

# RIGHT WHALE NEWS

The Publication of the Southeast United States Right Whale Recovery Plan  
Implementation Team and the Northeast Implementation Team

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## **Leading Scientists Call for Emergency Measures To Protect Right Whales**

In the July 22 issue of *Science*, sixteen of the world's leading experts on the North Atlantic right whale called for "interim emergency measures to reduce shipping and fishing mortality in right whales." The scientists, led by Dr. Scott Kraus of the New England Aquarium, note that in the past 16 months, there have been eight recorded right whale deaths, including six adult females, three of which were carrying near-term fetuses. Four of these whales were killed by human activities, three by ships and one by fishing gear. A fifth one was probably killed by a ship. The loss of this number of whales, which is 2.9 times the average annual rate, and particularly this number of reproductive females, in such a short period, is unprecedented in 25 years of study of the species. The rate of loss is greater than the recent increase in birth rate.

Despite efforts by the National Marine Fisheries Service (NMFS) to minimize the risk of ship strikes through mandatory ship location reporting, extensive aerial survey efforts and mariner education, "this increased awareness has not led to a reduction in ship strike mortalities," the article says. Similarly, the NMFS has addressed the risk of fishing gear entanglement with selective area closures and gear modifications. Dr. Kraus and colleagues state that "these closures do not adequately encompass the seasonal movements of right whales, and gear modifications implemented thus far have not reduced entanglement rates. Eight dead right whales in the past sixteen months provide clear evidence that management efforts have been woefully inadequate, and much stronger measures are needed to reverse the right whale's decline."

Recommended actions include emergency measures to reduce speeds and reroute commercial and military ships as recommended in NMFS' Advanced Notice of Proposed Rulemaking (*Federal Register* 69(105):30857; June 1, 2004). The amount of fixed fishing gear in the water column should be eliminated or minimized. Among the steps that could be taken to do this are: (1) mandating changes in the pot-fishing industry that will reduce gear in the water; (2) requiring the use of alternative rope types to minimize entanglement deaths; (3) developing and implementing fishing methods that do not use vertical lines attached to surface buoys; and (4) developing a fast-track process for permitting and experimenting with conservation-focused fishing gear modifications and implementation.

The *Science* article concludes, “Given the slow speed of the regulatory process, interim emergency measures to reduce shipping and fishing mortality in right whales should be implemented immediately. Delays in implementation would be ignoring both scientific and legal mandates and could consign North Atlantic right whales to extinction.” (*See Scientific Literature and Reports, page 15, for complete citation of the Science article.*)

## **MMC, NGOs Also Call for Emergency Measures**

The scientists’ call for emergency measures adds weight and urgency to the requests for similar measures from the Marine Mammal Commission and a number of non-governmental organizations, including Defenders of Wildlife, the Humane Society of the United States, International Fund for Animal Welfare, International Wildlife Coalition, National Environmental Trust, Natural Resources Defense Council, the Ocean Conservancy, and the Whale and Dolphin Conservation Society.

In January, the Marine Mammal Commission asked NMFS Director Dr. William Hogarth to implement “emergency rules...aimed at reducing ship strikes.” The MMC continued: “For the United States to maintain international credibility with regard to protecting endangered species, it must be willing to aggressively pursue recovery plans for species, such as the North Atlantic right whale, that are so critically endangered by human activity.” The MMC summarized its speed argument in their latest *Annual Report to Congress 2004*, issued in June: “...the graph [on page 35] illustrates that serious and lethal injuries to [all] whales are rare or nonexistent at speeds of less than 10 knots, increase sharply between speeds of 10 and 13 knots and are most common at speeds of 14 knots and greater.”

In May, a coalition of nine international animal and environmental protection organizations with a combined membership of more than 11 million sent a letter to Secretary of Commerce Carlos Gutierrez, NOAA Administrator Vice Admiral Conrad Lautenbacher and NMFS Director Hogarth, asking them “to initiate an emergency rulemaking to protect this critically endangered species.”

The letter continues: “We are petitioning NOAA Fisheries to promulgate emergency regulations, within sixty days, to slow and/or re-route vessels within right whale habitat, as a means of protecting the species until such time as permanent measures can be enacted. Such emergency regulations should require all ships entering and leaving all major East Coast ports to travel at speeds of 12 knots or less within 25 nautical miles of port entrances during expected right whale high-use periods. These measures should be in place between 1 November through 30 April for all ports from Florida north to Rhode Island; from 1 January through 31 May in the area of Cape Cod Bay; and in the area of the Great South Channel from 1 January through 31 July. Further, given the high seasonal right whale aggregation in the area, similar speed restrictions should be placed on all ships traveling in the Boston Traffic Separation Scheme from 1 January through 31 July. Moreover, all vessels traveling within right whale critical habitat during the seasonal high-use times should be required to proceed at 12 knots or slower, or avoid the area

altogether. In addition, NOAA Fisheries should institute dynamic management areas to protect whales outside of the times and areas described above. This dynamic management system should require the re-routing of vessels and/or operation at speeds of 12 knots or slower, when aggregations of whales are found in areas where other protective measures are not in place.”

In a joint statement, the coalition noted: "The future of the North Atlantic right whale depends on the actions of the National Marine Fisheries Service, making it critical for the agency to respond at once with interim measures until permanent solutions are enacted. What the government is being asked to do is entirely feasible, and we are confounded by their continued resistance to take prompt action to save this species, as is certainly their legal and moral obligation."

In June, Kyla Bennet, speaking for the whistle-blowing organization, Public Employees for Environmental Responsibility, noted in a press release, “The question is whether NOAA and its parent agency, the Department of Commerce, are so cowed by political pressure that they are incapable of effectively safeguarding marine life...When it comes to actually protecting the right whale, NOAA should be spelled MIA.”

### **NMFS Responds to MMC: “We have decided not to pursue emergency rulemaking at this time.”**

In a July 1 letter, Dr. William Hogarth responded to the Marine Mammal Commission’s January request for emergency regulations to protect right whales. Writing to Executive Director David Cottingham, Dr. Hogarth said, “NMFS has considered emergency rulemaking. However, despite the title, emergency regulations still require that an environmental analysis be conducted, including economic effects, on affected parties and the environment. As a result, emergency regulations require considerable time to implement, comparable to the normal rulemaking process. Given those constraints and the importance of public notice and comment, we have decided not to pursue emergency rulemaking at this time so that we may direct our full energies to proceed as quickly as possible with analysis and rulemaking to implement the comprehensive ship strike strategy. If we can stay on target, emergency rulemaking should not be necessary so long as we publish the above rules in a timely manner.” NMFS’ formal response to the petition for emergency rulemaking is being prepared and will be published in the *Federal Register*.

### **NMFS Requests Voluntary Slower Ship Speeds But Is Rebuffed by the U.S. Coast Guard**

While not pursuing emergency regulations, the NMFS has asked the U.S. Coast Guard for its assistance in reducing the risk of mortality to right whales as a result of ship strikes. In a May 9 letter to Admiral Thomas Collins, Dr. Hogarth requested “that

information distributed to mariners through broadcast Notices to Mariners and the Mandatory Ship Reporting System include language from NOAA recommending speeds of 12 knots or less in areas used by right whales, when consistent with navigational safety.” Recommended language included the use of “extreme caution” (the word “extreme” being added), proceeding “at slow safe speed” (“slow” added) and “NOAA recommends speeds not to exceed 12 knots when also consistent with navigational safety.”

Admiral Collins responded on June 9, rejecting the recommended changes. He rejected the words “extreme” and “slow” as being “contrary to internationally accepted terminology.” The inclusion of NOAA’s 12 knot recommendation in Coast Guard broadcasts “could be viewed as Coast Guard endorsement of speed restrictions.” The Admiral continued, “We believe interagency consultations are necessary to develop a U.S. government position regarding vessel speed or routing regulations... These measures have potential impacts on national security, compliance with international law, and other policy interests that must be considered along with recovery of right whales.”

The Public Employees for Environmental Responsibility has criticized the Coast Guard’s position, stating: “The real message from Admiral Collins is that the Coast Guard leadership places protecting its bureaucratic turf above protecting the world’s threatened natural resources.”

In early August, NOAA Administrator Vice Admiral Lautenbacher issued a memo that directs the National Weather Service and the National Ocean Service to issue ship speed advisories using mariner communication media under their control (e.g., weather radio, *Coast Pilots*, charts and websites) to facilitate the distribution of the speed advisory to the public.

## **Summit Meeting: A Correction and Clarification**

In the May 2005 issue of *Right Whale News* (12(2):2), it was reported that the relatively high number of calves born this season led the NMFS to abandon their call for a summit meeting to address right whale ship strikes. Dr. Hogarth’s July 1 letter to the Marine Mammal Commission provides a correction and clarification: “We have also had discussions with other federal agencies for the past few months about the need for a summit to discuss measures each agency can take under its own authority to reduce the likelihood of a ship strike with a right whale. Generally the focus of the discussions has been on reducing federal vessel speeds voluntarily whenever possible to 12 knots or less when human or national security are not compromised. We have found that most agencies believe they are working to the best of their ability, within their respective mandates, to reduce or eliminate the likelihood of a vessel strike and because our opinion on the need for a summit is not shared, a summit likely will not occur.”

## **Commentary: Deliberation and Dialogue Needed**

Recent headlines read, “Right Whales in Crisis,” “Georgia State Symbol Headed for Extinction,” and “Emergency Measures Called For.” It is appropriate to recall that in 1996 there was also concern and a “spike” in events when five (and perhaps six) right whale mortalities were reported off the southeastern U.S. within a few months. It can also be noted that within the most recent five years, about 115 calves have been born into the population. Throughout the debate and deliberation, we (the right whale community) are guided by the recovery plan. However, developing and implementing right whale recovery is a human endeavor. Like most human endeavors, it is subject to flaws. There is an extensive body of literature on the topic of humans addressing endangered species issues (e.g., Clark *et al.* 1994, Yaffee 1997). As the right whale community moves forward, careful (but not necessarily protracted) deliberation involving all stakeholders and using the best information to assemble both facts and uncertainties, lessons learned, issues at hand, and paths forward is needed. We can sort things out. We can do better.

*Jim Hain*

Clark, T.W., R.P. Reading, and A.L. Clark. 1994. *Endangered Species Recovery*. Island Press: Washington D.C.. 450 pp.

Yaffee, S.L. 1997. Why environmental policy nightmares recur. *Conservation Biology* 11: 328-337.

## **EIS Will Be Prepared on Ship Strike Reduction Strategy**

When the National Marine Fisheries Service announced their proposed ship strike reduction strategy in June 2004, the agency decided to start its compliance with the National Environmental Policy Act (NEPA) by preparing an Environmental Assessment (EA). The purpose of the EA was to determine if the strategy would have a significant impact on the environment. If it did not, then there would be a “Finding of No Significant Impact.” A year later, NMFS determined that the strategy would not qualify for such a determination and that a full Environmental Impact Statement (EIS) would be necessary. A Notice of Intent to prepare an EIS was published in the June 22 *Federal Register* (70 FR 36121). The comment period on the Notice of Intent closed July 22. NMFS expects to issue the Draft EIS and the proposed rule by the end of this year. The public comment period on the draft EIS will start then. In the meantime, copies of the draft EA and a related Economic Analysis are available at [www.nmfs.noaa.gov/pr/shipstrike/](http://www.nmfs.noaa.gov/pr/shipstrike/) For additional information on the NEPA process, visit the above web site and click on “Understanding the NEPA process.”

## **Revised Recovery Plan Published**

Fourteen years after the publication of the first right whale recovery plan and nine years after the initiation of work on a revised version, the National Marine Fisheries Service

has published a revised “Recovery Plan for the North Atlantic Right Whale (*Eubalaena glacialis*).” The primary authors of the Plan are Dr. Phil Clapham and Dr. Greg Silber.

The NMFS published a notice of availability of the draft revised recovery plan in August 2004. They received comments from eight individuals and organizations and “approximately 5500 form letters...encouraging the implementation of a strengthened recovery plan.” The agency’s responses to the comments were published in the June 2 issue of the *Federal Register* (70 FR 32293-32303).

The Recovery Plan addresses eight threats to right whale recovery:

1. Vessel interactions
2. Entrapment and entanglement in fishing gear
3. Habitat degradation
4. Noise
5. Contaminants
6. Underwater explosives
7. Climate and ecosystem change, and
8. Commercial exploitation.

In contrast, the original (1991) plan identified four threats: vessel interactions, entrapment and entanglement in fishing gear, habitat degradation, and hunting. The Canadian Recovery Plan (2000) lists nine: vessel collisions, entanglement with fishing gear, exposure to toxic and nontoxic contaminants, degradation and reduction of suitable habitat, noise and other human-generated disturbance, low genetic diversity, inadequate food resources, depensation (Allee effect), and catastrophic events.

The final revised NMFS plan contains a number of changes from the draft. Some are editorial or formatting changes. Others are more substantive. These include (but are not limited to):

- The four criteria for reclassifying right whales from endangered to threatened have been changed to address population ecology (rather than population structure), and to require that the population show an increase of 2% per year for 35 years (as opposed to 20 years in the draft.) All four of the criteria would have to be met before NMFS could propose to reclassify the species.
- The plan identifies only government agencies as responsible for the implementation of the plan, despite the reality of the critical roles that individuals and non-government organizations and institutions play in recovery initiatives.
- The work of the Atlantic Large Whale Take Reduction Team and the Ship Strike Reduction Strategy working group are referred to in the plan, but the specifics of their work are not included.
- NMFS plans to address the issue of requiring vessel operators to report ship collisions with right whales.
- The effectiveness of both northeast and southeast recovery teams will be periodically evaluated.
- Critical habitat assessments are underway.
- The plan will be revised every five years.

Copies of the Recovery Plan are available on line (<http://www.nmfs.noaa.gov/pr/PR3/recovery.html>) Hard copies may be obtained from the Chief of the Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

## **GreenWorld Sues NMFS for Licensing Whale-killing Fishing Gear**

On June 20, Richard Max Strahan, National Campaign Director for GreenWorld, sent a written notice to the Secretary of Commerce and the administrator of the National Marine Fisheries Service formally notifying them of its intent to bring suit in federal court against NMFS for “licensing fishing gear that routinely kills endangered species of whales and sea turtles in violation of the prohibitions of the Endangered Species Act.”

GreenWorld already has two right whale Endangered Species Act lawsuits that are proceeding to trial in U.S. District Court in Boston. One is against the Massachusetts Secretary of Environmental Affairs, the other against the U.S. Navy (see *Right Whale News* 12 (2):3).

## **NOAA Charges Vessel Operators with Violating Marine Mammal Protection Laws**

As reported in a July 14 agency press release, NOAA has assessed civil penalties totaling \$7,500 against two fishing vessel owner/operators and a commercial whale watch boat for failing to comply with federal regulations designed to protect marine species, in particular, the endangered North Atlantic right whale. "Safer gear and safe approach protocols are effective protections for these rare whales, but not if people don't use them," said Mary Colligan, Assistant Regional Administrator for Protected Resources, NOAA Fisheries – Northeast Region.

In one of the instances, the whale-watching vessel MV *Capt John & Sons IV*, and operator Sean Baker of Plymouth, MA, were assessed a \$3,500 penalty for failing to comply with right whale avoidance measures by unlawfully approaching within 500 yards of a right whale and failing to immediately leave the area. The vessel owner, Capt. John Boats, Inc., and Baker are charged with violating the Endangered Species Act. The incident took place on July 18, just north of the tip of Cape Cod, and was reported by one of the passengers, according to Mark Oswell, NOAA Office of Law Enforcement, in Silver Spring, Maryland.

In the two other events, a Maine gillnet fisherman was fined \$2,000 for using gear that did not comply with gear modification requirements. A Massachusetts lobster fisherman

was fined \$2,000 for using non-compliant lobster gear in a Dynamic Area Management zone.

The owner/operators of the vessels have 30 days from the time of the issuance of the Notice of Violation and Assessment to request a hearing before an Administrative Law Judge to contest the charges. The number for reporting potential enforcement violations is 800-853-1964.

## **Southeast U.S. Right Whale Aerial Surveys**

### **NMFS Initiates Review**

*Contributed by Barb Zoodsma, NMFS SERO Protected Resources Division*

The revised Recovery Plan for the North Atlantic Right Whale (*Eubalaena glacialis*) calls for an assessment of Early Warning System surveys (Task 1.1.5). Among other things, the Plan states that surveys should be assessed for their effectiveness in reducing ship strikes and transect line placement should be evaluated. A similar recommendation for such a review was raised at the fall 2004 Southeast Implementation Team (SEIT) meeting.

As a result, the National Marine Fisheries Service Southeast Regional Office (SERO) and Southeast Fisheries Science Center (SEFSC) have initiated a multi-step process to review right whale aerial surveys conducted in the Southeast U.S (SE). The purpose of the review is to determine whether the current approach to conducting SE right whale surveys is meeting our objectives, or if modifications are needed. The review will include such steps as: reviewing the history and goals of SE right whale aerial surveys, consulting with agencies and organizations historically involved in or familiar with SE right whale aerial surveys, and consulting with marine mammal aerial survey experts and other scientists both internal and external to the right whale community.

The first step of the review process was completed June 20-21, 2005, when NMFS held a workshop with other state and Federal agencies and private organizations involved with right whale aerial surveys in the SE. Scott Kraus and Bill McLellan reviewed the history of right whale occurrence and surveys in the SE, Jim Hain and Cindy Taylor described detection probabilities and options for possible improvements, and Lance Garrison and Chris Fonnesbeck described shipping-related risk analysis and reduction. Leslie Ward presented GIS-based results on relative abundance and distribution.

The next step in the review process is to complete summary notes from the above-mentioned workshop. The notes will be provided as background information for consultations with other marine mammal aerial survey experts and scientists. NMFS will provide the SEIT and others with the results of this review, and will work with survey



teams to implement any necessary changes to ensure that the surveys continue to meet right whale conservation objectives.

## **Participant Discussion**

*Contributed by Jim Hain and Scott Kraus*

Discussions at the June 20-21 meeting were informative and lively. Participants noted that right whale behaviors sometimes confound efforts to effectively describe sightings-per-unit effort and “hot spots.” A discussion of habitat use included the suggestion that if and when greater numbers of whales are present, more of the habitat will be occupied. The question was posed, “Do we need to photograph every whale every time?” The answer seemed to be a resounding “Absolutely!” (This conclusion was based on agreement that understanding what the animals do is the basis for management.) Similarly, questions revolved around reducing survey effort. One view was that reducing effort, including that in Sea State 4, would expose observers to less risk. Another view was that it is not prudent to reduce surveys without measures effectively in place by commercial vessels.

A fundamental question was, “Do surveys make a contribution to the management of ship strikes?” Two perhaps secondary components contribute to the answer: (1) An interesting and valuable component to the aerial surveys is when a survey aircraft radios vessels on-site in order to avoid a potential whale-ship event, and (2) the visibility of the survey efforts and communication with all parties, including the media and the public, has value. In the end, the consensus on reducing survey effort seemed to be, “not yet.”

Other topics discussed included the arrangements for observer teams and a possible observer pool, and the structuring of the various survey areas. As the workshop end approached, Lance Garrison (NMFS/SEFSC) summarized, “What we’re doing now is working well, and appears near optimal.”

## **Mid-Atlantic Surveys Planned**

The area from North Carolina on north was surveyed for 2001-2003, but had reduced surveys in 2004 and none in 2005. Lance Garrison (NMFS/SEFSC) reports that a Request for Proposals for surveys in this area was issued in July, and one response was received. The proposal and corresponding plans are currently in review.

## **Heroes of the Sea Memorial Fund Award**

Dr. Mary Pearl, president of Wildlife Trust, announced in June that the second annual Heroes of the Sea Memorial Fund award would go to Dr. Jennifer Mattei, a biology professor at Sacred Heart University, in recognition of her work to promote the survival

of the horseshoe crab (*Limulus polyphemus*), a living fossil unique to the Atlantic coast of North America. The award was accompanied by a check for \$4,000.

The Heroes of the Sea Memorial Fund was created in 2003 to honor the lives of Emily Argo, Jackie Ciano, Tom Hinds and Michael Newcomer, members of Wildlife Trust's North Atlantic right whale aerial survey team, who were killed on January 26, 2003, when their plane crashed into the Atlantic eight miles off Fernandina Beach, Florida. Dr. Pearl noted, "Like the whale researchers for whom this award is named, Dr. Mattei is championing the survival of marine species that need our help to survive."

## **Annual Right Whale Consortium Meeting**

Mark your calendars!! The Annual Meeting of the North Atlantic Right Whale Consortium will be held November 2 and 3, 2005, at the New Bedford Whaling Museum in New Bedford, Massachusetts.

Pre-registration will run from now until October 26 (one week before the meeting). Due to the difficulty of processing late registrants, a new structured cost system has been established to encourage *early* registration:

Pre-registration material post-marked by October 15: \$50

Pre-registration material post-marked October 16-October 26: \$70

Registration after October 26 (including at the door registration): \$90

An official registration form can be found at the end of this issue of *Right Whale News* and will be attached to subsequent information e-mails from the Consortium. Additionally, the registration form can be found online at [www.rightwhaleweb.org](http://www.rightwhaleweb.org). When filling out the registration form, please be sure to include updated affiliation, address, and e-mail information. Please note that registration payments by credit card can be accepted this year.

This is also an official call for presentations. If you would like to present at the meeting, please include a title for the working draft agenda. Your intent to present *must be received* by September 15. Abstracts will be due no later than October 1.

If you know of agencies that send representatives to the Annual Consortium meeting but which may not receive this publication or may not be on the consortium member list, please advise those agencies to contact Consortium Secretary Heather Pettis at [hpettis@neaq.org](mailto:hpettis@neaq.org) for information.

Additional information regarding hotel, parking, agenda, etc., will be passed on via e-mail, so please pass on updated e-mail information to Heather Pettis.

## **Revision of North Atlantic Right Whale Catalog**

### **May Be Completed Soon**

The North Atlantic right whale catalog, maintained by the New England Aquarium in Boston, has been an essential research tool for monitoring the right whale population for several decades. By the time of the Annual Right Whale Consortium meeting in November, a major overhaul and update now underway may be in place.

Each year, the New England Aquarium receives photographic contributions from between 10 and 20 individuals and organizations. These annual contributions represent between 15,000 and 20,000 images from 1,500 to 3,500 sightings. Previously, a well-tuned system was in place for processing these images in slide format, but in 2003, most contributors switched to digital photography. With a grant from the National Science Foundation, the corresponding catalog overhaul includes several components, the most important of which is new software to process, match, and track digital images and data for individual identification studies. The new system has been named DIGITS (short for Digital Image Gathering and Information Tracking System).

While this new image format provides a number of advantages (such as easy back-up for security, and easy mobility), it also provides certain challenges. In the days of loupes and light tables, much of the matching and corresponding information was tracked with paper. Slide sheets were laid out side by side to be compared, potential matches were recorded on paper labels with notes explaining what animals were compared to that sighting, how the match was made, who the matcher was, and other details. Now, all this information must be captured electronically. Also, in the past, sightings of whales that looked similar could all be physically grouped into a binder and compared to each other. Now that grouping has to be done by a series of codes. The images stay in their original electronic files, but they can be grouped via a database.

DIGITS is a server-based system that will allow Aquarium researchers to manage right whale data and images over a LAN or the Internet using protected user names and passwords. To date, all data have been moved from MS Access into an MS SQL server. Versatile interface screens have been constructed to load images onto the server, enter sightings, and code images. Screens are currently being constructed to provide a side-by-side matching format with sophisticated search and editing capabilities. There will also be interfaces for health and scar coding, confirming matches, tracking the status of submitted data sets, and matching miscellaneous body parts from confusing Surface Active Groups. Due to the proprietary nature of the data, DIGITS will not be accessible to the public. The software itself will be made available to any who would like to adapt it for their own use and was designed to be applicable for any photo-identification database that uses codes to describe identification features. However, due to the complexity of the application, modifications for other databases or species may be costly. A demonstration site will eventually be available for testing so that interested parties can determine

whether the software would be appropriate for their use. The address for the Catalog web site will be [www.neaq.org/rwcatalog](http://www.neaq.org/rwcatalog).

A second component of the overhaul is the Right Whale Consortium's public website explaining right whale photo-identification and providing search capabilities for whales in the Catalog. This will continue to use the [www.rightwhaleweb.org](http://www.rightwhaleweb.org) address. There will be right whale family trees provided by Roxanne Bower at Trent University, individual whale bios, and a right whale matching game. There will also be a detailed explanation of how right whale images are coded, including photographic examples of all the matching features that are coded, and a link to a simple search engine (similar to the current E Catalog) to call up a composite drawing and a small subset of images for each cataloged whale. This search engine will utilize live data in the Catalog, and will therefore always represent up-to-date information. The only data that will be visible through this web site will be summary data for each whale (birth year, death year, year last seen, cow, sex, mother's ID) – information that is mostly available in the existing published catalog. The images will be highly compressed jpegs and below each image will be the observer code of the organization that took the photograph (e.g., ASWH, MRC, NEA, PCCS, WHOI) and the date of the sighting. This web site is not just for the general public; it is where any right whale researcher who currently uses the E catalog would go to search for a whale. The website is under construction, and it is hoped it will be completed by late fall.

## **Improvements Forthcoming at the Permit Division**

*Contributed by Steve Leathery, Chief of the NMFS Permit Division in Silver Spring, Maryland*

The Permit Division is responsible for processing permits and authorizations under the Marine Mammal Protection Act (MMPA) for research, enhancement, public display, photography and takes incidental to commercial and military activities. We also process recovery permits under the Endangered Species Act (ESA) for marine mammals, sea turtles, and other listed species under NMFS jurisdiction. I am writing to inform the right whale research community of continuing efforts to further streamline the permit process and to better communicate with the research community. I am sensitive to the concerns expressed by many right whale researchers over the length of the permit process for endangered species research, as well as concerns expressed by some researchers that the Permits Division is unresponsive to communications from researchers.

Our goal is to issue legally defensible scientific research permits in a timely manner while providing good customer service and meeting the requirements of the ESA and MMPA. To improve our processes and meet that goal we are currently undertaking a number of initiatives, including hiring new staff to increase our capacity for processing permits. We are also developing a system that will allow permit applicants to apply for permits and authorizations online and follow the progress of their application as it moves through the permitting process.

We have a strategy to shorten review and processing time over the long-term. We are implementing a programmatic approach to right whale research permitting by conducting an Environmental Impact Statement (EIS) for all current and proposed right whale research under our jurisdiction, and we will conduct an Endangered Species Act consultation on the EIS. When these analytical documents and associated public policy processes are completed we will not need to conduct environmental analyses on individual permits, as most will be “covered” by the programmatic analyses. This represents a long-term strategy that will allow most requests for new permits and amendments to be processed without additional environmental analyses, allowing for a much faster processing period.

We plan to initiate the EIS process by holding the first scoping meeting in association with the Right Whale Consortium meeting on November 2-3, 2005 in New Bedford, MA. This will provide the research community with an overview of the process and provide an opportunity for scientists to make comments for the record on the proposed EIS.

I recognize the frustration within the research community over the permit process. We are striving for improvement. I welcome anyone who has concerns to contact me directly via phone at (301) 713-2289 or e-mail at [steve.leathery@noaa.gov](mailto:steve.leathery@noaa.gov) or to contact my supervisor Donna Wieting at (301) 713-2332 or [donna.wieting@noaa.gov](mailto:donna.wieting@noaa.gov) to discuss those concerns.

## **Judge Orders NMFS to Designate Critical Habitat For North Pacific Right Whales**

United States District Court Judge William H. Alsup (San Francisco) determined on June 14 that the Bush Administration’s on-going failure to comply with the law and protect critical habitats for right whales in the North Pacific Ocean (*Eubalaena japonica*) is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” Judge Alsup ordered the administration to comply with the law by publishing proposed critical habitat protections within four months.

The opinion and order is seen by the Center for Biological Diversity as a substantial victory for right whale conservation, scientists, and conservationists who submitted an Endangered Species Act petition to protect the whale’s critical habitat in 2000. “The Right Whale was nearly hunted to extinction, and so it is our shared responsibility to insure that this species survives,” said the Center’s Brent Plater, who authored the original petition with co-counsel Eric Glitzenstein of the public interest law firm, Meyer, Glitzenstein, and Crystal. “We owe it to future generations to protect this special creature, and the judge recognized that one of the most effective ways to do that is to protect the places the whales call home.”

The opinion explains that protecting an endangered species’ critical habitats is “[o]f equal or more importance” than protecting the species itself, and requires the Bush Administration to give “the benefit of the doubt” to the right whale in establishing these

protected areas. The opinion explains that because “[n]o critical habitat will ever be knowable with geographic exactitude,” the administration must use the facts currently available to protect the Right Whales’ habitats and cannot “punt by calling for more study.”

## Changes

**April Fendley** is leaving Gray’s Reef National Marine Sanctuary for Ohio and marriage; her assistance with the production of *Right Whale News* and maintenance the web site archives of back issues will be missed. Her role is being assumed by **Debra Meeks**. **Kristen Koyama** has been selected as the new ship strike coordinator for the NMFS northeast region. Her primary responsibilities will include coordinating the region’s efforts to address marine mammal/vessel interactions and providing regional support for the implementation of the Ship Strike Reduction Strategy for the North Atlantic right whale.

## Funding Opportunities

*Right Whale News* is experimenting with a new regular section devoted to grant/research or other funding opportunities. This is an effort to facilitate the distribution of information on funding opportunities available for right whale related recovery work. If you are aware of grant/research funding opportunities, particularly those coming up, please contact the editor, Hans Neuhauser, at [hansneuhauser@bellsouth.net](mailto:hansneuhauser@bellsouth.net)

SE US Early Warning System Aerial Survey Contract Solicitation. NMFS is preparing this solicitation for advertisement in August. Bid submissions will be accepted for 30 days. The solicitation will be advertised in federal business opportunities (available on the internet at <http://www.fedbizopps.gov/>). Please contact Jackie Shewmaker for additional information at (816)426-7462 or [Jacquelyn.A.Shewmaker@noaa.gov](mailto:Jacquelyn.A.Shewmaker@noaa.gov).

Fishing gear mini-grants: September 1 is the deadline for submitting fishing gear mini-grant applications to the National Fish and Wildlife Foundation. See *Right Whale News* November 2004:5 and [www.nfwf.org/programs/WhaleFund.htm](http://www.nfwf.org/programs/WhaleFund.htm) for details.

### Do You Use *Right Whale News*?

Do you use the information provided in *Right Whale News*? If so, would you take a moment and send the editor one or two examples of what you used and how you used it? Suggestions for the improvement of the newsletter would also be appreciated. Thanks.

Hans Neuhauser  
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## Calendar of Events

September 1: Deadline for submitting fishing gear mini-grant applications to the National Fish and Wildlife Foundation. See *Right Whale News* November 2004:5 and [www.nfwf.org/programs/WhaleFund.htm](http://www.nfwf.org/programs/WhaleFund.htm) for details.

September 15: Deadline to notify the North Atlantic Right Whale Consortium of intent to present a paper at the New Bedford meeting. The deadline for submission of abstracts is October 1. See article on page 10 for details.

September 24: Grand opening of the Guana Tolomato Matanzas National Estuarine Research Reserve's Environmental Education Center in Ponta Vedra Beach, Florida. The Center includes a life-sized right whale exhibit (see *Right Whale News* 12(2):11).

October 6: Next meeting of the Southeast United States Right Whale Recovery Plan Implementation Team (SEIT), to be held at the Guana Tolomato Matanzas National Estuarine Research Reserve's Environmental Education Center in Ponta Vedra Beach, Florida. For additional information, contact Leslie Ward, acting chair of the SEIT, at [Leslie.Ward@MyFWC.com](mailto:Leslie.Ward@MyFWC.com)

October 15: Early-bird registration deadline for the North Atlantic Right Whale Consortium meeting in New Bedford. See article on page 10 for details and registration form at the end of this issue.

November 2-3: North Atlantic Right Whale Consortium annual meeting. New Bedford Whaling Museum, New Bedford, Massachusetts. For further information, contact Consortium secretary Heather Pettis at [hpettis@neaq.org](mailto:hpettis@neaq.org)

December 11-16: 16<sup>th</sup> Biennial Conference on the Biology of Marine Mammals, San Diego, California. Sponsored by the Society for Marine Mammalogy. For more information, visit the Society's web site: <http://www.marinemammalogy.org/>



## ***Right Whale News***

*Right Whale News* is a publication of the Southeast U.S. Right Whale Recovery Plan Implementation Team and the Northeast Implementation Team. The editor is Hans Neuhauser. The editorial board consists of Bill Brooks, Moe Brown, Phil Clapham, Jerry Conway, Jim Hain, Scott Kraus, Sigrid Sanders and Barb Zoodsma.

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**Current and back issues** of *Right Whale News* are available on line at a web site maintained by Debra Meeks of the Gray's Reef National Marine Sanctuary: <http://www.graysreef.nos.noaa.gov/rightwhalenews.html> An **index** of the first eight years of *Right Whale News* (1994-2001) is also available at the site.

**To subscribe** to *Right Whale News* or to submit news, articles or commentary for publication, contact the editor, Hans Neuhauser, at the Georgia Environmental Policy Institute, 380 Meigs Street, Athens, GA 30601, USA. Telephone 706-546-7507. Fax 706-613-7775. E-mail: [hansneuhauser@bellsouth.net](mailto:hansneuhauser@bellsouth.net)

Annual North Atlantic Right Whale Consortium Meeting  
New Bedford Whaling Museum  
New Bedford, Massachusetts  
November 2-3, 2005

REGISTRATION FORM  
(Complete one Registration Form for EACH Attendee)

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_

First Name (as to appear on badge): \_\_\_\_\_

Title: \_\_\_\_\_

Agency/Organization: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Country: \_\_\_\_\_

**Registration Fees:**

Pre-Registration (by October 15 <sup>th</sup> )	\$50
Pre-Registration (October 16 <sup>th</sup> -26 <sup>th</sup> )	\$70
After October 26 <sup>th</sup> and Onsite	\$90

**TOTAL AMOUNT ENCLOSED:** \_\_\_\_\_

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**REMINDER:**

- If paying by check, make payable to New England Aquarium
- Mail Registration Form to:  
Laura Lane Cooke  
Right Whale Research  
New England Aquarium  
Central Wharf  
Boston, MA 02110

**If you have additional questions please contact Consortium Secretary Heather Pettis at [hpettis@neaq.org](mailto:hpettis@neaq.org) or 617-226-2144**