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# MMPA Bulletin

## NMFS and the Alaska Harbor Seal Commission Sign Co-managment Agreement

NMFS and the Alaska Native Harbor Seal Commission (ANHSC) have agreed to share management of harbor seals *(Phoca vitulina)* in Alaska through an accord that ensures that seal populations are conserved and subsistence harvest needs are met. The co-management agreement was formalized at a signing ceremony at the Alaska Native Brotherhood Hall in Yakutat, Alaska, during the ANHSC's spring meeting on April 29, 1999.

The goals of the agreement are to promote the sustained health of harbor seals in order to protect the culture and way of life of Alaska Natives who rely on harvests for subsistence uses; to promote scientific research and collection of data that includes the traditional knowledge of Alaska Natives; to identify and resolve any management conflicts that may arise associated with Alaska harbor seals; and to provide information to subsistence hunters and the public on the management and conservation of harbor seals in the state. Each year NMFS and the ANHSC will produce an action plan for the conservation of Alaska harbor seal populations and the co-management of subsistence uses of harbor seals in Alaska in accordance with these goals.

"This is the result of 18 months of hard work by both groups," said Ron Berg, Deputy Regional Administrator for NMFS. "The agreement provides a strong partnership for managing harbor seals that builds on both the agency's scientific expertise and the traditional and local knowledge of Alaska Natives. The partnership promotes the sustained health of harbor seals as well as the Native culture and tradition."

The agreement is the first to be signed between NMFS and Alaska Natives since the 1994 amendments to the MMPA, which provided the authority for NMFS to enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide co-management of subsistence use by Alaska Natives. The 1994 amendments specifically provided NMFS with the authority to provide grants to Alaska Native organizations to: collect and analyze data on marine mammal populations; monitor the harvest of marine mammals for subsistence use; participate in marine mammal research; and develop co-management structures with Federal and state agencies.

In April 1996, the Indigenous People's Council for Marine Mammals (IPCMM) expressed to NMFS and U.S. Fish and Wildlife Service (FWS) its concern about the need to develop a framework for governing the development of cooperative agreements for individual species of marine mammals. It provided a draft agreement for consideration and, after several workshops and drafting sessions, an official Memorandum of Agreement (MOA) was signed by NMFS, FWS, the U.S. Geological Survey, and IPCMM on August 27, 1997.

## *In This Issue ....*

Harbor Seal Co-management Agreement....1
Update on Management of Cook Inlet Belugas....2
H.R. 1934: The Stranding Rescue Assistance Act....3
NMFS Hears from Stakeholders: Chuck Janisse on TRTs....4
NMFS Updates the Marine Mammal Inventory....5
Hawaiian Monk Seals Moved to Texas....6
Volunteer Internship Available....6
Acoustic Workshop Clarification....6
NMFS Completes Status Review of Gray Whales....7
Recent Gray Whale Mortalities....7
Office of Protected Resources New Director....8
Progress Made on "Protect Dolphins" Campaign....8
Joint SRG Meeting....9
Marine Mammal/Sea Turtle Field Guides Available....10
Smithsonian Institution Press Books Available....10
Observer Program Workshop Report Available....10
Small Take Application for Children's Pool....11
From the Editors....12

National Marine Fisheries Service, Office of Protected Resources

The MOA recommends that section 119 agreements consider: collection and analysis of marine mammal natural history and population data; development of co-management infrastructures; cooperation in enforcement efforts; establishment of harvest levels; development and distribution of public education materials; development of management plans; incorporation of traditional knowledge into management decision making; and training.

Tribes situated within the geographic range of the harbor seal formed the ANHSC in May of 1995, for the purpose of addressing the decline in the Gulf of Alaska harbor seal population. The Native community felt that it was necessary to have a formal body to represent their interests and felt that is was essential to implement co-management with NMFS.

The ANHSC represents 20 tribal governments within Alaska. Initially, the ANHSC was comprised of representatives from six Alaska Native Claims Settlement Act Regions, and later grew to include individual tribal governments within those regions. Membership is still growing, as more tribes become aware of the ANHSC and its programs. "This co-management agreement clearly demonstrates that we can understand each other and that we can live in harmony," said Harold Martin, Chair of the ANHSC. "We look forward to implementing this new partnership."

*For more information about this co-management agreement and harbor seal conservation in Alaska, contact Kaja Brix at (907) 586-7235.*

## Update on Cook Inlet Beluga Whales

The Cook Inlet beluga whale *(Delphinapterus leucas)* constitutes a small, genetically-isolated stock in the south-central region of Alaska. Responding to recent declines in abundance, NMFS initiated a status review in November 1998 (see *MMPA Bulletin* No. 14, "NMFS Conducts Status Review of Cook Inlet Beluga Whales"). Petitions to list this stock under the ESA and/or designate the stock as depleted under the MMPA were received during this review.

Upon conducting the review, NMFS found that the estimated abundance of this beluga population has declined from about 653 animals in 1994 to 347 in 1998. Subsistence hunting by Alaska Natives is considered to be the major contributing factor in this decline. NMFS estimates that between 1994 and 1997 the average annual subsistence take was 87 whales (including those landed, struck, and lost).

Concern for this stock of whales prompted two actions this summer that have contributed significantly toward the protection of the Cook Inlet beluga whale population from hunting. Threat of over-harvest through Native subsistence use has been greatly reduced by a voluntary stand-down by hunters affiliated with the Alaska Native Marine Mammal Hunter's Committee (ANMMHC) and the Cook Inlet Marine Mammal Council (CIMMC).

**Threat of over-harvest through Native subsistence use has been greatly reduced by a voluntary stand-down by hunters.**

Although hunters affiliated with the ANMMHC announced they would voluntarily stand-down from harvesting Cook Inlet beluga whales this past summer, NMFS and the Native organizations were concerned that hunters unaffiliated with either ANMMHC or CIMMC could continue to hunt contrary to the efforts of these organizations. To resolve this, legislation was introduced by Sen. Ted Stevens (R-AK) and signed into law by President Clinton on May 21, 1999 prohibiting the taking of Cook Inlet beluga whales for Native subsistence use unless provided for within a cooperative agreement between NMFS and authorized Alaska Native organizations. Prior to passage of this legislation, there would have been no legal authority to regulate the 1999 harvest. The Stevens legislation is a temporary fix, but in combination with efforts by the Alaskan Natives and NMFS, it will allow the time needed during the upcoming year for the co-management process to work.

On September 10, 1999, NMFS announced that it was proposing that this stock of beluga whale be listed as "depleted" under the MMPA because its population has fallen below its optimum sustainable population size. The depleted listing gives NMFS the ability to regulate Native hunting. "This depleted designation gives us the tools to do what we need to do," said Brad Smith, NMFS Alaska Region. "With this in our pocket, we will go forward and work on a co-management agreement" with Native hunters.

The proposed depleted listing was published in the *Federal Register* on October 19, 1999 (64 FR 56298) for a 60-day public comment period. A public hearing will be held in Anchorage, Alaska on November 22, 1999. NMFS will also analyze population counts taken this summer before a final decision is made by a March 2000 deadline on whether the species will be listed under the ESA.

*For additional information about the status of Cook Inlet belugas, contact Brad Smith or Barbara Mahoney at (907) 271-3448.*

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# H.R. 1934: The Marine Mammal Rescue Assistance Act of 1999

On June 10, 1999, the U.S. House of Representatives, Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife and Oceans, held a public hearing to obtain testimony on H.R. 1934: The Marine Mammal Rescue Assistance Act of 1999. The bill would establish a funding program under the MMPA to assist eligible stranding centers and network participants in the rescue and rehabilitation of stranded and injured marine mammals. The Subcommittee invited witnesses to testify regarding their thoughts, suggestions, and any recommended changes they might want to contribute to the legislation. Additionally, the Subcommittee asked the witnesses to describe how H.R. 1934 would enhance the operation of stranding centers and the rehabilitation of marine mammals. Penelope Dalton, Assistant Administrator of Fisheries, testified on behalf of NMFS. Other witnesses included: Dr. Charles Manire of Mote Marine Laboratory, Marshall Jones of the U.S. Fish and Wildlife Service, Sharon Young of the Humane Society of the United States, Dr. Andrew Stamper of the New England Aquarium, and Bob Schoelkopf of the Marine Mammal Center.

The Marine Mammal Health and Stranding Response Act of 1992 is overseen by NMFS and the U.S. Fish and Wildlife Service (FWS). Unfortunately, there are scarce federal funds to support stranding response activities. Each year since 1992, NMFS has been able to allocate only $50,000 of its budget to assist stranding network participants by purchasing equipment and supplies and by hosting training workshops at which participants can improve their stranding response and data collection skills. However, NMFS does not compensate stranding network participants for normal stranding response activities. As a result, the vast majority of stranding response programs are carried out by volunteer organizations.

H.R. 1934 would amend Title IV of the MMPA to include a granting mechanism by which marine mammal stranding centers and stranding network participants could apply for funds to assist in their operating costs. This bill requires stranding centers and participants to provide 25% in non-federal matching funds, and the total grant amount cannot exceed $100,000.

In her testimony, Penelope Dalton indicated that the contributions of stranding networks to marine mammal science, conservation, and management have been significant and continue to grow as closer partnerships are forged among stranding centers, scientists, and managers. She stated that in the last decade alone, network participants have responded to over 30,000 marine mammal strandings and have collected data critical to our understanding of marine mammal biology, life history, and ecology, as well as information on the natural and anthropogenic threats to marine mammals.

Penelope Dalton also indicated that while these far-reaching aspects of the stranding program are worthy of support, NMFS should continue to address marine mammal population assessment and recovery as priority issues and must continue to build baseline health data through cooperation and partnership with stranding networks and other organizations. In the end, NMFS supports the intent of this legislation, but is required to balance competing funding priorities, including other high priority mandates in the MMPA. Therefore, NMFS must consider its support for this program in the appropriate context, and would not support the bill if it were at the expense of existing NMFS marine mammal protection and conservation programs.

The concept for the bill originated during the last Congressional session when a draft version was introduced in the U.S. Senate by Sen. Robert Torricelli (D-NJ), but there was no action on the bill before the end of the 105th Congress. H.R. 1934, a similar bill sponsored by Rep. Jim Saxton (R-NJ), passed through the Subcommittee and was passed by the U.S. House Resources Committee on June 30, 1999. The Resources Committee reported the bill to the House (House Rept. 106-242) on July 20, 1999, and it passed on September 27, 1999. It has been sent to the U.S. Senate.

NMFS will continue to monitor the progress of this bill and to respond to Congressional requests for information on the NMFS Marine Mammal Health and Stranding Response Program, the National Marine Mammal Stranding Network, and other NMFS Office of Protected Resources programs.

*For additional information on the Marine Mammal Stranding Rescue Assistance Act of 1999, contact Dr. Teri Rowles at (301) 713-2322, ext 178 or Nicole R. Le Boeuf at (301) 713-2322, ext. 156.*

# NMFS Hears from Stakeholders

*In the spirit of cooperation, stakeholders in marine mammal conservation issues are given the opportunity to use the MMPA Bulletin as a forum to express their views about working toward common goals. Guest authors from other government agencies, the fishing industry, conservation groups, or others may contribute, and letters written to NMFS by individual members of the public may also appear. The views expressed by the guest authors are solely their own and do not necessarily reflect NOAA's positions or policies.*

## The Uncertain Prospect of Stakeholder Participation in Future TRT Processes

### by Chuck Janisse

The 1998 "Year of the Ocean" ushered in a renewed search for more effective marine resource management paradigms, and contemporary wisdom calls for direct stakeholder participation in the management process. The National Research Council's latest report entitled Sustaining Marine Fisheries states: "Participation in management should be extended to all parties with significant interests in the marine ecosystems that contain exploited marine organisms." In this regard, the MMPA's Take Reduction Team (TRT) management process provides an opportunity to examine the effectiveness of participation by a broad range of stakeholders in the formulation of management decisions.

**The TRT management process requires an enormous commitment of energy and enthusiasm from participants.**

I am a veteran of two TRT management processes; one, as a participant, and the other, as a consultant to a participant. Each of these two processes sought to develop methods to reduce incidental whale and dolphin mortality in a driftnet swordfish fishery. One team focused on a Pacific fishery, and the other team focused on an Atlantic fishery. Although the outcome of the Pacific take reduction process is a glowing success, the outcome of the Atlantic take reduction process is a frustrating failure. However, the process itself proves to be an effective management problem solving technique in both cases.

The Pacific Offshore Cetacean TRT met five times in as many months. Under the guidance of a professional facilitator, this team produced a consensus Take Reduction Plan (TRP). The meat of the Pacific team's plan called for an experiment to test the effectiveness of pingers for reducing whale and dolphin entanglement. Although originally planned to be a two-year experiment, evaluation of entanglement rates in pingered nets compared to non-pingered nets was so favorable after the first year that regulations requiring fleet-wide pinger use were recommended and enacted. In the first season since this enactment, the Pacific driftnet fleet attained the short-term goal of reducing whale and dolphin mortality to below required levels.

The Atlantic Offshore Cetacean TRT faced a more complex set of problems that appeared to be much more irreconcilable than those the Pacific team encountered. The Atlantic team had only four meetings to accomplish its work, and there were competitive interests between the three different swordfish fisheries represented on this team. Even within the driftnet fishery component of this team, there were sharp divisions among the fisher representatives. However, in spite of daunting odds, the Atlantic team reached consensus on a TRP.

The driftnet fishers on the Atlantic team identified the derby nature of their fishery as the single greatest obstacle to reducing whale and dolphin entanglement. The derby is created because the driftnet portion of the Atlantic swordfish quota is small. Typically, the driftnet season is only two weeks long. The season opens like a land rush, each fisher races to harvest their share of the quota before the season's close.

The Atlantic team crafted a unique solution to this problem by recommending the implementation of a fishing effort allocation strategy. Under this strategy, each driftnet fisher would be allocated a predetermined number of driftnet sets based on historic levels of effort in this fishery. This plan eliminates the race for fish, and gives fishers the opportunity to experiment with pingers, and alternative fishing methods, in order to reduce whale and dolphin entanglement without fear of jeopardizing their swordfish harvest.

After the Atlantic team submitted its consensus plan, the NMFS' response was to institute an emergency closure of the drift net fishery. Two years later, after a succession of emergency closures that prevented this fleet from fishing, a driftnet fishery opening was declared without addressing the derby nature of this fishery. As a result, the rate of whale and dolphin mortality was high. NMFS now proposes to close this fishery for good rather than adopt the Atlantic team's recommended fishing effort allocation plan.

*[Note: Since this article was received, NMFS published a notice in the Federal Register (64 FR 4055) that prohibits the use of driftnet gear in the Atlantic swordfish fishery, effectively closing this segment of the swordfish fishery.]*

In spite of this outcome, the TRP process stands out as a credible example of a system capable of generating consensus problem solving from a group representing diverse interests. The success of both the Pacific and Atlantic teams in reaching consensus on a

TRP is strong testimony. The failure of the plan for the Atlantic driftnet fleet did not come about because stakeholders failed to formulate and recommend management solutions; nor is it a reflection of the problem solving potential of the TRT management process. The failure of the plan for the Atlantic driftnet fleet is due to an administrative decision on the part of NMFS. Micro-management of this type undermines the foundation upon which the stakeholder process depends - commitment. The TRT management process requires an enormous commitment of energy and enthusiasm from participants. Now, who on the Atlantic team will again make such a commitment?

*Years of fishing in the California drift gillnet swordfish fishery drove me to law school because it seemed like every time I was in port, I was trying to explain some detail of fishing to a lawyer in order to get a legal opinion regarding an endless flood of regulatory restrictions. Rather than spend any more time educating lawyers about commercial fishing, I decided to educate myself about the law. Attending law school at night closed the door on my ability to fish, but it opened the door to other possibilities. Currently, I work for fishers as Executive Director of the Federation of Independent Seafood Harvesters (FISH), and serve on the Pacific Offshore Cetacean TRT; the Pacific Scientific Review Group; the Pacific Fishery Management Council's Highly Migratory Species Advisory Subpanel; and as one of the U.S. Delegates to the Inter-American Tropical Tuna Commission. I can be contacted at (cjanisse@pacbell.net).*

# NMFS Updates the Marine Mammal Inventory

Under section 104(c)(10) of the MMPA, specific information on marine mammals held in captivity must be submitted for purposes of the NMFS Marine Mammal Inventory. At the end of 1998, the marine mammal inventory data base included 2,229 marine mammals with animal-specific data such as: animal identification; sex; estimated or actual birth date; date of acquisition or disposition by the permit holder; source of acquisition including location of the take from the wild, if applicable; name of recipient if animal is transferred; notation if animal was acquired as the result of a stranding; and date and cause of death. Holders of marine mammals are required to submit to NMFS reports of births and deaths within 30 days of the event, and to submit a 15-day notification prior to any sale, purchase, export, or transfer.

Section 104(c)(2)(A) of the MMPA allows for the public display of marine mammals provided that the holder:

1) offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community;

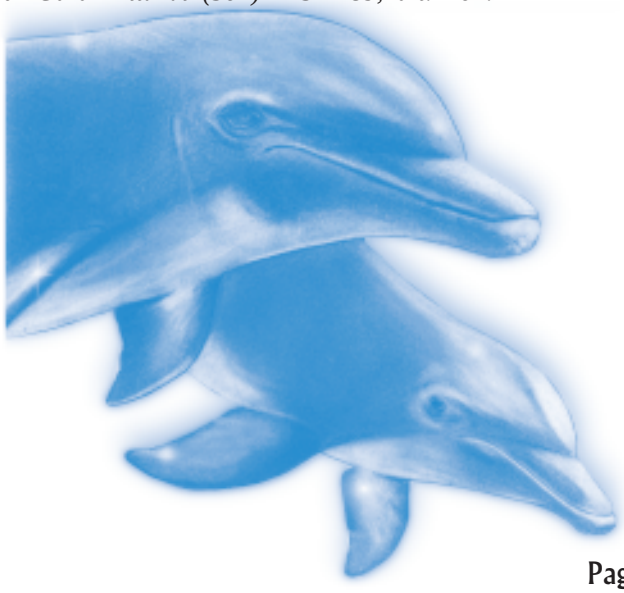
2) is registered or holds a license under the Animal Welfare Act; and

3) maintains facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and not limited or restricted in access except for admission fees.

To ensure compliance with the statutory requirements, and in conjunction with ongoing efforts to reduce and streamline reporting and notification requirements, NMFS has entered into a Cooperative Agreement with the International Species Information System (ISIS) to administer the captive marine mammal inventory database, including marine mammal transport notifications. ISIS is an international membership organization that manages a database and information system for wild animal species in captivity, including marine mammals. Under this cooperative agreement, ISIS will manage the captive marine mammal inventory information as part of the central ISIS captive wildlife database and information system. Many of the marine mammal holders who report inventory information and transfer/transport notifications under the MMPA have already been voluntarily contributing their inventory information to ISIS. It is estimated that one-half of the marine mammal specimens have been reported separately to both databases.

The major objectives of the Cooperative Agreement are to eliminate current duplication of data collection efforts, improve the long-term efficiency and quality of the captive Marine Mammal Inventory and Transfer/Transport database; increase convenience; reduce cost and burden for reporting required under the MMPA by all holders of marine mammals; enhance public access to the captive marine mammal information; and avoid duplication of development and maintenance of expensive custom inventory database software by ISIS and NMFS. The new procedures associated with future administration of the Marine Mammal Inventory and transfer/transport notifications by ISIS will be outlined in an upcoming proposed rule for public display. Holders will continue to submit reports to NMFS until they are officially notified of the transition to ISIS.

*For additional information about the NMFS Marine Mammal Inventory, contact Ann Hochman at (301) 713-2289, ext 104 or Gene Nitta at (301) 713-2289, ext. 107.*



## NMFS Transfers Hawaiian Monk Seals to Texas

On April 11, 1999, the NMFS Southwest Region transferred ten juvenile female Hawaiian monk seals (*Monachus schauinslandi*) to Sea World of Texas in San Antonio, Texas. The seals were collected as weaned pups in 1995 by NMFS' Southwest Fisheries Science Center under scientific research permits and were maintained at the NMFS Kewalo Research Facility in Honolulu, Hawaii. The animals were determined non-releasable back to the wild because:

1. Eight of the ten are blind, and therefore cannot adequately forage for food or defend themselves from predators;

2. Due to the possibility of all ten carrying a virus (which may have caused the blindness), release would present a finite and unwarranted risk of disease transmission to the wild population of Hawaiian monk seals (a critically endangered species); and

3. Release is not in the best interests of the individual seals, which have been in captivity for the first 3.5 years of their lives, and are dependent on human care.

The seals are being held at Sea World pursuant to a scientific research and enhancement permit. The continued captive maintenance of the seals at Sea World of Texas will prevent an unwarranted health risk to the wild population of monk seals. The scientific research and enhancement activities will provide necessary biological and behavioral information which will likely contribute to the survival or recovery of the species. A potential breeding/research program, conducted in partnership with NMFS, will contribute to on-going recovery efforts to enhance the wild population of critically endangered Hawaiian monk seals.

*For additional information on the transfer of these animals, contact Ann Terbush or Ann Hochman at (301) 713-2289, or Margaret Dupree, NMFS Pacific Islands Area Office, at (808) 973-2987.*

## Volunteer Internship Available at the Office of Protected Resources

The NMFS Office of Protected Resources is offering a full or part-time internship to work on marine mammal conservation and policy issues. The person that fills this position would work with one or more office staff members and would focus on specific marine mammal topics. He/she would have a choice of topics to work on, which may include: fisheries interactions with marine mammals, harassment of marine mammals, permitting of scientific research, conservation and recovery of marine mammals, marine mammal health and strandings, tracking information on the status of marine mammal stocks, and outreach to the public regarding these issues.

Intern responsibilities/duties will be commensurate with the level of technical skill and previous relevant experience demonstrated by the chosen applicant(s). Applicants with an interest in marine mammal conservation and management, exceptional writing and communication skills, and knowledge of a variety of computer software and equipment will receive highest consideration. Useful technical/computer skills include experience with: database design, management, and data entry; web site design and development; technical editing and writing; and Global Information System (GIS) applications.

Depending on budget restraints, limited funds may be available for this position, however, the intern should be able to be responsible for his/her own housing, food, and transportation. The worksite is in Silver Spring, Maryland and is accessible by public transportation from most areas within the metropolitan Washington, DC area. If the intern is a student, he/she is encouraged to arrange for academic credit for this work experience. However, current academic status is not required of the applicant. The duration of this internship is flexible and can be tailored to the individual intern.

*To be considered for an internship position, send your resume/curriculum vitae, along with two letters of recommendation and a statement of interest (minimum 200 words) to NMFS Office of Protected Resources, Attn: Volunteer Internship Program, 1315 East-West Highway, Silver Spring, MD 20910.*

## Acoustic Workshop Report: A Clarification

The announcement on page 11 of the *MMPA Bulletin* Issue No. 15 about an acoustic workshop report inadvertently mixed information about two different workshops. The correct information follows:

In February 1998, the Office of Naval Research (ONR) held a workshop that was intended to summarize the current state of knowledge about the effects of human-generated noise on marine organisms to guide future research efforts. This meeting was closed to the public. A summary report entitled, "Proceedings of the Workshop on the Effects of Anthropogenic Noise in the Marine Environment 10-12 February 1998," was prepared by Dr. Robert C. Gisiner of ONR, and is available at:

**http://www.onr.navy.mil/sci_tech/engineering/onrtxaff.htm**

In September 1998, NMFS held an Acoustic Criteria workshop that was intended to address specific questions related to the preparation of future NMFS guidelines on the effects of noise on marine mammals and endangered species. The meeting was open to the public. No summary report was prepared for this meeting, and no future report is planned because the material was gathered for internal NMFS use.

*For additional information about the NMFS workshop or other acoustic issues, contact Dr. Roger Gentry at (301)713-2322, ext 155. The confusion in Bulletin No. 15 resulted from the fact that the report from the ONR workshop became publically available soon after the NMFS workshop was finished.*

# NMFS Completes Status Review of Eastern North Pacific Gray Whales

In June 1994, the eastern North Pacific stock of gray whales was removed from the List of Endangered and Threatened Wildlife under the Endangered Species Act (ESA) because of its substantial recovery over the previous 40 years. The ESA requires that stocks or species removed from the list be monitored for a minimum period of five years and its status reassessed at the end of that period of time. Therefore, NMFS developed, and in 1994 initiated, a five-year monitoring and research plan for Eastern North Pacific gray whales (59 FR 31094) in 1994. This program involved monitoring developments in and around the lagoons in Mexico used by gray whales for breeding and nursing grounds, a north- and southbound survey in 1997 from a point in Central California, and consecutive annual shore-based surveys (1994-1999) to estimate calf production for this stock.

To review the results of this five-year monitoring program, NMFS convened a workshop at the National Marine Mammal Laboratory in Seattle, Washington, on March 16-17, 1999. This workshop culminated in the review of the status of the Eastern North Pacific stock of gray whales (also referred to as "California gray whales"). The review was based on research conducted during the five-year period following the delisting of this stock in June 1994 and includes information collected through June 16, 1999.

The workshop followed guidelines outlined in the NMFS five-year monitoring plan to conduct the status review and recommend whether to: 1) continue the monitoring program for an additional five-year period; 2) terminate the monitoring program; or 3) consider changing the status of the gray whale under the ESA. The 28 workshop participants determined that this stock was neither in danger of extinction, nor was it likely to become endangered within the foreseeable future. Therefore, there was no apparent reason to reverse the previous decision to remove this stock from the List of Endangered and Threatened Wildlife. The delisting of the Eastern North Pacific stock of gray whales does not in any way alter the status of the still endangered Western North Pacific ("Korean") stock of gray whales.

There was a consensus among the workshop participants that the Eastern North Pacific stock of gray whales should be monitored for an additional five-year period (1999-2004). Monitoring should include a continuation of surveys at Granite Canyon, the shore-based research site used by NMFS to conduct a census during the southbound migration most years since 1974; collaborative research with Mexican scientists on phenology of gray whales and the use of the lagoons in Baja California Sur; photogrammetry as a study of whale condition; calf counts; and an examination of the affect of environmental parameters, especially climate warming, on the whales' use of foraging areas.

Although the Eastern North Pacific stock of gray whales no longer receives protection under the ESA, it continues to be protected under the MMPA. As required by the MMPA, NMFS conducts assessments of U.S. marine mammal stocks (cetaceans, sea lions, and seals) and revises assessment information annually for "strategic" stocks, every three years for other stocks, or when new information becomes available. The last NMFS assessment of gray whales occurred in 1997, and it is currently being updated.

A subsistence take, limited to 140 whales per year for 1998-2002, is managed under quotas set by the International Whaling Commission (IWC). Comprehensive assessments of gray whales are conducted by the IWC before quotas are set; the last IWC assessment occurred in 1997; the next will be in 2003. There is no allowable commercial take of gray whales, and the Convention on the International Trade in Endangered Species regulates the transportation of animal parts. Furthermore, if there is evidence of a significant negative decline and research indicates that such a change would be warranted, this stock can be proposed to be listed again as threatened or endangered under the ESA.

*For more information on the gray whale status review, contact Sue Moore at (206) 526-4021 or David Rugh at (206) 526-4045.*

## Recent Gray Whale Mortalities on the West Coast

Beginning in early 1999, gray whales *(Eschrictius robustus)* have been stranding dead along the U.S., Canadian, and Mexican West Coasts. By October 1, 1999, 269 gray whales had been reported stranded. Analysis of data by all three countries is underway. By the end of September, there had been 144 gray whale strandings in the United States. This marks the highest levels of gray whale strandings documented in the last 25 years, with the average annual number of reported gray whale strandings in the United States from 1990-1998 being about 30 animals.

Although a definitive cause for the elevated number of strandings is unknown, there is speculation that food limitations in the Bering Sea during the summer of 1998 may have contributed to the whale deaths.

In July 1999, NMFS consulted the Working Group on Marine Mammal Unusual Mortality Events (see *MMPA Bulletin* issue No. 11, "Working Group on Unusual Marine Mammal Mortality Events Meets"), and based on the members' recommendations, declared these strandings an unusual mortality event. The strandings are currently under investigation. Unfortunately, the decomposed condition of many of the stranded gray whales and the inaccessibility of some of the stranded animals has limited the scope of the investigation. Data is being analyzed, and a report from this event will be published in the Spring of 2000.

*For additional information on this mortality event, contact Dr. Teri Rowles at (301) 713-2322, ext. 178 or Sue Moore at (206) 526-4021.*

# New Director for the Office of Protected Resources

On September 13, 1999, Donald R. Knowles joined the NMFS Office of Protected Resources as its new Office Director. He began working for NMFS after serving for five years as the Executive Director of the Northwest's Regional Ecosystem Office, a federal interagency office established to support implementation of the President's Northwest Forest Plan.

While at the Northwest's Regional Ecosystem Office, Knowles coordinated interagency priorities and provided policy and management direction on a variety of environmental issues, primarily on the conservation of old growth forests and the associated northern spotted owl. Under his direction, the Regional Ecosystem Office served as a focal point for scientific and technical expertise while providing the continuous intergovernmental coordination required to ensure successful implementation of a high profile Presidential initiative. Don Knowles earned his B.A. in economics and M.P.A in public administration, water resources, from North Carolina State University. Prior to this assignment, he served a five-year appointment as the Associate Deputy Secretary for the U.S. Department of the Interior, a Cabinet agency of 70,000 employees with an annual budget of more than $9 billion, and also worked for nine years as a professional staff member on the U.S. Senate Committee on Appropriations. He started his government career with the Department of Commerce in 1972 as a management intern.

> "We need to more fully understand and link the ecosystem pieces together and look at them as a whole.
>
> To do this we'll need to scale up our thinking, extend our horizons, and truly look at the interconnectedness of the smaller components of ecosystems."

Knowles is admittedly new to many marine conservation issues. He plans to spend time with the Office of Protected Resources staff, members of the NMFS/NOAA staffs, and other stakeholders, "listening, assessing, and incubating." He believes that "With the right information and science, and given the legal frameworks we work within, we can define and support sound management over the long-run."

At the Office of Protected Resources, Knowles hopes to take the lessons learned in the Pacific Northwest with endangered salmon and apply them to other Endangered Species Act (ESA)-listed species. Ecosystem management is a major component of the MMPA, and Knowles is looking forward to applying an ecosystem-based approach to dealing with marine mammal issues. From his terrestrial management experiences he has seen that, as a society, we've moved away from, "just cutting trees and hoping they grow back," to discovering what it is that maintains ecosystems. "We need to more fully understand and link the ecosystem pieces together and look at them as a whole. To do this we'll need to scale up our thinking, extend our horizons, and truly look at the interconnectedness of the smaller components of ecosystems." He supports the recent NMFS and U.S. Fish and Wildlife Service (FWS) efforts to make ESA implementation more efficient and effective and hopes to foster a strong and cooperative relationship with the FWS.

Knowles believes that the decision-making process is as important as the outcome. He believes that decisions should be made openly, so that the public understands how and why decisions are made. He also supports strong science, peer-reviewed of course, as valuable input into the decision-making process.

The Office of Protected Resources is pleased to have him join the team. Welcome aboard!

# Progress Made on "Protect Dolphins" Campaign

As reported in the last issue of the *MMPA Bulletin* (No. 15), NOAA/NMFS successfully prosecuted a commercial operator for feeding and harassing wild dolphins in Florida. This victory was one of several successful events this past summer that highlighted NMFS' on-going "Protect Dolphins" campaign to educate the public that feeding and harassing wild dolphins is harmful to the animals, dangerous to people, and illegal under the MMPA (See *MMPA Bulletin* issues No. 6 "Flipper's Myth Proves Harmful," and No. 10 "NMFS Continues Campaign to Halt Feeding and Harassment of Wild Dolphins").

During the summer of 1999, NMFS' Office of Protected Resources and NOAA Public Affairs issued three press releases reminding the public about the dangers of feeding and harassing wild dolphins: May 28th to kick off the start of summer, July 19th to announce the feeding case victory, and September 1st to address the Labor Day weekend activities along the coasts. On July 6, 1999, *The New York Times* science section published a feature story on dolphins that profiled NMFS' "Protect Dolphins" campaign. As a result of the *New York Times* article, several other news organizations produced follow-up stories including CNN, ABC News, CBS News, BBC Radio, the *Sarasota Herald Tribune*, and the *Atlanta Journal Constitution*. The "Protect Dolphins" campaign will continue, and future projects will include the production of additional outreach materials, signs, and public service announcements.

*For additional information, contact Trevor Spradlin at (301) 713-2289, or Stephanie Dorezas, NOAA Public Affairs, at (301) 713-2370. Copies of the press releases can be obtained at http://www.publicaffairs.noaa.gov/releases99/*

# Joint Meeting of the Regional Scientific Review Groups

The NMFS Scientific Review Groups held a joint meeting in Seattle on April 13-14, 1999, to discuss the continuing role of the Scientific Review Groups (SRGs) and other issues of national interest. Major topics of discussion included: (1) reviewing SRGs' role now that the process for preparing and reviewing stock assessment reports is well underway; (2) ensuring national consistency in advising NMFS and U.S. Fish and Wildlife Service (FWS); and (3) evaluating the quantitative criteria used to calculate Potential Biological Removal levels, particularly the recovery factor for endangered species.

In 1994, Congress amended the MMPA to add a permanent regime to govern interactions between marine mammals and commercial fishing operations. As part of this regime, section 117 was established, mandating the preparation, review, and revision of reports describing the status of marine mammal stock assessment reports. Section 117 also required NMFS, in consultation with the Secretary of the Interior (FWS), the Marine Mammal Commission, the Governors of affected adjacent coastal States, regional fishery and wildlife management authorities, Alaska Native organizations and Indian tribes, and environmental and fishery groups, to create three regional SRGs to provide scientific advice to NMFS and the FWS regarding marine mammals and efforts to reduce mortality and serious injury of marine mammals incidental to fishing operations.

The SRGs review draft stock assessments and advise NMFS concerning: the status of marine mammal populations, trends, stock identity, and dynamics; research needed on the marine mammal stocks and research needed to identify methods to reduce incidental mortality and injury; impacts of habitat degradation and appropriate measures to reduce impacts; and any other issue NMFS or the groups consider appropriate in pursuing the goals of the MMPA. In order to provide balanced and representative viewpoints in their discussions, SRG members are required to have expertise in marine mammal biology and ecology, population dynamics and modeling, commercial fishing techniques and practices, or the subsistence use of marine mammals under section 101(b).

NMFS established SRGs in June 1994, for the Alaska, Pacific (including the Hawaiian Islands), and Atlantic (including the Gulf of Mexico) regions. The SRGs initially met in a joint session in October 1994 that was devoted primarily to a review of NMFS-drafted guidelines for preparing marine mammal stock assessment reports. After that meeting, each group has subsequently met once or twice a year to review NMFS and FWS scientific projects on marine mammals and to provide a wide range of technical advice.

At the April 1999 meeting, NMFS, FWS, and the SRGs noted that the SRGs serve a vital function in maintaining accurate information on marine mammal stocks to serve as a basis for management decisions. NMFS also noted the credibility that the SRGs added to the accuracy of data contained in the stock assessment reports. The SRGs discussed the need for peer review of information used in stock assessment reports. They recommended that NMFS and FWS only include information in stock assessment reports from peer-reviewed, primary research documents that provide the details of methods, results and interpretations. They also recommended that NMFS and FWS develop standards for the information that would be included in the stock assessment reports. The SRGs noted that they should switch their emphasis from a detailed, sometimes editorial, review of the stock assessment reports themselves to providing guidance on the science underlying these reports – that is, the research designs and analyses.

Several SRG members noted that some information and calculations included in stock assessment reports seem inconsistent and incomplete. For example, estimates of total human-caused mortality for many marine mammal stocks did not include all sources of mortality; this was particularly true for those stocks of marine mammals that were subjected to subsistence harvest. Also, several stocks of marine mammals regularly travel inside and outside the U.S. EEZ (transboundary stocks) and are subjected to unknown mortality risks outside U.S. jurisdiction. Participants noted that the guidelines for preparing stock assessment reports covered many of these issues and outlined a standard approach to address them. The SRGs, therefore, recommended that all known mortality be included in the reports and that the reports, and their review, be consistent with the guidelines for preparing them.

The SRGs also discussed the recovery factors for endangered species, particularly large whales. Currently, the guidelines for preparing stock assessment reports contain a default recovery factor value of 0.1 for endangered species, yet allow authors to deviate from this value when they have sufficient information to revise it upward. The SRGs and other participants noted that some species that are listed as endangered (*e.g.*, western North Atlantic right whales) are at a much greater risk of extinction than others (*e.g.*, western North Atlantic humpback whales). There was a general agreement that those stocks that faced only a low risk of extinction did not necessarily need the protection afforded by the default recovery factor; however, changing from the default value required standardized criteria rather than completely subjective judgement. Participants presented various approaches to standardizing a framework for altering the recovery factor for endangered species, but could not reach consensus on a preferred approach. Therefore, the group recommended that a small team of SRG members and staff from NMFS and FWS work together to devise an acceptable standard framework, which would be evaluated at a later meeting.

*For additional information about the regional NMFS SRGs and the joint SRG meeting, contact Paul Wade at (206) 526-4539 or Tom Eagle at (301) 713-2322, ext. 105. The NMFS Northeast Fisheries Science Center plans to publish the proceedings of this meeting as a part of the NOAA Technical Memorandum Series. The report will be available in early 2000.*

## Atlantic and Gulf of Mexico Marine Mammal/Sea Turtle Field Guide Available

NOAA's Rhode Island Sea Grant at the University of Rhode Island has just published, *"Guide To Marine Mammals & Turtles of the U.S. Atlantic & Gulf of Mexico,"* by Kate Wynne and Malia Schwartz, with illustrations by Garth Mix. This field guide is designed to familiarize users with distinguishing characteristics of the species of whales, dolphins, porpoises, seals, manatees, and sea turtles commonly found in U.S. Atlantic waters and the Gulf of Mexico.

Identifying marine mammals and sea turtles at sea can be frustrated by limited visibility due to weather conditions and the animals' own behavior. This guide was created to facilitate accurate species identification, "using key physical and behavioral characteristics, distribution maps, and comparative surface profiles." The field guide is filled with photographs and illustrations, but also contains general information about marine mammal and sea turtle adaptations to the marine environment, conservation issues, habitat, as well as taxonomy and morphology, and a short glossary of terms used in the guide.

Kate Wynne also authored *"Guide to Marine Mammals of Alaska,"* published by the Alaska Sea Grant College Program at the University of Alaska Fairbanks in 1992. Both guide books were sponsored in part by the NMFS Office of Protected Resources, and are designed to stand up to a variety of weather conditions encountered by mariners, fishers, and biologists alike, although they are also ideal for shore-based users of all ages and backgrounds.

The Atlantic field guide can be purchased for $25. The NMFS Office of Protected Resources plans to distribute several hundred guides free of charge to commercial fishers that participate in MMPA Category I and II commercial fisheries (those that have a frequent or occasional take of marine mammals). The guides will assist fishers in identifying marine mammal and sea turtle species that become entangled in gear.

*To obtain copies of the Atlantic field guide, contact Rhode Island Sea Grant at (401) 874-6842 or write to Rhode Island Sea Grant, University of Rhode Island, Narragansett Bay Campus, Narragansett, RI 02882-1197.*

*To obtain copies of the Alaska guide, contact the Alaska Sea Grant College Program at (907) 474-6707 or write to Alaska Sea Grant College, University of Alaska Fairbanks, Fairbanks, AK 99775-5040.*

## Smithsonian Institution Press Textbooks Available

Smithsonian Institution Press has recently published two books on marine mammals: "Biology of Marine Mammals," edited by John E. Reynolds, III and Sentiel A. Rommel and "Conservation and Management of Marine Mammals," edited by John R. Twiss, Jr. and Randall R. Reeves.

The first book serves as an excellent introduction for upper level undergraduate and graduate students, a reference for professionals, and a comprehensive resource for marine mammal biologists and managers. The book takes an integrated approach to the biology of marine carnivores, cetaceans, and sirenians, comparing marine mammal species, and comparing marine mammals to terrestrial mammals. It also provides a framework for fundamental biological and ecological concepts, including functional morphology, physiology, sensory systems, population biology, behavioral ecology, and feeding ecology.

The second book provides the reader with insight into a complex mixture of scientific, social, economic, and political considerations relevant to the diverse issues surrounding marine mammal conservation. This volume reviews the history of marine mammal conservation, nationally and abroad, and discusses future implications for marine mammal populations based on efforts directed at single marine mammal species. This book also makes a strong case for the use of sound science and a fundamental understanding of ecological relationships, as well as the cooperative involvement of leaders from many disciplines, non-governmental organizations, and affected nations in making decisions about marine mammal management.

*To purchase these books, write to Smithsonian Institution Press at: P.O. Box 960, Herndon, VA 20172-0960, or call 1(800) 782-4612. The prices of these books are $75.00 and $60.00, respectively.*

## Observer Program Workshop Report Available

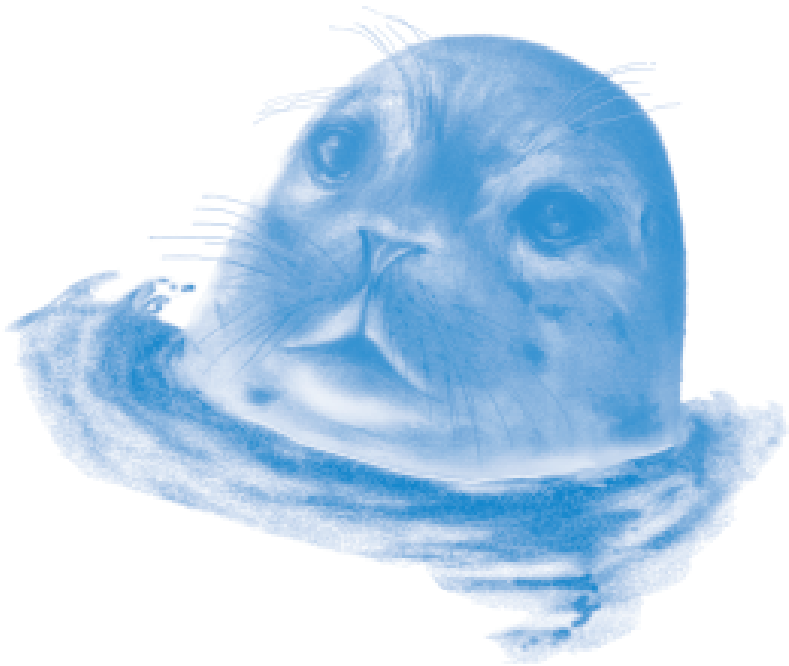
NMFS conducted a workshop on NMFS at-sea fishery observer programs in 1998, and the report from the workshop is now available. The report is entitled "Development of a Process for the Long-term Monitoring of MMPA Category I and II Commercial Fisheries" (NOAA Tech. Memo. NMFS-OPR-14). The workshop focused on evaluating the utility of rotational scheduling of observer program coverage for fisheries that have a known or suspected incidental take of marine mammals. Under the MMPA, NMFS is responsible for monitoring marine mammal bycatch in all Category I and II fisheries, yet does not have adequate funding to do so. Workshop participants reviewed the structure and design of current monitoring programs and discussed the advantages and limitations of a rotational scheme. The report includes recommendations for a framework process for monitoring that would take a fishery from the pilot program stage (to characterize the fishery and the nature of the bycatch), to the assessment stage (quantifying the level of bycatch), through the development and implementation of a take reduction plan, to the compliance and long-term monitoring stage. The participants also make recommendations for further work in developing criteria for determining priorities for monitoring and identifying options for alternative monitoring programs.

*To request a copy the workshop report, contact Vicki Cornish at (301) 713-2322, ext. 125, or Tawand Hodge at (301) 713-2322, ext. 132. The report can also found on the Office of Protected Resources web site at: http://www.nmfs.gov/prot_res/mammals/mmap.html.*

# Application for Small Take of Harbor Seals at the La Jolla Children's Pool

The La Jolla Children's Pool was constructed in 1931 to provide a sheltered swimming area for children at the beach in La Jolla, California. Over time, the beach behind the breakwater has gradually widened as sand accumulated in the sheltered pool. By 1998, the shoreline had advanced to near the end of the breakwater, at the mouth of the pool, leaving very little area for recreational swimming. The lack of a protected swimming area and the proximity to dangerous current conditions near the breakwater opening created significant public safety concerns.

In addition to the restricted use and associated dangers due to sand accretion, recreational use was further compromised by a population of harbor seals *(Phoca vitulina)* that regularly use the Children's Pool area as a haulout site. Seal feces from the concentrated harbor seal population have resulted in fecal coliform bacteria counts that significantly exceed state water quality standards for bathing beaches and body contact areas. As a result, the Children's Pool was determined unsafe for human contact and has been closed to the public since September 4, 1997. Moreover, the presence of the large seal population attracts large numbers of non-bathing observers to the beach area, which raised additional safety concerns for both humans and the seals.



On December 28, 1998, NMFS received a request from the City of San Diego for authorization under section 101(a)(5)(D) of the MMPA to "take," by harassment, small numbers of Pacific harbor seals and possibly one to two California sea lions *(Zalophus californianus)* and northern elephant seals *(Mirounga angustirostris)* incidental to excavating and removing 3,000 $yd^3$ (2,295 $m^3$) of beach sand (approximately 2/3 of the total sand) through the La Jolla Children's Pool Beach Management and Water Quality Project. This project proposed to restore a safe swimming area and acceptable water quality to the pool by reducing the beach width. It was anticipated that the seals may be disturbed and would leave the beach upon initiation of excavation activities on a daily basis. Alternatively, due to the activity of heavy machinery required to move the sand off the beach, the harbor seals would avoid the site for the duration of the project and haul out on the nearby Seal Rock Marine Mammal Reserve or at alternate sites. No seals are expected to be seriously injured or killed by the project. The City of San Diego expect that, by excavating and enlarging the area available for recreational swimming, a safe region for the public would be provided away from the dangerous currents. Also, by reducing the use of the area by harbor seals, fecal coliform levels would return to former levels that are acceptable and safe for human contact.

Section 101(a)(5)(A) and (D) of the MMPA allows NMFS to authorize, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review. Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth.

A notice of receipt of the application and proposed incidental harassment authorization issued under the MMPA was published on February 22, 1999 (64 FR 8548), and a 30-day public comment period was provided on the application and proposed authorization. Several comments were received during the comment period. NMFS preliminarily determined that excavating and removing beach sand at the La Jolla Children's Pool would not result in more than the incidental harassment of small numbers of harbor seals and possibly one or two California sea lions and elephant seals and would have no more than a negligible impact on these stocks. However, on April 8, 1999, NMFS was notified that the City of San Diego was withdrawing its request for the small take authorization. The City is currently evaluating alternatives to sand removal in order to reduce the level of fecal contamination in the pool waters and may submit a renewed application in the future.

*For additional information about small take authorizations, contact Ken Hollinghead at (301) 713-2322, ext. 128. For more information about the La Jolla Children's Pool, contact Joe Cordaro at (562) 980-4017.*

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# From the Editors...

Much of the information used for wildlife conservation and management decisions is gleaned from the limits of the investigative pursuits of scientists and managers. With the enactment of the MMPA, Congress charged the Secretary of Commerce (NMFS) with the daunting task of investigating the health and status of marine mammal stocks in U.S. waters. Since then, NMFS has either conducted, sponsored, or consulted on thousands of scientific research projects to better understand the biology and ecology of marine mammals. Some of the most notable of these endeavors has been the annual stock assessment reports published by NMFS that summarize our most current understanding of the status of marine mammal stocks and the natural and human-caused impacts which affect their recovery. More recent inquiries have included: investigations of unusual mortality events (see *MMPA Bulletin* Issue No. 15, "The Working Group on Unusual Marine Mammal Mortality Events Holds its Annual Meeting") and the status review of the eastern North Pacific stock of gray whales (see page 7).

As with any investigation, conclusions are often based on less than complete information. Consequently, NMFS is often called to make management decisions based on "best available science." Knowing that the more information one has about a given situation, the more confidence one has in their conclusion, NMFS seeks to continually build its base of knowledge about marine mammals, while placing emphasis on those types of research that deliver the most immediate results, such as stock assessments and fishery observer programs. Will these programs tell us everything we need to know about the lives of marine mammals? Probably not, but it's a good start.

Moreover, NMFS scientists and managers are seeking to discover not only the simple causal relationships between marine mammals and humans, but also between marine mammals and the ecosystems in which they live. Certainly, reducing marine mammal and commercial fishery interactions drives much of NMFS' research efforts under the MMPA. However, NMFS also recognizes that there may be less obvious environmental factors that push marine mammal populations to the breaking point (and that keep them from rebounding). Unfortunately, knowing the sources and impacts of these other factors will take much more time, effort, and resources than is currently available to NMFS. Herein lies our greatest challenge: to conduct more complete and forward-thinking studies and to have a more thorough understanding of all of the biological and environmental factors that can prevent marine mammals from being significant functioning elements of the marine ecosystem.

There are essentially "bigger" questions that need to be answered, and it will take many years to fully understand the affects of natural and human-caused events on marine mammal stocks. However, NMFS will continue down this path of deeper inquisition by maintaining our primary focus on known causes of mortality, like fisheries interactions and ship strikes, while broadening our attention toward the entire, complex world that marine mammals live in. These comprehensive investigations will be challenging for NMFS, but may prove to be the most fruitful for the long-term conservation of marine mammals.

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