



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office  
263 13<sup>th</sup> Avenue South  
St. Petersburg, Florida 33701  
(727) 824-5301, FAX 824-5309  
<http://sero.nmfs.noaa.gov>

August 8, 2011

Greetings Bottlenose Dolphin Take Reduction Team (BDTRT) Members and Alternates,

This letter is to provide you with updates on BDTRP activities related to your 2009 team meeting consensus recommendations, specifically: (1) BDTRP amendment status; and (2) research and monitoring priority accomplishments.

### **BDTRP Amendment Status**

We recognize it has been some time since you provided us with your regulatory consensus recommendations to amend the BDTRP to include Virginia pound net fishery gear requirements and revise current prohibitions for nighttime medium mesh gillnets operating in North Carolina. We greatly appreciate your patience and want to assure you we are working diligently on the amendments. As many of you know, the most significant cause of this delay is the Deepwater Horizon BP Oil Spill event. This unprecedented event diverted all our staff time to address response, as well as pre-assessment and damage assessment activities. In addition, the socio-economic position we were relying upon to conduct the economic analyses for the Environmental Assessment was vacated. Finally, proposed Virginia pound net regulations for bottlenose dolphins may affect current pound net regulations for sea turtles under the Endangered Species Act (ESA), requiring us to work closely with the NMFS Northeast Regional Office to ensure regulations affecting the Virginia Pound net fishery are consistent between both the Marine Mammal Protection Act (MMPA) and ESA.

Because of these unexpected delays, we now plan to amend the BDTRP in two separate rulemakings: (1) North Carolina nighttime medium mesh gillnet prohibitions; and (2) Virginia pound net proposed regulations.

#### *North Carolina nighttime medium mesh gillnet prohibitions*

The first proposed rule will pertain to current prohibitions under the BDTRP for medium mesh gillnets operating at night in North Carolina state waters. This proposed rule will come first because the current nighttime medium mesh gillnet prohibitions for North Carolina state waters expire May 26, 2012. We anticipate a proposed rule for this amendment in late 2011.

#### *Virginia pound net proposed regulations*

The second proposed rule will be for recommendations pertaining to the Virginia pound net fishery. Because the proposed regulations may affect current sea turtle regulations, we will conduct a joint-rulemaking under both the MMPA and ESA to amend: (1) the BDTRP under the MMPA, proposing Virginia pound net requirements; and (2) current federal sea turtle regulations for Virginia pound nets under the ESA to ensure consistency between regulations. This process will be similar to the joint-rulemaking we conducted when the BDTRP was initially proposed in 2004, and we will continue working closely with the NMFS Northeast Regional Office. All regulations pertaining to the Virginia pound net fishery for bottlenose dolphin conservation will be enacted under the MMPA.



We anticipate a proposed rule for Virginia pound net-related amendments to be issued in spring 2012. In the September 15, 2010 email update, we provided details on state regulations Virginia Marine Resources Commission (VMRC) enacted for pound nets based on your team recommendations. We are grateful to VMRC for enacting these, offering immediate conservation benefits to bottlenose dolphins.

## **Accomplishments**

### *Bottlenose Dolphin Stock Structure Research*

Three priority research projects were recommended during the September 2009 meeting to refine the understanding of bottlenose dolphin stock distribution in estuarine and ocean waters. The mixing of the estuarine and migratory stocks, especially in North Carolina with the Northern North Carolina Estuarine System Stock (NNCES), makes it difficult to definitively estimate abundance and assign mortality. Therefore, two of the priority research recommendations included collecting biopsy samples of residents in the NNCES stock in: (1) Pamlico Sound during the summer; and (2) ocean waters, especially where there is an overlap with other stocks and observed takes can be applied to more than one stock. To accomplish number 1, biopsy sampling efforts were completed in the summer of 2010 by the NMFS Beaufort Laboratory and were analyzed at the NMFS Louisiana Laboratory. A NOAA Technical Memorandum detailing the outcomes of the biopsy effort is enclosed.

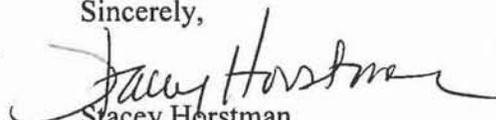
To accomplish number 2, we continued our partnership with North Carolina Sea Grant through their competitive proposal process. A Request for Proposals was solicited in July 2010, and an award was made to Duke University in January 2011. The project purpose and objectives are to examine the distribution of the Southern Migratory stock and NNCES in coastal waters along the Outer Banks and observe the behavior of dolphins in close proximity to Spanish mackerel gillnets. In addition to learning more about the stock structure in North Carolina, this work is especially important because the Spanish mackerel fishery is where the most recent takes have occurred in North Carolina.

### *Monitoring and Observer Coverage*

One of the 2009 consensus recommendations related to monitoring and observer coverage was to achieve some coverage in the North Carolina inshore Spanish mackerel fishery in Pamlico Sound. Historically, there has been very limited federal observer coverage in inshore waters because the priority was to achieve increased coverage in nearshore coastal waters. However, the newly defined estuarine bottlenose dolphin stocks increased the need for coverage in inshore waters. Therefore, 137 sea days of federal observer coverage was allocated to North Carolina inshore waters for March 2010-April 2011. Increased observer coverage was also obtained between September 2010-April 2011 for gillnets operating in North Carolina inshore waters.

Once again, I want to thank you for your patience. We are working hard to adhere to our revised timeline. We plan to convene the BDTRT next year either via webinar or an in person meeting. Meanwhile, please don't hesitate to call me at 727-551-5780 or email me ([Stacey.Horstman@noaa.gov](mailto:Stacey.Horstman@noaa.gov)) with any questions.

Sincerely,

  
Stacey Horstman  
BDTRT Coordinator

Enclosure