

6

Bottlenose Dolphin Take Reduction Team

A Summary of the Sixth Meeting

Sheraton Oceanfront

Virginia Beach, Virginia

April 1 – 3, 2003

**Prepared by
Jim Feldt and Hans Neuhauser
Facilitators**

May 1, 2003

Introduction

The sixth meeting of the Bottlenose Dolphin Take Reduction Team (TRT) was held on April 1 – 3, 2003 at the Sheraton Oceanfront hotel in Virginia Beach, Virginia. Kathy Wang of the National Marine Fisheries Service (NMFS) convened the meeting. Donna Wieting, Deputy Director of the Office of Protected Resources, NMFS, outlined the goals of the meeting. These were: (1) to reach Potential Biological Removal (PBR) with quantifiable measures for the Summer Northern North Carolina management unit; (2) to clarify other recommended measures so that they are measurable and enforceable and (3) address the new Fishery Management Plans (FMPs) for spiny dogfish and striped bass and incorporate them into the Bottlenose Dolphin Take Reduction Plan (TRP). The TRT reached pragmatic consensus at this meeting on its recommendations addressing these points.

Participants

TRT Members and Alternates

TRT members and alternates attending the sixth meeting were: Dave Beresoff, Tina Berger, Paul Biermann, Tara Cox (alternate for Andy Read), Joe DeAlteris, Lewis Gillingham, Charlotte Gray, Mike Greko, Bruce Halgren, Doug Haymans (alternate for A. G. Woodward), Chris Hickman, Rusty Hudson (alternate for Mike Baker), Chris Ludford (alternate for Pete Nixon), Richard Luedtke, Rick Marks, Bill McLellan, Red Munden, Margaret Murphy, Pete Nixon, Jeff Oden (alternate for Doug Guthrie), Larry Pieper (alternate for Jill Stevenson), Tim Ragen, Andy Read, Jerry Schill, Rich Seagraves, Dave Swanner (alternate for Mike Peele), Mark Swingle, Kathy Wang, Randy Wells (alternate for John Reynolds), Rob West, Donna Wieting (alternate for Emily Menashes), Dave Woolman, Nina Young and Sharon Young.

For a list of TRT members and alternates and their contact information, see Appendix 1.

Presenters and Facilitators

Presenters were Bill Foster, Megan Gamble, Lance Garrison, Aleta Hohn, Nick Hopkins, Debi Palka and Donna Wieting. Facilitators were Jim Feldt and Hans Neuhauser.

Observers

Observers who signed in were: Sue Barco, Mike Beattie, Doug Beckmann, Sean Bennett, Barbie Byrd, Alexa Cole, Vicki Cornish, Desise Craft, Georgia Cranmore, Tanya Dobrzynski, Shepherd Grimes, Wayne Hoggard, Brian Hopper, Dan Hytrek, Jennifer Lee, Juan Levesque, Katie Moore, Sara Quinn, Glenn Salvador, Mike Tork, Amy Van Atten, Danielle Waples and Dustie Werner.

New Abundance Estimates and New PBRs

Lance Garrison presented a summary of the new abundance estimates for bottlenose dolphins based on analyses of data from the winter and summer of 2002. The details of these analyses are contained in Garrison et al., 2003 (document 4-1-03 h).

Debra Palka presented new estimates of PBR based on the new abundance estimates (document 4-1-03 p). The recommendations of the TRT made in May 2002 would reduce take to below PBR in all management units except for the Summer Northern North Carolina migratory unit.

Consensus Recommendations

At the fifth meeting of the TRT held on April 23 – 25, 2002, the TRT used “pragmatic consensus” in agreeing to the recommendations contained in *Consensus Recommendations for a Western North Atlantic Coastal Bottlenose Dolphin Take Reduction Plan* and submitted to NOAA Fisheries on May 7, 2002 (this document is referred to as *2002 Consensus Recommendations* in this summary). Pragmatic consensus is defined as the acceptance of an option for a stated period of time.

Again, at this sixth meeting, the TRT used pragmatic consensus to agree to the recommendations that follow. In this case, the recommendations are accepted until the next meeting of the TRT which will be held during the proposed Take Reduction Plan rule making period.

Summer Northern North Carolina Management Unit

For the entire North Carolina coast and for the whole year, define beach seines so that they are made only of multi-fiber nylon small mesh webbing. This would eliminate all monofilament webbing from all beach seines. (A beach seine is defined as a net set from and attached to the beach that: fishes vertically in the water, is pulled by hand or by power, and captures fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh size, webbing diameter, or method in which it is used.)

The TRT agreed to recommend that small mesh gillnet sets used in this management unit be less than or equal to 1000 feet in length.

Spiny Dogfish Fishery Management Plan

The TRT discussed the potential for effort changes in the spiny dogfish fishery due to recent Atlantic States Marine Fisheries Commission actions (see documents 4-1-03 c, 4-1-03 i, 4-1-03 r, and 4-1-03 s). The TRT discussed the need to reconvene and re-evaluate the following recommendation after evaluating whether this measure was effective at reducing bycatch (and necessary to continue):

In lieu of the Team's recommendations in its *2002 Consensus Recommendations*: No medium mesh gillnets will be set overnight in the Winter Mixed Stock Management Unit. This rule should be subjected to a "sunset" provision, to expire three years from inception of the rule so as to ensure a review. The Team chose to keep the shad gillnet exemption in the Southern Northern Carolina portion of the Winter Mixed Stock Management Unit as detailed in the *2002 Consensus Recommendations*.

This rule should be examined for possibly delivering advantages for the Atlantic Large Whale Take Reduction Plan.

Striped Bass Fishery Management Plan

For the entire North Carolina coast and for the whole year, define beach seines so that they are made only of multi-fiber nylon small mesh webbing. This would eliminate all monofilament webbing from all beach seines. (A beach seine is defined as a net set from and attached to the beach that: fishes vertically in the water, is pulled by hand or by power, and captures fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh size, webbing diameter, or method in which it is used.)

No net may be attached to the (oceanside) beach unless it is a beach seine as defined above.

At the TRT's meeting in Baltimore (April 23 – 25, 2002), the "turtle rules" that close waters to large mesh nets at certain times of the year were recommended to be extended into NC state waters to prohibit the shifting of effort of the monkfish fishery into state waters. This has had the unintended consequence of virtually prohibiting the gillnet fishery for striped bass in these waters. Therefore, the rule as put forward in the *Consensus Recommendations of 2002* should provide for an exemption as follows:

Gear that is large mesh (equal to or greater than 7"), 1000 feet or less in length and that is tended (that is, the boat remains within ¼ mile of the net), will be exempted from the rule.

Roe Mullet Stop Nets

In the *Consensus Recommendations from 2002*, roe mullet stop nets were exempted from the 4" (or less) stretch mesh requirement for the first 100 yards from the beach. The TRT now recommends that the nets be required to abide by the 4" (or less) multi-fiber nylon stretch mesh webbing requirement for the entire stop net and the seine used to harvest from the stop net.

Clarifications Regarding Enforceability and Testability

The TRT was asked to clarify a number of points in the *2002 Consensus Recommendations* by responding to a set of questions (document 4-1-03 q). The questions are presented here in italics followed by the TRT's responses.

Definition of Night:

Does the TRT want the definition of night to be identical to the existing definition in the Atlantic Large Whale take reduction regulations?

No. For the purposes of this plan, the Team will continue to endorse its original recommendation detailed in the *2002 Consensus Recommendations*. Day begins one hour before sunrise and day ends one hour after sunset. The times for sunrise and sunset are to be taken from an official source.

An exception was agreed to by the TRT: in the Southeast Shark Gillnet Fishery, night restrictions should be consistent with those in the Atlantic Large Whale Take Reduction Plan (ALWTRP) because they are more restrictive. The Southeast Shark Gillnet Fishery comes under the ALWTRP.

Gear Marking

How can law enforcement officers identify different mesh sizes for active gear? Does the Team suggest marking buoys with mesh size information so that enforcement agents can conduct dockside enforcement?

The TRT recommended that a group made up of representatives from law enforcement and the fishing industry should develop a set of markers to be used to differentiate the mesh size and owner/fisher of the gear.

As a starting point for the discussions, the sub-group addressing this question suggested the following:

At one end of the net: an 18” minimum diameter ball marked with numbers that are least two inches tall and that provide either the state vessel registration number or the federal documentation number. In addition there is an 8” minimum diameter ball or float marked to mesh size: small, medium, or larger.

At the other end: a flag pole that is a minimum of 3’ high and with a minimum of 12” by 12” surface; that on the flagpole there be reflective material a minimum of 2” wide that is visible for 360 degrees. This end needs to be marked with either the state vessel registration number or the federal documentation number and the indication of the mesh size.

The net needs to be marked with either metal clamps or corks at all times showing mesh size.

Geographical Boundaries

How does the TRT ensure that the geographical areas affected by the Plan are clear and easily understood by fishermen who use varying levels of technology?

The TRT recommended the continued use of latitudinal boundaries and state waters/federal waters boundaries in lieu of longitude. The TRT felt assured that the state waters/federal waters line would not be a significant enforcement challenge for either fishermen or enforcement agents.

Questions Specific to Management Units:

Defining and distinguishing the night exemption for the shad gillnet fishery (floating anchored gillnets) on the water

Affects the Southern North Carolina portion of the Winter Mixed Management Unit.

The TRT recommended that a sub-group made up of a state representative from that area and some fishermen should describe the gear.

Additional ideas provided from the small group discussion included:

- A. Limit the fishery and provide gear markers specific to this fishery
- B. Provide trip initiation and termination reports to enforcement agents
- C. Distinguish each fishery with unique gear characteristics (i.e., range of mesh size & twine size)

This ocean intercept fishery is being phased out and will be functionally closed in NC on April 15, 2004 and officially close in December of 2004.

Defining and distinguishing the anchored gillnet fishery on the water

Affects the Summer Northern Migratory Management Unit

The TRT provided an alternate definition as follows: any gillnet gear that is set anywhere in the water column and has an anchor on one or both ends to the bottom of the sea.

Flags

Affects the Southern and Northern NC portions of the Winter Mixed Management Unit

The TRT agreed to strike the flag requirement. Instead, they recommended a requirement that nets to be hauled at least once every 24 hours.

The TRT recommended that four options (A to D below) be considered as ways to catch the rogue fishermen who do not haul their gear frequently enough:

- A. Haul gear once every 24 hours. Notify NOAA Fisheries enforcement officers (or

- a hotline) within a specified period of time if fishermen can't haul gear due to non-weather emergencies.
- B. Haul gear once every 24 hours. Review logbooks for violations.
- C. Address this issue through the Mandatory Bycatch Certification Training Program. Provide enforcement hotline numbers so fishermen can help self-police. And/or
- D. At the next TRT meeting, report to the Team on compliance rates and types of violations to determine if the emergency provision is likely being abused.

Proximity Requirement

Under the 2002 Consensus Recommendations: Affects the Summer Northern Migratory Management Unit (MU), the Northern North Carolina-Winter Mixed MU, and the SC, GA, Northern FL and Central FL MUs.

How can fishers and law enforcement officers measure distance accurately?

The TRT found this to be challenging, yet possible.

Does the Team want to be consistent across Management Units (1/4 mile vs. 1/2 mile?)

The TRT recommended that the units be left as is, recognizing the inconsistencies. The distances take into account predominant local fishing practices.

Mesh Sizes

The definition of small, medium, and large mesh will be as follows (as analyzed in document 4-1-03 g):

- Small mesh: less than or equal to 5 inch stretch mesh.
- Medium mesh: greater than 5 inch to less than 7 inch stretch mesh.
- Large mesh: equal to or greater than 7 inch stretch mesh.

Plan Flexibility

The TRT agreed to the following eight non-regulatory measures (based on the document 4-1-03 u). They also agreed to revisit these measures during the next TRT meeting.

Define flexibility

1. Adapt to changes in data availability and assumptions

Bottleneck data Stock ID Abundance Bycatch	Fisheries data Target species Gear type State/location
---	---

	Landings/effort Proposed measures and their efficacy
--	---

When changes to any of the above, need some mechanism to either revisit or adjust within TRP (i.e., annual review mechanism)

Recommend data collection schedule

- Stock ID
- revise abundance estimates every 2-3 years
- Integrate SRG with TRT
- accelerate turn around time for bycatch estimates(within 6 months)
- Request that NMFS use currently available effort data (Virginia, North Carolina)
- OTHER

2. Flexibility of using other indicators to assess factors such as bycatch and effort, not just default to what we have been using
3. Nature of triggers
 - Plan or regulations
 - Annual review vs. automatic adjustment
 - Must be as specific as possible (SPECIFIC SUGGESTIONS)
 - Mirror FMP framework adjustments (high, medium, low)
4. Subcommittee
 - Use subset of TRT
 - Meet at least annually to determine whether full team needs to meet)
 - Serve as an advisory group to NMFS regarding plan implementation
 - Representative from each of the interested parties (state, fed [Marine Mammal Commission & NMFS], councils, commission, fishermen, environmentalists, academia); one individual should also have Scientific Review Group experience
 - Representatives responsible for distributing and gathering information to their respective groups
 - Process driven by NMFS but expect them to be as responsive as possible
 - Could rotate team membership and bring in experts
 - Meet annually or in response to specified triggers
 - Activities must be transparent
 - Group is advisory, decision-making, interactive (with NMFS and constituencies)
 - Decision-making mechanism -- pragmatic consensus OR majority/minority OR if one group deems there is a need to reconvene the TRT, then that recommendation is forwarded to NMFS
 - List serve/website/message board manager
5. Flexibility in changing regulatory requirements/gear modifications

6. Timely interactions with fisheries management processes (Councils, Commission, states)
 - Councils required to conduct analysis of impacts to target and non-target species when instituting regulatory changes
 - Need to develop standards for reporting impacts of regulatory changes to TRP/NMFS
 - More fully involve Atlantic States Marine Fisheries Commission Protected Species Committee in the TRT process
7. Coordination with other TRTs
8. Enforcement - essential to include enforcement in evolution of management

Marine Mammal Protection Act Reauthorization

Donna Wieting presented information on the reauthorization of the Marine Mammal Protection Act (document 4-1-03 v), highlighting those proposals under consideration that related to Take Reduction Teams and Take Reduction Plans (section 118). These included (1) adding recreational fishing to the TRT process; (2) including a technical liaison in the process; (3) requiring that the TRT meet during the rulemaking period; (4) closing loopholes regarding registration and compliance for Category 1 and 2 fisheries; (5) increased enforcement and penalties and (6) other improvements. Donna asked TRT members to send her their views on these proposals. Her contact information is:

Donna Wieting
Deputy Director
Office of Protected Resources
NOAA Fisheries
1315 East-West Highway
Silver Spring, MD 20910
Tel. 301-713-2332 ext. 108
E-mail: Donna.Wieting@noaa.gov
Fax 301-713-4060

Next Meeting of the TRT and Potential Topics

The next meeting of the TRT will take place during the rule making period. Dates are yet to be determined. The primary focus of the meeting will be to review and comment on NOAA Fisheries' proposed rules to reduce the take of bottlenose dolphins. Other topics may include plan flexibility and beach-based nets.

Public Comment

Four opportunities for public comment were provided: on April 1 and 2 after each day's sessions, on April 3 prior to the TRT's consideration of the tentative recommendations developed by breakout groups and at the end of the session. No comments were provided during any of the opportunities.

Appendix 1: List of Take Reduction Team Members and Alternates
BOTTLENOSE DOLPHIN TAKE REDUCTION TEAM

Mike Baker
SE Shark Gill Net Assn.

David A. Beresoff
Beresoff Fishing Company

Tina Berger
Atlantic States Marine Fisheries Commission

Paul Biermann

Gordon Colvin
New York Dept.of Environmental Conservation

David Cupka
South Carolina Wildlife and Marine Resources

Joseph DeAlteris
University of Rhode Island Fisheries Center

Martin Dunson
First Coast Soft Crab Company

Lewis S. Gillingham
Virginia Marine Resources Commission

Charlotte Gray
Oceana

Mike Greco
Delaware Division of Fish and Wildlife

Douglas Guthrie
North Carolina Stop Net Fishing

Bruce A. Halgren
New Jersey Division of Fish and Wildlife

Chris Hickman

Fulton Love

Richard Luedtke
Garden State Seafood Assn.

Rick E. Marks
Garden State Seafood Assn.
c/o Robertson, Monagle & Eastaugh

Dave Martin
Martin Fish Company, Inc.

William McLellan
Biological Sciences & CMS
UNC Wilmington

Emily Hanson Menashes
Office of Protected Resources
NOAA Fisheries

Ken Moran

Fentress "Red" Munden
North Carolina Division of Marine Fisheries

Robert E. Munson
New Jersey Watermen's Association

Margaret Murphy
South Atlantic Fishery Management Council

Peter Nixon

Mike Peele

Carl A. Poppell
Georgia Blue Crab Issues Subcommittee
Coastal Fisheries Advisory Council

Tim Ragen
U. S. Marine Mammal Commission

Andrew Read

Duke University

John E. Reynolds
U. S. Marine Mammal Commission
c/o Mote Marine Laboratory

Sentiel "Butch" Rommel
Florida Fish and Wildlife Conservation Commission
Marine Mammal Pathobiology Lab

Jerry Schill
North Carolina Fisheries Association

Richard Seagraves
Mid-Atlantic Fisheries Mgmt. Council

Jill Stevenson
MD Department of Natural Resources

W. Mark Swingle
Virginia Marine Science Museum

Leonard Voss

Christopher Walker
Eastern Shore Waterman's Association

Kathy Wang
Protected Resources Division

Robert A. West

A. D. (Drew) Willis
Coastal Conservation Association

BOTTLENOSE DOLPHIN TAKE REDUCTION TEAM

**Alternates attending the
April 1-3, 2003 Meeting**

Tara Cox
(Alternate for Andy Read)
Marine Marine Commission

Doug Haymans

(Alternate for A. G. Woodward)
Georgia Department of Natural Resources
Coastal Resources Division
Marine Fisheries

Russell Hudson
(Alternate for Mike Baker)
SE Shark Gillnet Association

Chris Ludford
(Alternate for Peter Nixon)
Lower Bay Watermen's Association

Jeff Oden
(Alternate for Doug Guthrie)
Slash Creek Waterworks

Larry Pieper
(Alternate for Jill Stevenson)
MD Department of Natural Resources
Cooperative Oxford Laboratory
Fisheries Service

Dave Swanner
(Alternate to Mike Peele)

Randall Wells
(Alternate for John Reynolds)
Mote Marine Laboratory

Donna Wieting
(Alternate for Emily Hanson Manashes)
NOAA Fisheries