrown into the water."

Department of Wildlife, State of Washington (Dept Wildlife, WA) - Mr. Steven Jeffries, Marine Mammal Investigations, Dept Wildlife, WA, while recognizing the value of promoting public awareness of marine mammals through whale watching activities, opposes the issuance of a permit to allow the feeding of any marine mammal in the wild as being an inappropriate and precedent setting action under the MMPA, and because of the potential for individuals from the wild to habituate to humans and an unnatural food source, resulting in nuisance animals and fishery interaction and incidental take statistics. The Dept Wildlife, WA believes that existing NMFS whale watching guidelines provide sufficient regulation of this activity.

Texas Marine Mammal Stranding Network (TX MMSN) - Ms. Gina L. Barron, State Coordinator, TX MMSN, provided comments after witnessing a feeding program conducted by tour-boat operators off Corpus Christi, Texas. Ms. Barron stated that "There appear to have been at least two significant alterations in the normal feeding patterns of the Corpus Christi Bay population of dolphins:

* A deliberate effort on the part of the tour boat operators has succeeded in moving the dolphins from outside the harbour, to within 10 minutes of the marina, well inside the harbour

* and while tour operators often throw fish in the water, the dolphins are encouraged to hand-feed above the water, so that tourists get better snapshots.

Corpus Christi Bay is a heavily trafficked waterway, and though the dolphins normally enter and exit the bay to feed, they now approach the tour boats routinely, a learned behavior."

American Association of Zoological Parks and Aquariums (AAZPA) - Mr. Robert O. Wagner, Executive Director, AAZPA, submitted "comments limited to the appropriateness of a public display permit covering" feeding dolphins in the wild. "AAZPA recommends that activities involving direct or indirect contact with dolphins in the wild such as film making, whale watching, feeding dolphins, and similar activities be regulated. However, (the AAZPA recommends) that these activities be subject to regulations under sections 103 or 112 of the Marine Mammal Protection Act. (The AAZPA does) not believe that they should be regulated under a public display permit which is authorized by section 104 of the Act.

"AAZPA believes that public display permits should be limited to those activities in which the captive marine mammals are maintained in a zoological environment."

Marine Mammal Coalition (Coalition) - In the Coalition's opinion, the feeding of wild marine mammals constitutes an activity similar to undersea film-making and whalewatching. (The Coalition) recommend(ed) that these activities be monitored and, <u>if necessary</u>, regulated in the future. The Coalition does not believe that these activities constitute public display.

Dolphin Research Center (DRC) - Jayne S. Rodriquez, President, DRC, stated that programs involving observation, feeding or swimming with wild dolphins should be included in NMFS' Environmental Impact Statement on Swim-With-the-Dolphin Programs, and subject to the same rules and regulations as the presently permitted facilities. Ms. Rodriquez was also concerned about the

possible proliferation of these programs and their possible negative impact on wild dolphin populations.

Bernd G. Würsig, Director, Marine Mammal Research Program, Texas A&M University at Galveston - Dr. Würsig is opposed to wild dolphin feeding programs and states that they alter the animals' natural behavior patterns. Dr. Würsig also addresses the argument that dolphin feeding/petting trips are preferable to keeping animals in captivity. Although he does "not approve of catching dolphins for captivity, those already in aquaria and now being bred to create more capture animals, provide invaluable data to researchers ... which have profound positive implications for managing and conserving dolphins in nature. When carried out appropriately, dolphins in captivity also teach humans to respect and admire these fascinatingly adapted creatures. On the other hand, the one important parameter we could obtain from wild animals - an appreciation of natural behavior patterns including foraging regimes, group structure and fidelity, movement patterns, home ranges, activity budgets, etc. - can no longer be fairly ascertained because of our meddling."

Public Comments - Individuals

Amy C. Haynie, DVM - Dr. Haynie is opposed to the issuance of permits, stating that feeding activities significantly alter the behavior of several pods of dolphins resulting in nuisance animals that put themselves at risk by approaching any boat "begging" for food.

Ms. Carey Kerr - Ms. Kerr supported feeding operations but urged regulation of the operations so that animals do not become dependent on man. Ms. Kerr believes that interactions between dolphins and man can be mutually beneficial and that working at the State and Federal level will help to ensure the safety and ultimate survival of marine mammals.

Ms. Elayne McNamara - Ms. McNamara believes that there has been a change in the behavior of dolphins involved in wild feeding operations, and expressed concern for the animals' safety.

Jackie Cole, DVM - Dr. Cole stated that "It is imperative for the safety, well being, and natural evolution of dolphins that the permit be denied." Dr. Cole believes that, while feeding from a boat may well be argued to be a voluntary act by the dolphins, over time it habituates the population to humans and boats. This, in turn, jeopardizes the safety of the dolphins and alters their natural behavior patterns of feeding and migration, and possibly even pod formation, breeding, maternal behavior and territory. Dr. Cole believes that the accuracy of research on numbers, migratory patterns and behavioral patterns of coastal populations of

marine mammals will be jeopardized if feeding excursions are allowed to continue.

Ms. Jeannie Hamilton - Ms. Hamilton is opposed to the issuance of a permit. She believes that the requested permit would encourage human interactions and threaten animals that become dependent upon approaching boats for food.

Mr. Bruce Lane - Mr. Lane recommended that the permit application be denied outright or granted such that it will (a) prohibit all feeding of marine mammals, and (b) comply with all current guidelines for whalewatching operations. Mr. Lane feels that the proposed activities would alter the normal feeding patterns of any dolphins involved, and that, given time, the dolphins in the area could very well become a problem for boaters and could endanger themselves. Mr. Lane also expressed concern regarding the type and quality of fish, and the possibility of toxic or foreign substances being provided to the dolphins.

Mr. Robert Flanagan - Mr. Flanagan supports dolphin watching and feeding cruises and believes that since there are presently no prohibiting regulations, these activities do not require a permit.

COMMENTS ON WILD FEEDING PROGRAMS IN GENERAL - 112 comments, including 52 from two 4th grade classes, were received on another dolphin feeding operation or dolphin feeding cruises in general. 69 of those comments were in favor of the feeding cruises, 30 were in favor but with some regulations, guidelines or controls, and 12 were against. The favorable comments cite the educational benefits of cruises and the advantages of observing dolphins without placing them in captivity.

The comments included letters from **Erv and Sonja Strong**, operators of a dolphin feeding/observation cruise out of Corpus Christi, Texas. Mrs. Strong gives some history of their tours:

> "It took considerable patience to win their confidence and trust. One day, after eating our drifting fish, 12 or so came up in a perfect circle past their flippers, facing each other. Then, they all looked back at us, then at each other. This happened several times for maybe one minute. Then, they all swam over to our boat. So, you see, they decided to be friends with us themselves.
>
> "We go every day only twice a day for the past three years so they will still hunt on their own and migrate. We could have run more trips. Money is nice, you know, but it doesn't compare to keeping them happy and certainly not dependent. The dolphins come meet us everyday and chase us down. They really look forward to this encounter as much as the people do. The people are engulfed in the most mesmerizing experi-

ence of their lives. These trips are so wonderful and the guys are so precious.

"This way is so much better than tanks, etc. We have no death rate due to stress, the acts of capturing them or heart attacks. These dolphins aren't imprisoned the rest of their lives. They come if they want and leave when they want. Just because Sea World, etc. have become the acceptable way to (meet) dolphins does not mean there is not a better way for all of us and especially for them."

Importation Prohibitions: Importation is not requested in this application.

CITES: The requested activities will not involve importation, exportation, or introduction from the sea. Therefore, the prohibitions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora do not apply.

Threatened and Endangered Species: The Atlantic bottlenose dolphin is not considered threatened endangered under the Endangered Species Act, nor is it listed as depleted under the Marine Mammal Protection Act.

Enforcement Policy: Since there are no pending actions against the Applicant, or other individuals listed in the application, which affect consideration of this Application, the enforcement policy does not apply.

National Environmental Policy Act: Public display permits are, in general, categorically excluded from the requirement to prepare an Environmental Assessment or Environmental Impact Statement since, as a class, they do not have a significant effect on the human environment (NOAA Directives Manual 02-10 Environmental Review Procedures, 49 FR 29647, para. 5.c.(3)(g)). NMFS considers the criteria used for determining significance, as directed by 13.a. of NOAA Directives Manual 02-10, in determining whether any exceptions to the categorical exclusion apply to the issuance of a permit. The Applicant requests a public display permit authorizing the harassment of Atlantic bottlenose dolphins (Tursiops truncatus) during the observation and feeding of animals in the wild.

In reviewing comments received on the application or on feeding programs in general, the information supplied in the application and other information on Tursiops, NMFS is recommending denial of this permit request, and has determined that:

a. The denial of a permit for the harassment, including feeding, of Tursiops will not result in an adverse impact on the population or environment.

b. Public health and safety are not affected if the permit request is denied.

c. There are no unique characteristics of the geographic area where the requested activity would occur;

d. Denial of a permit for regular feeding of wild populations of marine mammals is not considered highly controversial;

e. Denial of a permit for regular feeding of wild Atlantic bottlenose dolphins does not involve unique or unknown risks to wild populations of marine mammals;

f. The denial of a permit for the requested activity does not set a precedent for future actions with significant effects and does not represent a decision in principle about a future consideration with impacts on the human environment;

g. There are no individually significant and cumulatively significant impacts associated with the proposed action.

h. There will be no adverse effect on historic resources;

i. No threatened or endangered species are affected; and

j. Section 109(a) prohibits the enforcement of state laws regarding marine mammals. Therefore, the denial of a permit would not conflict with state or local law.

Agency denial of the requested activities would not have significant environmental or socio-economic impacts which would preclude reliance on the categorical exclusion.

Discussion and Recommendation:

In November 1988, NMFS and the Center for Marine Conservation sponsored a workshop to review and evaluate whale watching programs and management needs. Staff from all NMFS regions participated in the development of the workshop recommendations. One of the workshop recommendations was that NMFS Regions should develop regulations on whale watching and that the regulations should include a prohibition on whale watching activities that

involve the feeding of wild populations of cetaceans. NMFS is drafting proposed regulations which clarify that activities involving the feeding of marine mammals in the wild are takings and therefore prohibited under the MMPA, and is drafting separate regulations that will cover whalewatching and related activities.

On February 28, 1989, NMFS received this application from Mr. Atkinson for a permit to harass Atlantic bottlenose dolphins during dolphin watching and feeding cruises.

On August 14, 1989, NMFS requested a report from the Southeast Region which was to include an analysis of the probable effects of feeding wild populations of marine mammals. The final report, received October 17, 1989, indicated scientific consensus that "feeding of wild populations of marine mammals is not beneficial to the animals ... and may be harmful to both marine mammals and humans." Scientists who contributed to the report concluded that feeding of wild dolphins causes alteration of natural behavior patterns. This report also included statements from Federal and State enforcement officers indicating that these activities pose enforcement problems and intensify undesirable marine mammal/ human interactions. The report is attached, and made part of the decision on this action.

Some commentors suggested that the request for a permit authorizing observation/feeding of marine mammals in the wild was not an appropriate submission for a public display permit under the MMPA because such activities do not constitute public display. The MMPA provides for the issuance of permits which authorize the taking or importation of any marine mammal for scientific research or public display. As defined in the MMPA, "The term '**take**' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal." The MMPA and its regulations do not, however, define 'harass.' Neither the MMPA nor its regulations defines public display.

NMFS has not issued previous formal policy statements that can be referenced in determining the appropriateness of an application for a public display permit authorizing the potential taking during the feeding of animals in the wild. NMFS has, however, previously issued one public display permit for the potential take by harassment of non-endangered marine mammals in the wild (P392-Cousteau). Absent definition or policy, and given agency precedent with the issuance of a previous public display permit authorizing take by harassment in the wild, under current regulations and laws NMFS cannot eliminate feeding/observation cruises from a definition of public display as recommended by some commentors. The permit program review is expected to propose revised MMPA regulations which will provide a definition of public display appropriate to MMPA permits.

Some commentors also suggested that wild dolphin observation and feeding cruises do not require an MMPA permit because such activities do not constitute a take. NMFS defines "take" to include harrassment or any other negligent or intentional act which results in the disturbing or molesting of a marine mammal (50 CFR §216.3.). NMFS also has prohibited activities causing a substantial disruption of a whale's behavior in whalewatching regulations regarding Hawaiian waters. In addition, whalewatching guidelines for other regions of the United States are written to avoid any substantial disruption of a whale's behavior. If the proposed dolphin observation cruises are conducted within the confines of the whalewatching guidelines, or subsequent regulations, and no feeding activities occur, no MMPA permit is required as activities conducted outside the minimum distance required by those guidelines probably will not result in a taking under the MMPA. If, however, the proposed cruises are conducted with the intent of approaching marine mammals closer than allowed by the whalewatching guidelines, or with the intent of disturbing, molesting or altering the animals' behavior by luring them toward boats for the purposes of feeding and/or observation (even if initiated outside the minimum distance requirements), then the Service believes harassment of the animals will occur. There has been ample comment, from those supportive of feeding cruises and from those opposed, that groups of wild animals routinely exposed to feeding activities regularly approach people for the purpose of interaction, even if the fish available represents only a small percentage of the animals' daily requirement, and even if no fish is offered (See also "A Report to the Monkey Mia Reserve Management Committee: Recommendations for a Feeding Strategy for the Dolphins of Monkey Mia, Shark Bay").

Based on these considerations, NMFS determines that the proposed activities, insofar as they include feeding and approaching dolphins closer than allowed by whalewatching guidelines, constitute takings which can only be authorized through a permit for public display. In determining whether to issue a public display permit, the MMPA regulations require that we consider, among other criteria, whether the proposed taking will be consistent with the purposes and policies of the Act; whether the marine mammal in question is from a species listed as depleted; whether a substantial public benefit will be gained from the display contemplated, taking into account the manner of the display and the anticipated audience on the one hand, and the effect of the proposed taking on the population stocks of the marine mammal in question and the marine ecosystem on the other; and the applicant's qualifications for the proper care and maintenance of the marine mammal and the adequacy of his facilities.

The proposed display, if allowed, would provide the following educational, recreational and economic benefits:

- increased opportunities for the public to view dolphins in their natural setting
- the opportunity for members of the public who prefer not to view captive marine mammals to observe and interact with dolphins
- regularly scheduled cruises for which operators could charge a fee.

However, if the permit is not allowed these benefits could still substantially accrue to the public through cruises operating within the existing whalewatching guidelines, although there will be less certainty of close observation and interaction for members of the public who participate. It will be more likely, however, that dolphin behavior observed will be more natural.

On the other hand, NMFS finds that there are significant potential and likely adverse effects of feeding and approaching dolphins as proposed in the application including the following:

- **Interactions with Fishing Boats** - increased likelihood that dolphins will be attracted to fishing boats and will be more habituated to people, causing harmful interactions.
- **Effect on Migrations of Wild Dolphins** - Dolphins may become dependent on food provided by humans and stay in an area after primary prey species have left the area.
- **Risk of Illness** - Dolphins accustomed to eating dead fish may be vulnerable to spoiled or poisonous fish.

These potential adverse impacts cannot be sufficiently mitigated through permit conditions or prevented by enforcement measures. Moreover, there are other possible effects from the proposed activities discribed in the "Comments" section. The Service cannot definitively address the likelihood of other possible effects on wild dolphin populations posed by commentors because of insufficient data.

The potential adverse impacts on the population stocks of Atlantic bottlenose dolphin and the marine ecosystem outweigh the potential benefit of the proposed activities. The Service concludes, therefore, that the issuance of a permit authorizing activities intended to directly or indirectly alter the natural and feeding behavior of groups of wild animals is not consistent with the purposes and policy of the Marine Mammal Protection Act. I recommend, therefore, that you sign the attached letter denying a permit to Mr. James Baker Atkinson.

ATTACHMENT #3

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Office of Enforcement
Southeast Area
9721 Executive Center Drive
St. Petersburg, FL 33702

April 21, 1994 F/EN42

MEMORANDUM FOR: F/EN Allen Mager

FROM: F/EN4 Suzanne M. Horn

SUBJECT: Dolphin Feeding Summary

The Southeast Region has experienced a variety of dolphin feeding problems over the past several years. These problems can generally be defined by four categories of dolphin feeding; private vessel, feeding cruise, incidental to fishing charter and piers. The distinction being; private vessels operated for personal pleasure, who happen upon dolphin, either by choice or chance; feeding cruise vessels who specifically seek out dolphins with the intent of having paying passengers feed the animals; fishing charter vessels who occasionally stop to feed dolphin during fishing trips and persons feeding dolphin from public piers.

Dolphin feeding has been common, throughout the entire Southeast Region and is likely to occur at any time and place that humans encounter the animals. This is especially true concerning private vessels encountering dolphin. Dolphin feeding by private vessels represents, by far, the most pervasive and difficult to enforce aspect of the problem. It is doubtful that without a massive education program, showing the general public the consequences of feeding wild dolphin, that we will be able to stop the practice. Especially since in many areas, dolphins accustomed to interacting with and feeding from small private boats that come into their "area", eagerly initiate contact with humans. Everyone loves the dolphins, and it is only human, to want to interact with them.

There are several areas in the Southeast Region, where feeding by private vessels has been a significant problem. There is a small group of dolphins in Calabogie Sound, near Hilton Head Island, SC that are well known and frequently fed by numerous local vessels. It is believed that the "head dolphin" is the one released in 1985 or 1986, by Flippers Sea School. National Geographic did a film of that release. Under the tutelage of the Flipper dolphin, this group routinely approach small boats and "act" for handouts. There have been instances where a dolphin has jumped onto boats, trying to get food. Another similar situation exists in the ICW near Nakomis, on Florida's west central coast. A dolphin nicknamed "Moocher" and one or two "apprentices" have over the years, become so accustomed to handouts, that they have not only lost their fear of man, but have been reported to become aggressive

and even bite people when they are teased or not feed. Marinas in the area, sell bags of bait fish specifically as "dolphin food" for the weekend boaters. Several high profile operations from marked enforcement vessels, have been conducted in areas known to have a dolphin feeding problem by private vessels. Because the vast majority of the public are not aware that it is illegal to feed dolphins, we have issued verbal warnings and educated the public about the mutual dangers of feeding dolphins. This approach however, seems to work only so long as a marked enforcement vessel is in the area. As soon as it leaves, the feeding starts anew.

There are similar situations in several other locations in the Southeast Region; that are potentially dangerous for both humans and the dolphins. Not only can humans be bitten or knocked down, but there is a potential for accidents, when boats stop or turn suddenly when the animals are sighted. There is also a danger for the dolphins, since there are no controls on what is being feed to the animals. There have been reports of a variety of non-fish foods, including cheese puffs, marshmallows, potato chips, sandwiches and you name it, being given to the dolphins.

Approximately 15 to 20 dolphin feeding cruise boats were operating in the Southeast Region. They have in most instances, taken advantage of the situation created when "friendly" dolphins willingly come up to stopped boats, looking for a hand out. Fortunately, we are aware of most dolphin feeding charter operators and are able to monitor them for compliance with non-feeding regulations and have on occasion, put undercover agents aboard. Generally, these dolphin feeding charters ceased feeding cruises when the MMPA definition of "take" changed in March 1991. Then, immediately began operation again in October 1992, following the Southern District of Texas Injunction against NMFS enforcing dolphin feeding regulations. Commercial feeding cruises continued under the injunction, until the Fifth Circuit of Appeals in New Orleans, overturned the Texas Injunction in November 1993. The dolphin feeding cruise operators were notified of the ruling and again ceased feeding operations. Many, changed their cruises from dolphin feeding, to dolphin watching charters. Compliance by these operators has been very high, with no documented violations since the injunction was overturned.

Charter fishing vessels operating throughout the Region, have been known to stop, either on the way out or returning from a fishing trip, to feed the dolphins for the entertainment of their passengers. This usually occurs when the opportunity presents itself and the passengers are interested in stopping. A case was made against one of these charter fishing vessels, but was declined for prosecution by NOAA GCSE.

Last, but not least, there have been problems at several public fishing piers in Florida, concerning feeding dolphin. At two piers in the Panhandle, in particular, the problem escalated into dolphin hooking. In these instances, the dolphin got so used to

getting handouts from the fishermen, they soon started taking bait off the hooks meant for fishing. Usually the dolphin were smart and quick enough to get away with this, but sometimes they would get hooked. Soon, the sport on the pier was trying to hook up with a dolphin, for the brief, but furious fight that ensued. In this particular instance, NMFS Enforcement and Florida Marine Patrol worked a joint surveillance that resulted in the arrest of two juveniles (under State law), for harassing dolphin. Posters and handout material were distributed in the area and the hooking problem ceased.

Currently, we are receiving few complaints of dolphin feeding problems; but I believe that the problem, at least as far as private vessels and charter fishing vessels are concerned, is wide spread. Due to our limited manpower, we have not made these type cases a high priority and are limiting our activities to responding to complaints. It would litterly take the entire Coast Guard and various states Marine Patrol units, 100 % of their resources, 24 hours a day, for up to three months, to entirely stop people from feeding dolphins. What seems a more effectively solution; is a massive education effort by Protected Species, to make the general public aware that not only is it illegal to feed dolphins, but that it is not in their or our best interest.

cc: Bohr, Spraitz

ATTACHMENT #4

Virginia B. Wetherell
Executive Director

FLORIDA DEPARTMENT OF NATURAL RESOURCES

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

Lawton Chiles
Governor

Jim Smith
Secretary of State

Bob Butterworth
Attorney General

Gerald Lewis
State Comptroller

Tom Gallagher
State Treasurer

Bob Crawford
Commissioner of Agriculture

Betty Castor
Commissioner of Education

November 10, 1992

Mr.and Mrs. Wayne Reeves
Post Office Box 1034
Crestview, Florida 32536

Dear Mr. and Mrs. Reeves:

Your recent correspondence to Senator Bob Graham and Representative Bo Johnson concerning feeding manatees at the Sunset Cove Motel in Key Largo has been forwarded to this office for response. The article you sent described manatee feedings at the motel owned by Ms. Mary Darpa, who expressed concern for the seeming lack of food supply for manatees and the danger that speeding boats present to these animals. She also expressed an interest in establishing boat speed zones in the vicinity of her motel to reduce the risks of boat collisions with manatees. We would like to address your concerns regarding these issues.

The practice of feeding manatees is considered detrimental to the species and is in fact harassment, which is prohibited by law. It is detrimental because as manatees grow accustomed to receiving food from people on shore and in boats, they subsequently lose any natural fear of man and begin seeking handouts in more developed areas, where boating activity is greater. This can result in the manatee being hit by watercraft and being injured or killed. Since watercraft cause the largest percentage of all human-related manatee deaths annually, every effort is being made to protect manatees from these potentially life-threatening situations.

Another reason feeding manatees is prohibited is that the introduction of unnatural food sources to their diet can cause health problems. Once they begin feeding on handouts, they are often indiscriminate in what they will ingest so it is healthier for them to eat their natural diet of seagrasses and other aquatic plant life. The Florida Keys, and the area around the Sunset Cove Motel in particular, have extensive lush seagrass beds available for manatee feeding; therefore, manatees in this area are not lacking adequate natural vegetation to sustain their diet and do not need additional food.

Ms. Darpa expressed concern about speeding boats hitting the manatees that now visit the waters around her motel, and she is interested in establishing boat speed zones in the vicinity in hopes of preventing such collisions. Under 370.12(p) Florida Statutes, municipalities may submit proposed boat speed zones for

manatee protection in waters within their jurisdiction to the Department of Natural Resources. The Department's Division of Marine Resources will review the zones based on the available manatee data for the region and decide whether or not the proposed zones will provide needed protection for manatees. If the Department approves the zones, the municipality may then post these zones after receiving all the necessary permits.

The waters of the Florida Keys are not used by large numbers of manatees so typically there are few deaths in this area. In Monroe County, the largest numbers of manatees are found in the mainland estuaries and Florida Bay, and Key Largo is close enough to Florida Bay that manatee sightings are a regular occurrence. Even though Monroe is not one of the high priority counties and does not have the high concentrations of manatees that usually warrant boat speed zones, we will have staff review data from this area and do an on-site visit during the next visit to adjacent Dade County.

While Ms. Darpa is free to work with the appropriate municipality to propose boat speed zones, a better alternative would be to cease feeding and watering the manatees and to encourage others in her community to do the same. In this way, the manatees will not be lured to these developed areas by garden hoses and food and will probably remain in more remote areas within the Everglades National Park where there is ample vegetation and less boat traffic.

Thank you for sharing your concern about the endangered manatee.

Sincerely,

Edwin J. Conklin, Director
Division of Marine Resources

EJC/vf
cc: Senator Bob Graham
Representative Bo Johnson

Florida Department of
Environmental Protection

Lawton Chiles
Governor

Marjory Stoneman Douglas
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Virginia B. Wetherell
Secretary

September 14, 1993

Mr. Larry Murphy
Hungry Pelican Resort
P.O. Box 762
Key Largo, FL 33037

Dear Mr. Murphy:

The Office of Protected Species would like to address several concerns related to the feeding of manatees from facilities associated with the Hungry Pelican establishment. It has come to our attention that manatees are being regularly feed assorted vegetable material (mostly lettuce) from your dock. Departmental staff observed the feeding of manatees from your establishment. As we share your concern for the well being of manatees throughout Florida and the Keys and recognize that manatee-human interactions are of interest to your customers, we recommend that you discontinue this practice for the sake of the very animals you are trying to help.

As you know, manatees are endangered marine mammals, and as such, the continued reliance of wild populations upon natural, native resources is critical to the recovery of the species for a number of reasons. The disruption of the manatee's natural feeding habits through the reliance upon human handouts can cause manatees to be diverted from their traditional migrations routes during their seasonal travels. Manatees are also less likely to feed in traditional foraging areas when provided food by people on a regular basis. Human fed manatees are attracted to areas where they are at greater risk from unintended harassment or injury at the hands of people. Without the food related impetus, manatees would be more likely to remain in more remote locations out of human harm's way. Feeding manatees causes them to loose their fear of people and actually encourages these animals to seek out humans in areas such as marinas or disturbed areas with limited natural foods such as canals. You may recognize that boat/manatee collisions in the waters adjacent to your dock are more likely due to the attraction of manatees into this area of high-speed boat use. If the animals were not drawn into this area by artificial feeding conditions, they might not be at as great a risk of boat strikes. The large number of moored boats and observed high speed vessels indicate that boat traffic in your area poses a significant risk of mortality to the very animals

Printed on recycled paper.

you are trying to help. Luring the manatees into close proximity to curious, uninformed people increases the likelihood that significant harassment of the animals may result. Employees of this Department observed such an example of direct harassment while visiting the Sunset Cove Motel adjacent to your facility in June. At that time a young man and woman were feeding two adult manatees from the Sunset Cove Motel dock when the man repeatedly attempted to "ride" the larger animal. The ridden manatee responded in an expected manner by thrashing away from the man. Each time the manatee returned to the dock stairs to be fed by the woman, the man would again attempt to ride it. While this isolated incident in no way reflects a lack of concern for the well being of manatees on your part, it does exemplify the larger problems associated with human and manatee interactions.

Harassment of endangered animals and marine mammals is strictly forbidden by federal law as set forth in the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973. Harassment is included under the definition of "take" of endangered or marine mammal species within these laws. The feeding and watering of manatees, despite the good intentions of the individual, are considered harassment of wild, endangered marine mammals and as such are strongly discouraged. Manatees using the waters in the area of your dock and throughout the upper Keys have available to them abundant vegetation upon which to forage. Dense beds of at least two different kinds of seagrass (turtle grass and Cuban shoal grass) were observed within 5 meters of your dock by Department staff as recently as June of this year. The habitat coordinator of our Office even observed manatee feeding scars in the seagrass beds in this area indicating that manatees do in fact use this food source here. Natural foods, such as seagrasses, contain the nutrient combinations required by manatees for good health. Lettuce may actually be an inferior nutrient source despite its apparent appeal to manatees and feeding it to these animals may jeopardize their health. Manatees are often feed because they behave as though they are "starving". Manatees feed for 6-8 hours a day naturally do to their metabolic needs and nutritional requirements. An average adult manatee can eat between 100 to 150 pounds of vegetation in a single day. This huge appetite for food could be misconstrued as evidence of starvation to someone without this knowledge.

Reported manatee mortality in your area of the Keys is low relative to other parts of the state such as Brevard County where manatee mortality has consistently been the highest in the state for most categories of cause of death. Mapped mortality data indicate that there was one motorboat related manatee mortality just to the south of Sunset Cove from 1974 to March of 1993. There was only one other manatee carcass recovered in the immediate vicinity of your motel, but it was determined that that animal died of natural causes. These mortalities are significant in that there are fewer numbers of manatees using the waters of the upper Keys than in other parts of Florida as attested to by collected aerial survey and mortality data. We do not wish to diminish the impact of the loss of these animals to a

species which is imperiled on a distribution wide basis. Rather, these mortalities do in fact indicate the use of this area by manatees. It is therefore possible that with time and the institution of greater protective measures for manatees and their habitat that the population of manatees residing there may grow. You can help our efforts to protect manatees by allowing these animals to remain wild and independent of human beings by not providing them unnecessary, exotic food. We would also greatly appreciate your informing others in your area who may be doing the same to discontinue this risky practice.

Thank you for your genuine concern for these endangered marine mammals. Please do not hesitate to call (904) 922-4330 if you have any questions.

Sincerely,

DIVISION OF MARINE RESOURCES

R. Kipp Frohlich
Biological Administrator III
Protected Species Management

cc: Bob Turner, USFWS-JAX
Patti Thompson, STMC
Ed Conklin, Director DMR
Amy Perry, FMRI Tequesta

SUNDAY,
MAY 20, 1990 2B

Dolphin-feeding cruises increasing despite criticism

CLEARWATER — (AP) — While federal officials fear dolphin-feeding cruises could make the animals dependent on the handouts or lead to injuries, the business keeps on growing in Florida.

In Clearwater, St. Petersburg, Key West and the Florida Panhandle, people are willing to pay to see dolphins romp and play up close — and the surest way to get them to do that is to feed them.

But officials with the National Marine Fisheries Service say such cruises could be cut short because regulations may be complete by midsummer and cruises banned nationwide by next spring.

"We don't want marine mammals to become so used to boat traffic and human beings that they risk being injured by being fed improper food or colliding with boats," said Jeff Brown, a fisheries biologist in St. Petersburg.

"There's also the risk of getting used to eating dead fish. Then dead fish on a hook might look like food."

But such concerns haven't kept cruise conductors from using the attraction of wild dolphins to lure tourists.

Crew members of the newest such cruise, the Clearwater Express, have for the past month been training wild dolphins to take food so cruise passengers have something to watch.

"To ensure there would be dolphins when we went out, the dolphins had to know we were coming to feed them," said Phil Henderson, owner of the 125-passenger boat. "That way they'd get used to seeing us at the same time every day."

Often as many as 10 dolphins wait eagerly to eat the sardines the Clearwater Express crew throws over the side, he said. Some days the dolphins stay far away from the boat. Other days they come right up close, he said.

That is exactly what worries marine biologists. They also don't want dolphins becoming dependent on handouts.

"We certainly don't want to make the dolphin the aquatic equivalent of the Yellowstone bears," said Lori Price, a captive marine specialist with the Department of Natural Resources in St. Petersburg. Bears at the Wyoming park beg for food at car windows.

"We don't want dolphins to come up to smaller boats looking for food. They're certainly opportunistic and smart enough to help themselves."

In other parts of the country, dolphins have bitten into fish hooks and jumped into boats looking for food.

Officials say feeding the dolphins is harassment, but current regulations are too vague to prohibit it. No permits are required, so cruises aren't inspected.

More than likely, such cruises will be banned, they say. If not, cruises will be strictly regulated.

Cruise operators see no harassment in feeding the dolphins. In fact, Henderson said, dolphins could never survive on the small amount of fish his crew gives them.

"We're just giving them a token amount. We're feeding them good bait," he said. "We're certainly not going to give them anything bad for them."

NORTHWEST FLORIDA DAILY
NEWS

FORT WALTON BEACH, FL
SUNDAY 41,200

MAR 7 1993
BURRELLE'S
830 TC
..ceck .....

CC: Kevin Collins
Jeffers
Hohn
Driscoll
Horstman

Commercial feeding of wild dolphins must be stopped

By DR. FORREST I. TOWNSEND

3000AM

IT'S MY TURN

I am concerned that commercial wild dolphin feeding programs may soon be operating in our local waters. These operations were common in Florida, Texas and South Carolina until March 20, 1991, when the National Marine Fisheries Service banned this practice.

The rationale for this ban was to protect dolphins from illness by being fed improperly stored or prepared fish, to prevent disruption of normal feeding patterns and social behaviors, and to reduce danger of physical harm due to concentrations of dolphins and boats in close proximity.

However, this ban was challenged by Irv and Sonja Strong of Corpus Christi, Texas, who continued to operate a commercial dolphin-feeding operation. A district court judge ruled in their favor on Oct. 1, 1992. I believe that this action will encourage a proliferation of commercial wild dolphin feeding programs.

Last spring the readers will recall a set of four dolphin deaths in Choctawhatchee Bay. The first dolphin to die was observed swimming in tight circles. Following this he began beating his head against barnacle-encrusted pilings. He died painfully shortly thereafter on the beach.

An autopsy revealed a mature male dolphin in apparently excellent condition at the time of death and the cause of death was acute meningitis (inflammation of the brain covering).

Bacterial cultures of the spinal fluid around the brain resulted in growth of bacteria called Erysipelas rusepathia. This bacteria, commonly found on fish skin, becomes a major health problem when fish are improperly handled and then fed to dolphins.

Before our current knowledge concerning proper fish quality, refrigeration, thawing and holding procedures, dolphins in oceanaria died when inadvertently fed bad fish. However, today this seldom occurs.

I have been dealing with stranded dolphins and whales along our coast for 15 years. I had not seen this disease in wild dolphins before last spring. Four dolphins died in Choctawhatchee Bay in 11 days. The first conclusively died of Erysipelas bacteria, but the others were not fresh enough to allow diagnostic tests to confirm that they too died from this bacteria.

These dolphins appeared to have died at nearly the same time and were found in a rather small area. In my opinion, the most likely cause of death of the other dolphins was the same as for the first.

Given that it is a highly coincident death of these dolphins, it is likely that they died from consuming spoiled fish. Although this could be a natural phenomena, it is more likely due to people who are unaware of the serious problem that can occur when improperly feeding dolphins.

I recently became aware that, although there are no commercial feeding programs, boaters continue to feed our wild dolphins. An argument that comes up is that commercial fisherman commonly dispose of by-catch overboard and dolphins learn to take these free handouts. This is not a problem because these are fresh fish.

Even if these commercial dolphin feeding operations could be regulated to provide properly handled "edible for human consumption" fish, my concern is that the dolphins would easily take fish from the general boating public. This nonselective feeding behavior documented in Florida and Texas could result in dolphins eating rancid bait fish, foreign objects or other unnatural or harmful items.

Hopefully, the Texas court decision will be overturned and the Natural Marine Fisheries Service federal regulators will protect our wonderful resource. But until that time I am very concerned about the immediate health of our dolphins. I request that our representatives, both local and state, act quickly to prevent the commercial feeding of dolphins.

Townsend is a veterinarian in Fort Walton Beach.

SARASOTA HERALD-TRIBUNE / FRIDAY, JUNE 11, 1993

Dolphin leaves teeth marks on officer

The Venice police officer was swimming in the Intracoastal Waterway near the Albee Road bridge when he was bit.

By Jan Angilella
STAFF WRITER

Phil Phillips was swimming near his boat in the Intracoastal Waterway Wednesday when he felt something clamp down on his leg.

"I looked underneath and felt my knee being grabbed," he said. "Then I felt this scrape down my leg."

Dolphins, known as the ever-grinning, friendly entertainers at such attractions as Sea World, can also be aggressive. And as Phillips knows now, they can bite, too.

The injury to Phillips wasn't serious enough to keep him from returning to his job as a Venice police officer Thursday. But the bite drew blood and left an indelible impression on his mind and his leg.

The bite left a line of 13 teeth marks on Phillips' shin and a 1-inch gash, which has already started healing. The officer said he did not seek medical treatment.

Phillips and his family were boating near the Albee Road bridge about noon. The area is known for a dolphin that often approaches boats seeking handouts.

Phillips said he had jumped into the water to cool off when the dolphin bit him. He said he felt it before he saw it. Then his family saw it.

Phillips said he wants to warn others.

"They are friendly, and they are fun, but they can hurt you," he said. "Be careful. They are wild animals."

Jay Gorzelany, who cares for stranded marine mammals for Mote Marine Laboratory, said it's not uncommon for someone to be bitten in that stretch of the Intracoastal Waterway.

"I only know of six or eight instances of a dolphin biting a human," he said. "And they're all the same dolphin on Albee Road."

He said there's a chance Phillips may have surprised the dolphin as much as the dolphin surprised Phillips.

He concurred with Phillips' warning.

"Do not feed any wild animal," he said. "People want to feed these animals and they're harming the animal by altering its natural behavior. It's now waiting for handouts."

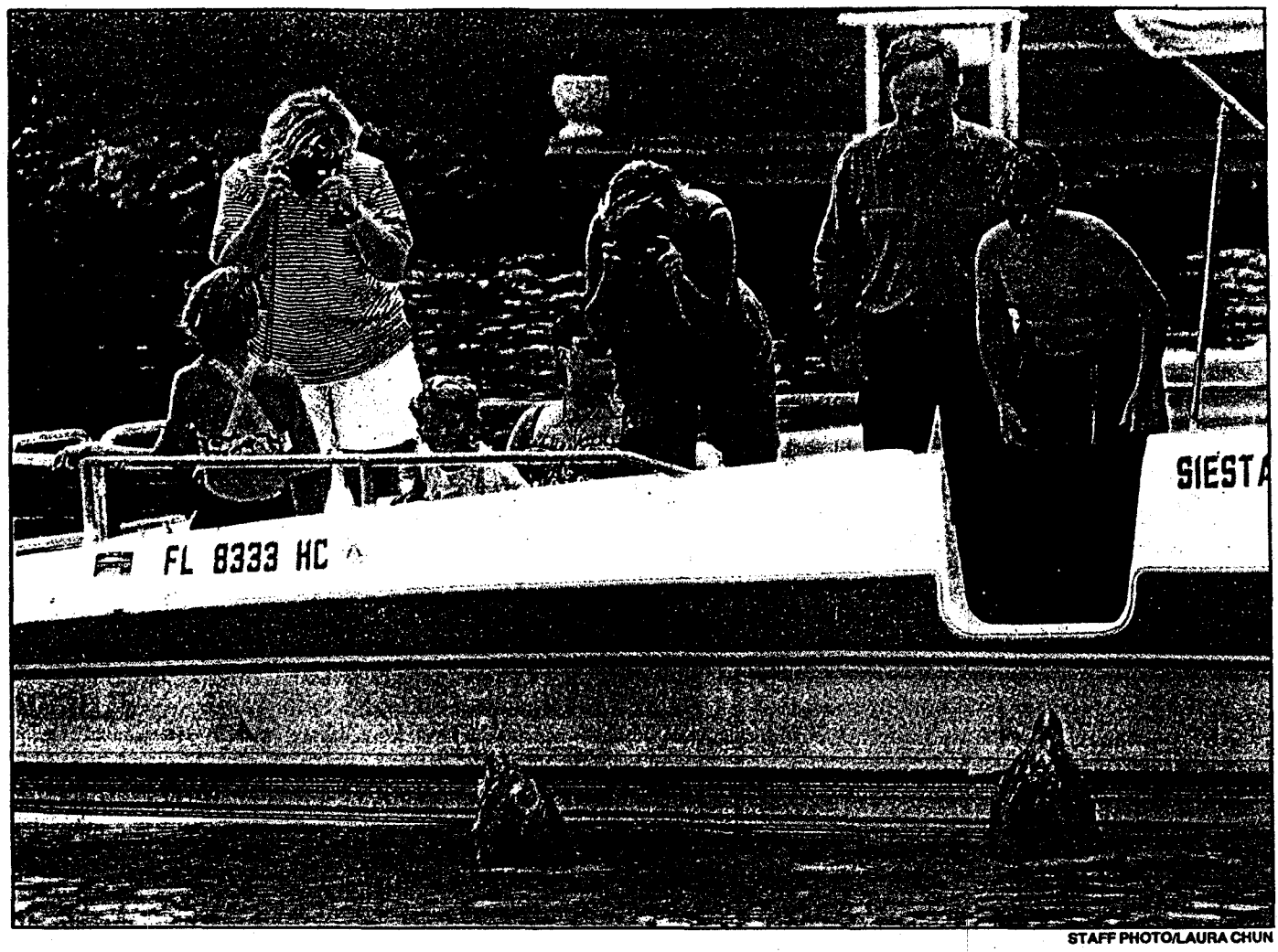
He said if you're in the water and you see a dolphin, get out of the water.

"Dolphins will ignore the people," he said. "This animal, because his behavior has been altered, I think it could be a danger to people."

Nick Gollattscheck, spokesman for Sea World near Orlando, said it's unusual for dolphins to bite humans.

"Maybe (Phillips) took the dolphin by surprise," he said. "The water could have been cloudy and dolphin could have been feeding," and just came across Phillips.

WARNING: BEWARE OF THE DOLPHINS!



STAFF PHOTO/LAURA CHUN

Two dolphins accept handouts and pose for photographs near Nokomis Public Beach on Wednesday.

Moochers put bite on people

Officials may make a federal case out of this fishy situation.

By Jan Angilella
STAFF WRITER

Phil Phillips was bitten last week. Nothing serious. Some teeth marks. A small cut.

Kim Foy was bitten last year. In addition to getting 20 stitches in her leg, she developed a cholera infection and wound up in the hospital for a week.

Jay Gorzelany of the Mote Marine Laboratory said he's heard of a half-dozen other cases of people being bitten by one or both of the dolphins that frequent the Intracoastal Waterway near the Albee Road bridge in Nokomis.

The biting dolphins — known in different boating circles either as Grinder and Grinda or as Mooch and, presumably, Mrs. Mooch — now have the attention of the National Marine Fisheries Service.

Officials of that agency said that cases of dolphins biting people are unusual, and will be investigated. But they also suggested that the problem may be caused by people giving a bite to the dolphins.

And Fisheries Service biologist Jeff Brown of St. Petersburg added: "We have jurisdiction over protecting marine mammals from humans, but not protecting humans from marine mammals."

Still, Brown said, the agency will investigate the reports and decide what action, if any, to take.

Such action could range from posting signs, warning boaters not to swim with or feed the dolphins, to having the dolphins removed from the area — the latter, he said, being a "remote" possibility.

Either of those solutions would suit victims Phillips and Foy, to some extent.

Phillips, a Venice police officer, was nipped on the leg as he swam in the Intracoastal Waterway last week. He said he thinks that posting a warning sign would be "the least" that could be done.

"Everyone should stay out of the water" in that area, he said. "They will be hurt, even if it's accidentally. It could be serious or fatal."

While Phillips' injury didn't require hospital treatment, Foy wasn't as lucky.

Foy, a resident of Sarasota, had been feeding bait to a dolphin while boating with her family last July.

PLEASE SEE **DOLPHINS** ON 7A

Moochers put bite on people

DOLPHINS FROM 1A

She said that after she and her 8-year-old hopped into the water to cool off, the occupants of another boat started teasing the dolphin by holding a shoe above the water as though it were food.

She felt the dolphin clamp down on her leg, but she broke free. Then the dolphin grabbed her son.

When her husband pulled the boy into the boat, the dolphin went for Foy's knee. The dolphin did not let go until Foy's husband, Edward, jumped in and kicked the creature in the face.

Foy's wound required 20 stitches. And after her leg swelled up the next day, doctors told her that she had a cholera infection resulting either from pollution in the water or from the dolphin's bite. She went home a week later.

"A young child is going to end up losing its life over this," Foy said. "It's an area where people swim."

But biologist Brown said that while dolphins may be putting the bite on people, it's people who cause the problem.

The dolphins are wild animals that have grown accustomed to handouts. Nearby bait shops even sell small bags of sardines and other baitfish to feed them with.

Brown said the problem starts with people feeding a dolphin.

In general, "the animal's not a danger unless people continue to feed it or swim around it," Brown said.

But if a dolphin is teased — being led to think that it's going to be fed, and then is not fed — it may become aggressive.

"Do not feed any wild animal," said Gorzelany of Mote Marine. "People want to feed these animals, and they're harming the animal by altering its natural behavior. It's now waiting for handouts."

"Dolphins will ignore the people," Gorzelany added. "This animal, because his behavior has been altered by peo[illegible] . . . could be a danger to people."

Last year, however, the courts struck down a federal law forbidding the feeding of dolphins. The Fisheries Service is appealing that ruling.

Thursday, June 17, 1993

Sarasota Herald-Tribune

MANATEE/AM

Manatee's Complete Daily Newspaper

67th YEAR. No. 257

EDITION

Sun, fun & dolphins

Frolicking with Flipper's friends in the Gulf

By RAPHAEL SUGARMAN
Daily News Staff Writer

At Marriott's Bay Point Resort in Panama City Beach, Fla., guests can have an unforgettable experience — swimming with wild dolphins and hand-feeding them in their own habitat.

"We are certain to see some dolphins today, and chances are they'll stick around and swim with us if we jump in the water," said Capt. Alexandra Englested of Sailboats Unlimited, when I went to the Bay Point pier to register for the "dolphin encounter."

"This is the only place in America where you can do this where the dolphins are not contained in pens."

Still, I had my doubts. The waves looked a little rocky and the Gulf was filled with small boats and wave-runners. If these dolphins are as clever as people say, they would make a point of being far away from this crowd.

"This is going to be just like one of those whale watches," the cynic in me said. "If we are lucky, we'll spot a few of these mammals frolicking in the water and that will be that. We'll 'ooh' and 'aah' as they leap into the air, and we will forget all about this promise of an 'encounter.'"

Boy, was I proven wrong!

They almost seemed to be waiting for us as the boat slowly sailed out into the Gulf — waiting for the companionship even more than for the small fish that Capt. Alex and her first mate were tossing into the water.

illusion as it darted over, thrusting its bottle nose out of the water. But soon, there were three or four more beside the boat with a playful look in their eyes.

Close encounters

They appeared different up close than I expected. They were slightly smaller and more muscular. The skin around their heads was pale, nearly translucent, giving their eyes an almost extraterrestrial appearance.

"Doing this is so special," said Capt. Alex as she stopped the boat and dropped anchor. "We never know where we are going to find them or how many of them there will be. All we know is that they will be just as happy to see us as we are to see them."

The dolphins were unfazed as the first of the dozen or so passengers strapped on fins and mask and jumped into the chilly Gulf, clutching a plastic bag full of fresh bait.

Soon, all of us were in the water, squealing like children as the dolphins took the bait from our hands. They moved in the water in silence, seeming to enjoy sneaking up from behind.

"I've learned which dolphins will allow you to pet them and which ones like to swim to the bottom with you and do flips," said Phil Schindler, the mate. "I'd like to think they know who I am by now."

Dolphin tours have been going on in the Gulf for nearly a decade, according to Capt. Charles Maxwell Anderson, an 87-year-old salty dog who operates his own tour with a larger boat; it carries as many as 8,000 people a year.

"When they hear the engine vibration, they flock to the boat, like chickens in a coop," said Anderson. "They'd miss us if we didn't go out there."

The dolphins did have to miss the tour boats for nearly three years in the early '90s, when a federal ruling prohibited feeding.

"They were worried that the dolphins would become too dependent on the people," Anderson recalled. "But that's stupid — if you are feeding them and some fresh bait swim by, they all take off."

Last year, a Texas judge overruled the decision, and the tours were reinstated.

No going overboard

Anderson's tour does not allow passengers to swim with the dolphins, and the animals are fed only by crew members. But Engelsted's tour from the Marriott allows both swimming and feeding by passengers.

"The experience is so much richer that way," she said, "so I wanted to make sure that my insurance covered both."

This is only the second year that Engelsted has conducted her dolphin tours, but already, she has stories galore about the nearly 2,000 people who went on the encounter.

Like the little girl who was terrified when she saw the first dolphin, but ended up spending the entire day enraptured by a half dozen of the creatures, who ignored all the other swimmers. Or the guy who accidentally left an empty feeding bag in the pocket of his swim trunks and nearly lost them when a curious, hungry dolphin poked his nose inside.

But Capt. Alex' favorite story is of the couple who decided to combine their wedding with a dolphin encounter. As the vows were being exchanged, the dolphins were leaping out of the water around the boat. And just as the vows were finished, the dolphins began to bang their backfins against the water in approval.

"Something like that makes you want to come out here every day," Engelsted said.

And as a guest at Bay Point, you can!

NEW YORK DAILY NEWS, MARCH 27, 1994

ALLAN HORTON / *Underwater evidence*

Rap music won't make dolphins dance

Why do we call animals "dumb," when proof exists that not even bottlenose dolphins like rap music?

On a recent Sunday afternoon, my daughter and I conducted an experiment in the Intracoastal Waterway north of the Albee Road Bridge for a high school marine biology course to measure whether dolphins would respond to music. That area of the waterway is famous for two spoiled dolphins — Grinder and Grinda — that mooch bait from boaters.

Neither process nor findings would meet the rigid tests of scientific inquiry, but the team members — my daughter and I — had fun and developed at least anecdotal evidence that dolphins prefer some kinds of music to others. And the music they prefer is not rap.

The weather was clear with a predominantly easterly wind of about 10 knots. The tide at the Albee Road Bridge was at flood midstage between a 9:12 a.m. low and a 3:06 p.m. high. The reported Gulf water temperature was 60 degrees Fahrenheit and clarity was almost nil at noon.

A large, portable CD player placed on the fiberglass deck of the cockpit footwell — the lowest place in the hull besides the bilge offering the most direct through-hull sound transmission — provided the music. Voila! A boomboat.

After making a "silent" pass under sail to establish boat speed and handling conditions — during which two dolphins, presumably Grinder and Grinda, were observed in the waterway — observation runs began. At the end of each run, the engine was used only long enough to come about promptly in the narrow channel.

Our test music included selections from Tchaikovsky's Symphony No. 5, *Capriccio Italien;* a rap/rock recording, *World Clique,* by Deeelight; a John Coltrane disc, *Blue Train;* and *Watermark* by Enya.

The dolphins swam within 20 to 30 feet of the boat and showed notable interest in the classical music, but left when the selection was switched to the rap/rock recording by Deeelight. However, their attention also was distracted at that time by other boaters who, knocking on their hull to get the dolphins' attention, began feeding them baitfish.

Although it is illegal to feed dolphins or other marine mammals, Grinder and Grinda aggressively beg whenever boats slow or appear otherwise to pay them attention. Few are the boaters who can resist throwing — or in some cases, handing — the dolphins baitfish or other tidbits.

On our third run, made while the dolphins still were mooching fish, my daughter switched the record to Coltrane's *Blue Train.*

The effect was dramatic. Both dolphins abruptly left the boat providing fish and swam practically on plane to our boat. Not only did they direct their attention to the boat, they swam as close to the hull as they physically could approach, at several points apparently bumping the rudder with their tail flukes.

They stayed with the boat through two complete passes, ignoring the lures of fish and hull-knocking offered by other boaters, until the music stopped, when they left.

Coming about to sail home, we turned the CD player back on, playing *Watermark* by Enya for our own pleasure at reduced volume. Grinder and Grinda again left the other boats and joined our boat, again swimming as close to the hull as they could. They remained with our boat for about one mile, until we reached marker 20 in Blackburn Bay, at which time they turned back to the bridge area.

While we thought the experiment a rousing success, the captain particularly reveled in confirmation of his fervent opinion — that not even the beasts of the sea can be soothed by the jarring strains of rap music.

Allan Horton is an editorial writer for the Herald-Tribune.

Erv STRONG and Sonja Strong, d/b/a The Dolphin Connection, Plaintiffs-Appellees,

v.

UNITED STATES of America and Barbara H. Franklin, Secretary of Commerce, Defendants-Appellants.

No. 92-7807.

United States Court of Appeals, Fifth Circuit.

Oct. 29, 1993.

Operators of motor launch cruises sought protection from enforcement and judicial review of regulation prohibiting feeding of bottlenosed dolphins in the wild. The United States District Court for the Southern District of Texas, Hayden W. Head, Jr., J., 811 F.Supp. 246, held that such feeding was not harassment within meaning of Marine Mammal Protection Act, and appeal was taken. The Court of Appeals held that feeding wild dolphins could disturb their normal behavior, and, thus, was harassment within meaning of the Act.

Vacated.

1. Statutes ⚷219(2)

Court of Appeals must effectuate Congress' choice if Congress has directly spoken to precise question at issue in administrative case; if Congress did not speak to precise question, Court of Appeals must respect administrative agency's interpretation of its governing statute if agency's interpretation is reasonable.

2. Fish ⚷12

Feeding dolphins and other marine mammals in the wild constitutes a taking or harassing of marine mammals without a permit as prohibited under the Marine Mammal Protection Act; Department of Commerce, which promulgated the rule, had substantial evidence to prove that feeding wild dolphins disturbed their normal behavior and could make them less able to search for food on their own. Marine Mammal Protection Act of 1972, § 3(12), 16 U.S.C.A. § 1362(12).

Appeal from the United States District Court for the Southern District of Texas.

Before POLITZ, Chief Judge, REAVLEY and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:

Erv and Sonja Strong conduct a commercial tourboat business to transport tourists into the bay by boat for the purpose of feeding dolphins. By this suit the Strongs have challenged the validity of a rule promulgated under the Marine Mammal Protection Act by the Secretary of Commerce which defines the feeding of marine mammals in the wild as prohibited activity. The district court permanently enjoined enforcement of the regulation. 811 F.Supp. 246. We uphold the regulation and vacate the injunction.

By this statute, Title 16 U.S.C. § 1361 et seq., Congress has prohibited the taking of marine mammals without a permit. The term "take" is defined to mean "to harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill any marine mammal." § 1362(12). Congress has directed the Secretary to promulgate regulations with respect to taking and importing of each species of marine mammal. § 1373. Pursuant to

Synopsis, Syllabi and Key Number Classification COPYRIGHT © 1993 by WEST PUBLISHING CO.

The Synopsis, Syllabi and Key Number Classification constitute no part of the opinion of the court.