

**MARINE MAMMAL BEHAVIORAL DISTURBANCE (MMBD) WORKING GROUP**  
**Perot Systems Scituate, MA**  
**9:00am to 4:30pm**  
**2 March 2004**

**MEETING SUMMARY**

***ACTION: Upcoming Meetings***

The final MMBD meeting was originally scheduled for April 27, 2004; however, due to working group (WG) member conflicts, the meeting date will be changed. Nathalie Ward will determine an alternate date and notify WG members of the new date by Friday March 5, 2004. Presentations scheduled for the next meeting will be conducted by: Chris Clark, Acoustician, Cornell University and Darlene Ketten, WHOI.

***ACTION: Tuna Fishing Alternate***

Don Hourihan will select an alternate to represent the tuna fishing industry in the event of his absence.

***ACTION: Definition of Personal Water Crafts***

Hourihan will meet with the Marshfield, MA Harbor Master and request a copy of the language used in the town's newly revised Beach Recreation Guidelines to define personal water crafts (PWC).

***ACTION: Technical Advisor***

The WG has requested that Phil Clapham participate in the next meeting as a Technical Advisor on whale behavior to assist in the review and editing of the Noise and Overflight Action Plans.

***ACTION: New Fisheries Issues Action Plan (FI AP)***

Nathalie Ward will finalize and distribute the new FI AP to WG members for review and comment before the next meeting.

***ACTION: Language in Whale Watching Action Plan (WW AP) Regarding Impact Studies***

Additions have been made to the WW AP section: "History of Whale Watching on SBNMS." Added information includes the results of short-and long-term impact studies on targeted whale populations. The WG has requested further clarification on impact study findings regarding changes in ventilation rates. Regina Asmutis-Silvia will request further clarification from Jooke Robbins.

***ACTION: Additional Citation for WW AP***

An additional citation relating to the abandonment of habitat has been added to WW AP section: "History of Whale Watching on SBNMS." Clapham is to provide Ward with the full citation and a copy of the Glockner-Ferrari and Ferrari, 1990 document that the WW AP now references.

***ACTION: Issues of Concern***

Any additional issues or concerns regarding the WW AP and FI AP edits made during the March 2 meeting should be emailed to Ward by Friday, March 5, 2004.

***ACTION: Final Review of Action Plans***

Action Plans (FI AP and WW AP) and Appendix C: Emerging Issues will be delivered to WG members for final review and comment in April (Date TBD). Members will have 2 weeks to review and provide WG Chair final comments. WG member comments will be considered and incorporated into the Action Plans as necessary. Draft finals of the Action Plans will be reviewed for consistence by Sharon Young and then provided to the WG members for final comment and approval at the next meeting.

**ACTION: Preparation for Next Meeting Involving Acoustics and Noise**

WG members will prepare questions regarding marine acoustics for Technical Advisor, Chris Clark, and email them to Ward no later than Friday, March 5.

**MMBD WORKING GROUP MEMBERS: (March 2, 2004)**

<b>Name</b>	<b>WG Seat / Affiliation</b>	<b>Attendance</b>
Regina Asmutis-Silvia	WG Chair – SAC	Present
Nathalie Ward	WG Team Lead – SBNMS	Present
Dave Slocum	Whale Watching – NEAq	Present
Scott McNeil	Commercial Shipping	Not Present
Donald Hourihan	Tuna Fishing	Present
Sharon Young	Conservation—HSUS	Present
Carole Carlson	Conservation—IFAW	Not Present
Erin Heskett (Alternate)	Conservation—IFAW	Not Present
Jack Kent	Recreational Boating—MMTA	Not Present
Dana Hartley	NMFS	Present
Brian Hopper	NMFS/NER	Present
Kim Amaral	Academic—WHOI	Present
Peter Scheifele	Academic—UCONN	Not Present
<b>Technical Advisors</b>		
Phil Clapham	Fishing Issues Technical Advisor	Present
Jooke Robbins	Whale Watching Technical Advisor	Not Present
<b>Others Present</b>		
Ralph Pratt*	Tuna Spotter	
George Purmont	Fish Spotter	
William Chaprales	Commercial Fisherman	

\*Ralph Pratt has been selected to be the Tuna Fishing alternate for Donald Hourihan in the event of his absence.

**WELCOME, INTRODUCTIONS, AND ADOPTION OF AGENDA**

Asmutis welcomed the WG members. Asmutis requested approval of the 12 February Meeting Summary; motion was made to accept the summary without further revision.

**OLD BUSINESS AND ACTION ITEMS**

Ward congratulated WG members for successfully completing all assigned action items with the exception of a definition of PWCs (this will be obtained from the Marshfield, MA Harbor Master for incorporation into the WW AP prior to the next meeting) and the CFR for the NOAA Fisheries Service Whale Watching Guidelines (these are not federal regulations and therefore there is no CFR associated with them; the guidelines will be included in the WW AP as a reference document). All other information and materials provided by WG members were reviewed and incorporated into the current working drafts of the Action Plans.

## NEW BUSINESS

### **Public Scoping Concern: Fishing Activity**

Public scoping comments highlighted fishing activities as a potential disturbance to marine mammals. Specific concerns focused on impacts to marine mammals from mid-water trawlers, tuna fishing, and fishing for herring. The WG has been charged with developing a Fisheries Issues Action Plan (FI AP) to describe how SBNMS will or will not address these scoping concerns. Phil Clapham, National Marine Fisheries Service (NMFS), Northeast Region, was asked to join the MMBD WG as a Technical Advisor to help develop rationales for the draft FI AP.

Issues raised during the development of the FI AP are noted below.

### ***Issue 1: Is there strong evidence that fishing activities have had an adverse behavioral impact on marine mammals?***

***Discussion:*** Clapham noted that current evidence does not indicate that fishing activities, including overflight by tuna spotting planes, have caused significant disturbance to whales. From his observations, disturbances due to fishing happen infrequently. The most notable disturbances have been associated with tuna trolling and the snagging of whales on hooks; however, even this type of disturbance seems only to be a nuisance problem for the whales.

### ***Issue 2: Fisheries Competition***

Public scoping comments showed that certain fisheries (herring in particular) are in competition with whale feeding.

***Comment:*** Due to the political and social controversies associated with the issue of fisheries competition with whales, Clapham believes that this issue is beyond the purview of the WG and the Sanctuary. Tackling an issue such as this would involve the use of both complex science and controversial modeling techniques. In addition, it was noted that within SBNMS sand lance is the primary food source for whales and currently sand lance is not a targeted commercial fishery.

***Discussion:*** History shows that whale feeding habits in the Sanctuary have shifted in the past due to lack of the desired food species (e.g., whales switched from feeding on herring to sand lance when the herring population declined). Some WG members felt that the FI AP should not ignore the potential for a resource competition problem, but rather allow room for the regulation of fishing within the Sanctuary if resource competition between fishermen and marine mammals becomes a future issue. Clapham noted that making this provision in the FI AP would require research studies to determine the impact associated with species depletion and/or removal from the system. SBNMS would have to design monitoring programs for fish species within the Sanctuary targeted by whales. This type of study would require partnership with agencies such as NMFS. The use of NMFS Fishing Vessel Trip Report (FVTR) data would allow the Sanctuary to assess fisheries activities and monitor “targeted” species.

Clapham further indicated that he feels that regulating fishing within the Sanctuary should not be a decision made solely by the Sanctuary (in accordance with what he perceived to be a “promise” made during the Sanctuary designation) but should be part of the mandate of the NMFS and the Fishery Management Council.

## **ACTION PLAN REVIEW**

Revised Action Plan drafts (Whale Watching, Noise, and Overflight), and Appendix C: Emerging Issues were provided to each WG member. Members were asked to openly discuss, comment, and modify Action Plans text as necessary. GREEN text represented new/added information based on discussions from the last meeting and action item assignments. BLUE text indicates modifications made during the meeting. RED text indicates questions that WG members need to answer and/or discuss.

Issues raised during the review session are noted below.

### **Whale Watching Action Plan (WW AP)**

#### ***Issue 1: The need for regulations to be based on scientific research studies***

***Comment:*** Clapham emphasized the necessity of creating regulations that are based on scientific research. Without the support of scientific data there is no basis for a regulation's existence, and therefore it is not legally justifiable.

***Discussion:*** The WG expressed concern over Clapham's comment as the Action Plans to date have been predicated on precautionary measures and emerging future issues. After discussions it was the consensus of the WG to proceed with the current draft Action Plans and caveat the suggested regulations by indicating the types of studies to be conducted in support of the proposed regulations. Clapham made suggestions for potential research studies on whale harassment; these suggestions have been included as Exhibit A of the WW AP.

### **Overflight Action Plan**

The Overflight Action Plan was not edited or discussed during the meeting due to lack of time. WG members have been asked to review the current working draft of the Plan and provide written comments to WG Chair, Nathalie Ward, before the next meeting.

### **Noise Action Plan**

The Noise Action Plan was not edited or discussed during the meeting due to the absence of WG member Peter Schefiele and Technical Advisor, Chris Clark. A motion was taken to make the editing and discussion of the Plan the focus of the next meeting.

### **Emerging Issues**

Only minor text edits were made to Appendix C: Emerging Issues.

## **FINAL COMMENTS**

Meeting adjourned at 3:45 pm.



**U.S. DEPARTMENT OF COMMERCE**  
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MMBD.AG.5

## Marine Mammal Behavioral Disturbance

Management Plan Review Working Group

Perot Systems — Scituate, MA

2 March 2004

9 A.M. to 4:30 P.M.

### AGENDA

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|----------------------|---|
| 9:00 – 9:15          | Welcome, Adoption of Agenda and Minutes                                       |
| 9:15 – 9:30          | Old Business: Action Items  |
| 9:30 – 10:30         | Fisheries Issues, Phil Clapham: Technical Advisor                             |
| 10:30 – 12:00        | Fisheries Discussion and Action Plan Items                                    |
| <i>12:00 – 12:30</i> | <i>Lunch</i>  |
| 12:30 – 2:00         | Review: DRAFT Whale Watch Action Plan<br>Jooke Robbins: Technical Advisor     |
| 2:00 – 2:30          | Review: DRAFT Overflight Action Plan  |
| 2:30                 | <i>Coffee Break</i>   |
| 2:45 – 3:45          | Noise Disturbance—Research Recommendations:<br>Technical Advisor: Peter Tyack |
| 3:45 – 4:15          | DRAFT Noise Disturbance Action Plan: Discussion                               |
| 4:15 – 4:30          | Next Steps and Summary  |
| 4:30                 | Adjourn   |