

RIGHT WHALE NEWS

*An independent forum for right whale conservation and recovery,
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North Atlantic Right Whale Population Estimate: 473

Based on the catalog of identified North Atlantic right whales through the end of the year 2009, the best estimate of the population is 473. This estimate was included in the 2010 Right Whale Report Card provided to attendees at the North Atlantic Right Whale Consortium Meeting, 3-4 November 2010, New Bedford Whaling Museum, New Bedford, Massachusetts, by chairperson Dr. Moira Brown. The estimate is prepared according to standardized criteria, and is reviewed by the Consortium Board. In recent years, the estimate has been steadily increasing: the 2006 estimate was 393, in 2007 it was 415, and in 2008 it was 438.

Changes in the SEUS I: Early Warning System Surveys

At the Right Whale Forum meeting, held at the Jacksonville Zoo, Jacksonville, Florida, on 16 November 2010, Barb Zoodsma, Right Whale Recovery Program Coordinator, Southeast Regional Office, National Marine Fisheries Service, announced that the successful bidder on the five-year Early Warning System (EWS) aerial survey contract was the Florida Fish and Wildlife Conservation Commission (FWC), St. Petersburg, Florida. The FWC will now be responsible for two areas: the central EWS area (CEWS), Cumberland Island to Jacksonville Beach (30°50'N to 30°17'N) including the St. Mary's and St. Johns river entrances, and the southern EWS area (SEWS) from Jacksonville Beach to Crescent Beach (30°14'N to 29°47'N) including the St. Augustine inlet entrance. The CEWS contract was previously held by the New England Aquarium, Boston, Massachusetts. The New England Aquarium had been conducting aerial surveys for right whales from a base in Fernandina Beach, Amelia Island, Florida, since 1988.

Changes in the SEUS II: Southeast U.S. Implementation Team

After 18 years, changes have come to the southeast U.S. right whale recovery plan implementation team (SEIT). The first SEIT meeting was held in June 1993 in Brunswick,

Georgia, at the Georgia Department of Natural Resources facility. The team meetings continued through the next decade, generally on a semi-annual basis in May and October. The North Atlantic Right Whale Recovery Plan (NMFS 2005) directs NOAA to periodically evaluate the mandate, goals, responsibilities, membership, and effectiveness of the SEIT, and at the 3 May 2007 meeting, the Southeast Regional Office (SERO/NMFS), sought input and comments from meeting participants. In the several years following, a number of options for re-structuring were explored. Then in June 2010, SERO/NMFS announced the revised SEIT organizational structure. The existing, primarily informational, meetings would continue as the “Right Whale Forum”—an open meeting featuring presentations on science, management, and outreach topics. The more formal SEIT would consist of 13 invited members (Table 1) and the closed meeting would be held the following day. At the Right Whale Forum on 16 November 2010, held at the Jacksonville Zoo, Jacksonville, Florida, the Terms of Reference for the re-organized SEIT were made available by the SERO/NMFS.

The purpose of the SEIT is: “The SEIT has been established to assist NOAA Fisheries Southeast Regional Office (SERO) in the implementation of the Recovery Plan for the North Atlantic Right Whale and to advise the SERO on issues related to the status and conservation of right whales in the southeast U.S. (North Carolina to Florida). The objectives of the SEIT are to:

1. Coordinate and effect recovery plan implementation in southeast U.S. while making efficient use of available resources via recommendations to NOAA Fisheries Service SERO.
2. Involve stakeholders in implementation of recovery plan.
3. Promote creative solutions.
4. Monitor effectiveness of recovery plan implementation and adapt accordingly.
5. Identify and prioritize needs that can be best addressed through enhanced partnerships.”

The 10-page document further describes that, “NOAA Fisheries has statutory responsibility for implementing the North Atlantic Right Whale Recovery Plan, and, therefore, SERO will oversee all SEIT activities. Additionally, the SERO will be responsible for the following:

1. Establishing, modifying, and disbanding the implementation team including work groups;
2. Establish[ing] and maintaining SEIT and work group sizes to enhance effectiveness;
3. Defining team functions and establishing schedules for completing products (with team input and discussion);
4. Approving meeting agendas;
5. Transmitting team recommendations to other agencies and organizations, as appropriate; and
6. Providing logistical support.”

And continuing, “The NOAA Fisheries liaison is SERO’s Right Whale Recovery Program Coordinator. The NOAA Fisheries liaison is not a member of the SEIT, but will provide assistance as needed, serve as a conduit for communication between the SEIT and the SERO (in conjunction with the Team Leader), concur on implementation team or subcommittee membership, provide terms of reference for the team, collaborate with headquarters, regional and science center staff on annual or periodic oversight of the recovery effort, collaborate with the Team Leader on meeting agendas and the Team on recovery tasks on which the SERO seeks input, and generally provide appropriate guidance from SERO to the SEIT. The NOAA Fisheries liaison is not a decision-maker for the team.”

Table 1. SEIT members, as of 24 June 2010

Name	Affiliation
Ms. Nancy Allen	Navy
Dr. Lance Garrison	Southeast Fisheries Science Ctr./NMFS
Mr. Clay George	Georgia Dept. of Natural Resources
Capt. Mike Getchall	Jacksonville Marine Terminal Hbr Safety Comm.
Capt Bill Kavanaugh	Cumberland Sound Hbr Pilots Assoc.
Mr. David Harter	Hilton Head Island Sportfishing Club
Ms. Amy Knowlton	New England Aquarium
Mr. Bill McLellan	Univ. N. Carolina at Wilmington
Ms. Katie Moore	U.S. Coast Guard
Ms. Cathy Sakas	NOAA Gray’s Reef Natl Marine Sanctuary
Ms. Leslie Ward	Florida Fish & Wildlife Conservation Comm.
Mr. Tom Wright	Savannah Maritime Assoc.
Ms. Sharon Young	Humane Society of the United States

As of the publication date for this issue of *Right Whale News*, the minutes and outcomes for the 17 November 2010 SEIT meeting were not yet available. These will be reported in a future issue.

Scientific Research Permits: Programmatic EIS Shelved

On 10 December 2005, Steve Leathery, then Chief of the NMFS Permits Division, at a scoping meeting in San Diego, California, announced plans for a programmatic Environmental Impact Statement (EIS) for Atlantic and Pacific right whale scientific research permits under the National Environmental Policy Act (NEPA). If successful, in theory, this proposed action would have facilitated analysis of cumulative impacts of research on right whales and streamlined the

NEPA process for multiple permit applications. In practice, as described by permit office staff, there was uncertainty as to the streamlining that may have actually occurred. Nearly six years later, after a number of attempts at preparing the document, Kristy Beard, Fishery Biologist with the Permits Division, speaking on behalf of current Division Chief, Michael Payne, made an announcement on 3 November 2010 at the Annual Meeting of the North Atlantic Right Whale Consortium in New Bedford, Massachusetts. Based on a number of factors (research coordination to minimize disturbance, new publications on effects of research including long-term data, higher calf numbers in years since decision, minimum population estimate suggesting an upward trend, minimal controversy over effects to the environment and positive impacts of research, and the Environmental Assessments of 2008-2010 showing no significant impact [of research]), the NMFS Permit Division is not pursuing an EIS. This outcome means that research permits will continue to be submitted for consultation on a one-at-a-time basis (or for batch processing in some cases), and investigators are advised that applications and major amendments for scientific research permits for right whales may require 345-375 days for processing. As reported previously by *Right Whale News*, permit applications and documents available for comment are at: <https://apps.nmfs.noaa.gov>.

National Ocean Policy: Town Hall Meeting

Right whales exist in a large ocean—some of it physical, some of it political. On 19 July 2010, President Barack Obama signed an Executive Order establishing a National Ocean Policy for Stewardship of the Ocean, the Coasts, and the Great Lakes. Under the White House Council on Environmental Quality, an Interagency Ocean Policy Task Force was established. Stakeholder input was requested as the Task Force held a series of regional public hearings (see *Right Whale News*, November 2009). The final recommendations of the task force were published on 19 July 2010 (see www.whitehouse.gov/oceans). On 9 December 2010, one of a series of Town Hall meetings to provide an update on progress and an opportunity for questions and answers was held at Faneuil Hall, Boston, Massachusetts. The panel consisted of: Sally Yozell, Director of Policy, NOAA; Cheryl Barnett, Environmental Program Director, U.S. Navy; Ron Beck, Energy and Facilities Branch, U.S. Coast Guard; and Marvin Moriarty, Northeast Regional Director, U.S. Fish & Wildlife Service.

Sally Yozell described that there are 140 different Federal statutes and laws related to the oceans, and that 24 Federal agencies and 3 White House councils are involved in the new ocean policy planning. She further described that one of the objectives is, “for the Federal family to get its house in order.” There was a lively 75-minute question-and-answer period moderated by Rich Delaney, President and CEO of the Provincetown Center for Coastal Studies. In response to a question from *Right Whale News* editor, Jim Hain, about agency performance and interactions

with the scientific and conservation community, she described that a component of the soon-to-be-released NOAA long-term strategic plan is, “working with scientific partners.” The outcome of the meetings, councils, and planning is unknown, but is of interest to the right whale community. *Right Whale News* will continue to report on this topic.

Conservation, Consternation, and Kudos

Contributed by Sharon Young, Humane Society of the U.S.

At the November Right Whale Consortium Meeting, conservation groups presented an update on progress made in efforts to recover right whales. There have been several recent developments of note. In September of 2009, The Humane Society of the U.S., Defenders of Wildlife, Center for Biological Diversity and the Whale and Dolphin Conservation Society petitioned the NMFS to enlarge existing boundaries of critical habitat for North Atlantic right whales. When the agency missed its statutory deadline for response, the groups notified NMFS of their intent to sue under the Endangered Species Act for failing to respond or explain its actions, and in May 2010, the groups filed suit in federal district court in Massachusetts. In response to the lawsuit, on 6 October 2010, the NMFS announced in the Federal Register that, “the petition, in conjunction with the information readily available in our files, presents substantial scientific information indicating that the requested revision may be warranted.” NMFS may propose new boundaries in the second half of 2011.

In other news, Defenders of Wildlife and The Humane Society of the U.S. brought a separate lawsuit in May 2010 regarding the NMFS failure to complete long-overdue Biological Opinions under Section 7 of the Endangered Species Act regarding the impact of four Northeast fisheries on right whales. As a result of an agreement reached during litigation, new Biological Opinions for the fisheries were released on 29 October 2010. While finding that the current operation of the fisheries was unlikely to jeopardize the continued existence of right whales, the NMFS found that fisheries were having an adverse impact on them and committed to implement changes to the use of vertical lines to gain additional reductions in risk to endangered whales.

In a related matter, the Northeast subgroup of the Atlantic Large Whale Take Reduction Team (ALWTRT) met in Rhode Island in early December to begin the process of identifying areas where whales were at greatest risk from the use of vertical lines in fixed-gear fisheries. A working group was established to continue discussions aimed at identifying areas of risk based on the co-occurrence of whales and risk-prone fishing gear. The mid-Atlantic and Southeast subgroup of the ALWTRT is scheduled to meet in Baltimore in April of 2011 to address risk to endangered whales in those areas.

Enforcing Measures That Protect Right Whales

Contributed by Sharon Young, Humane Society of the U.S.

There are two recent right whale enforcement-related developments. The first is that NOAA Law Enforcement issued Notices of Violation (NOVAs) to seven ships, for a total of 49 violations of speed regulations intended to protect right whales. According to NOAA, 26 of the violations occurred in the Charleston, South Carolina, Seasonal Management Area (SMA); 10 in the Savannah, Georgia, SMA; 8 in the Norfolk, Virginia, SMA; and 5 in the New York SMA. The incidents all occurred between November 2009 and April 2010. Fines imposed on the vessels ranged from \$16,500 to \$49,500, though violators may challenge the fines.

Another important development is that the NOAA Fisheries Office of Law Enforcement and NOAA General Counsel have extended until January the deadline for submitting comments on setting enforcement priorities. NOAA is seeking public comment in a variety of areas including how to *rank the importance of non-compliance in terms of its effect* on the status of various species of concern. While enforcement action is largely focused on enforcing fishery management measures, it is important to remind the agency that other laws contain measures that need diligent enforcement if compliance is expected. Take Reduction Plans published under the Marine Mammal Protection Act and mandates issued under the Endangered Species Act are often critical to reducing levels of mortality deemed unsustainable. Enforcement of Atlantic Large Whale Plan mandates focused largely on reducing risk to right whales, and enforcement of speed measures intended to reduce risk of fatal collisions should be of concern. For more information on the open comment period, go to: http://www.nmfs.noaa.gov/ole/news/news_112210.htm. Comments are being accepted until January 3, 2011. They can be submitted to either the Northeast or Southeast regions at:

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Right Whale Fest 2010

The second annual Right Whale Fest was held at the Seawalk Pavilion, Jacksonville Beach, Florida, on Saturday, 20 November 2010. At 10:00 a.m., the day was gray and overcast, with a light attendance. However, the pace and the enthusiasm quickly increased. For the beach cleanup, 170 volunteers collected 125 bags of trash; the beach run attracted healthy and slim runners; and peeks of sun emerged as the Marineland Right Whale Project's AirCam survey aircraft did a series of flyovers at noon. The sun and warmth increased on the exhibitors and

vendors that included Girls Gone Green, Harbor Branch/Florida Atlantic University's Protect Florida Whales License Plate Fund, the U.S. Navy, JAXPORT, Environmental Services, Inc., Surfrider Organization, Ocean Publishing, the NOAA/NMFS inflatable whale, Keepers of the Coast, Airbrush Tattoo Art, the Saltwater Cowgirls, the Marine Resources Council, and many others. Young people were provided with an obstacle course similar to what whales face in the ocean, and were given a "passport" with questions that could be answered from information provided at the various exhibitor tables. Festival organizers Jessica Koelsch, Sea2Shore, and Cheryl Bonnes, NOAA/NMFS, reported successful fundraising by the silent auction and an attendance estimate of 3000+.



Aerial view of Whale Fest 2010, Seawalk Pavilion, Jacksonville Beach, Florida. On the street in the foreground, from left to right, are the Coast Guard response boat, the Harbor Branch Oceanographic Institute marine mammal rescue truck, and the NOAA law enforcement boat. There were about 34 exhibitors and vendors, musical groups, and food stands. (Photo: D. Hench)



Whale Fest 2010 photo collage: 1. U.S. Coast Guard exhibit, 2. T-shirt, 3. Cindy Doloway, Marine Resources Council, and a young attendee, 4. Tom Pitchford, Florida Fish and Wildlife Conservation Commission, and interested attendees, 5. The Saltwater Cowgirls, one of several musical groups, and, 6. Festival co-organizers, Jessica Koelsch, Sea2Shore, and Cheryl Bonnes, NOAA/NMFS, with a future environmental steward. (Photos: J.Hain)

Right Whale News: Reader Survey

A reader survey was conducted at two venues (Right Whale Consortium Meeting, New Bedford, Massachusetts; and Right Whale Forum, Jacksonville, Florida) in November 2010. There was a total of 69 responses. Although some questions were left blank, a healthy cross-section of readership and views were obtained. From the responses, the following was gleaned: the respondents were 37 female and 21 male; 16 government, 23 research, 6 NGO-advocacy, and 8 other; 23 read every issue and 25 read occasional issues; the respondent's years connected to right whale research and management ranged from "new" to 30+; 40 find *Right Whale News* useful; and 48 are satisfied with Right Whale News while 4 are not satisfied. Comments ranged from, "...it's a good balance of information and a valuable resource," to, "I find it biased, highly selective in information provided, and [containing] subjective 'reporting'. I think it is an embarrassment to our field as a whole in which most strive for objectivity and editorial and scientific rigor. Perhaps the News will go away one day." As a result of the questionnaire, *Right Whale News* gained additional readership, as 18 respondents requested addition to the mailing list.

Remembrances

Lindy Johnson, NOAA Office of General Counsel for International Law, passed away on 23 October 2010. Lindy had an 18-year career with NOAA, and was an advocate for the protection of the marine environment. She was active in gaining the participation of the International Maritime Organization (IMO) in species and habitat protection. **John Nicolas** of Osterville, Massachusetts, passed away while at sea in July of this year. John had a 30-year history working with marine mammals with the Federal government beginning with an study of the foraging ecology of fin and humpback whales in the NW Atlantic. After retiring from NOAA, John worked for Columbia University/Lamont Doherty Earth Observatory DEO aboard the *RV Marcus Langseth* as a lead marine mammal observer. They were in the western Pacific to study the Shatsky Rise and had just started surveys when John collapsed.

Changes

Dr. Steve Murawski, NMFS director of scientific programs and chief science advisor, has accepted a new position as a research professor at the University of South Florida's College of Marine Science, St. Petersburg, Florida, beginning in January.

Calendar

29-30 January 2011. 1st Annual Florida Marine Mammal Student Research Symposium. Hosted by the University of Florida's Aquatic Animal Health Program, Gainesville, Florida. See www.marinemammalscience.org for further information.

27 November-2 December 2011. Society for Marine Mammal Biennial Conference, Tampa Convention Center, Tampa, Florida. See www.marinemammalscience.org for further information.

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Right Whale News

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To submit ideas, article topics, and comments, contact Editor Jim Hain at jhain@earthlink.net and place “RWN Editorial” in the subject line. To subscribe, contact Heather Pettis at hpettis@neaq.org, and place “RWN Subscribe” in the subject line.

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