

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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Tragedy

Three right whale researchers, Emily Argo, Jackie Ciano and Michael Newcomer, and a pilot, Tom Hinds, were lost on Sunday, January 26, when their survey plane went down about eight miles off the coast of Amelia Island, Florida. The researchers were tracking the movements of right whales off the Georgia and Florida coasts and helping ships avoid potentially fatal collisions with whales. The four were working for the Wildlife Trust, a New York-based non-profit organization, which was under contract to the Georgia Department of Natural Resources (GA DNR), when the plane went down.

The team had taken off from the Malcolm McKinnon Airport on St. Simons Island, Georgia, at about 8:50 am Sunday in a twin-engine 1969 Cessna 337-02A aircraft. At about 3:15 pm, they radioed back to shore that they had sighted right whales and were descending from an altitude of 1000 feet to 500 feet. That was the last anyone heard from them.

The plane was reported overdue and the Coast Guard was alerted about 6:30 pm. A search was initiated, with Coast Guard rescue aircraft from Clearwater and Savannah, and cutters *Kingfisher* and *Shrike* participating. Also assisting were the GA DNR, the Nassau County Sheriff's Office, the Civil Air Patrol and NOAA.

The Coast Guard found the plane's locator beacon Sunday night and recovered a backpack, an un-inflated life raft, life jackets, film canisters and some papers. The body of Jackie Ciano was also recovered. The search and rescue mission continued, but, like the Columbia space shuttle tragedy a few days later, it soon shifted to a search and recovery mission. Using side scan sonar, searchers with GA DNR and the Nassau County Sheriff's Office were able to locate the aircraft in about 65 feet of water on January 29. Sheriff's Office divers recovered the three missing bodies on January 29 and 31.

Tribute

Emily Argo, 25, was the project leader and lead observer for the Wildlife Trust's north Atlantic right whale aerial survey team. Emily grew up near Cincinnati and fell in love with manatees while on a family trip to Tampa in 1991. When told that the creatures were in danger of extinction, she decided that marine mammal conservation would be her life's work. She graduated valedictorian of her high school and then earned a bachelors degree in environmental studies and biology from Ohio Northern University. After graduating,

she worked as a researcher for the Woods Hole Oceanographic Institution's right whale program in the Bay of Fundy and as field coordinator for the Florida Fish and Wildlife Conservation Commission's manatee photo identification program in southwest Florida. She lived in St. Petersburg, Florida. The Wildlife Trust noted: "Her unique blend of personality, intelligence, experience and training skills had poised her for leadership in the wildlife conservation community." Another colleague, Sarah Gaines, said "Emily's determination will inspire us as we continue working towards the cause for which she gave so much."

Jacqueline "Jackie" Ciano, 47, was the data recorder on the fatal flight. A veteran marine mammalogist and native of Arlington, Massachusetts, Jackie started her career as a marine mammal trainer at the New England Aquarium in Boston; she then moved on the right whale research off New England and Florida. She also worked for the Florida Marine Research Institute. Jackie recently moved from Wellfleet on Cape Cod to Florida to participate in right whale survey efforts. Last year, she flew similar surveys for the Center for Coastal Studies. Jackie was known for her vibrant personality, boundless personal commitment and positive problem-solving ability. Scott Kraus of the New England Aquarium said that she "was a warrior in this very quiet battle to save right whales from extinction. Her passion to that led her to do things we all do, but ultimately she paid the final price. We take some consolation knowing that she was doing what she wanted to do."

Michael Newcomer, 49, originally from Los Altos, California, was a seasoned and talented marine mammal observer and ornithologist. He studied zoology at San Jose State University and amassed thousands of hours of marine mammal and sea turtle surveys over his career. In addition to the Wildlife Trust, he worked for NOAA, the Woods Hole Oceanographic Institute, the New England Aquarium and Continental Shelf Associates. Michael was the kind of person who made friends easily, making people feel special and valued. One friend noted the he had great observer eyes and could see everything! Another remarked on his high spirits.

Tom Hinds was a pilot for Environmental Aviation Services of Fernandina Beach, Florida, for the past four years. He had more than 1,000 flight hours of experience assisting the Wildlife Trust and other non-profit organizations and government agencies in marine census work. He was also a flying instructor at two Fernandina Beach flying schools. Environmental Aviation Services has flown thousands of hours of right whale surveys for several organizations since 1996.

Paying tribute to the four team members, Dr. Mary Pearl, president of the Wildlife Trust, noted: "This is really an accident that has touched the whole whale-watching community. We're just overcome and devastated with sadness... Our loss is profound. Four vibrant, committed people died too soon. Lives can be measured in days, but they can also be measured in significance. Although our friends spent too few days with us, the work they accomplished on behalf of whale survival and their devotion to the cause of marine conservation will always stand as an inspiration." (For additional tributes from the Wildlife Trust, see: www.wpti.org/mourns.htm)

The Wildlife Trust is planning to establish a memorial fund to benefit marine mammal conservation. Donations to this fund may be sent to the Wildlife Trust, 1200 Lincoln Park Avenue, Suite 2, Prospect Park, PA 19076. The researchers will also be remembered in the dedication to the publication, *Dolphins, Whales and Porpoises: 2002 – 2010 Conservation Action Plan for the World's Cetaceans* (World Conservation Unions/IUCN). The family of pilot Tom Hinds has asked that donations in Tom's name be made to the Jacksonville Humane Society.

Aerial Surveys Temporarily Suspended

The tragedy off Amelia Island resulted in the temporary suspension of all aerial survey flights to track right whales along the East Coast. Federal officials wanted to determine why the plane crashed. The National Transportation Safety Board is investigating.

NOAA Fisheries immediately sent word out to the maritime community asking them to be especially vigilant for right whales during the period when the "early warning system" was down. A limited aerial survey using a twin otter plane was resumed in early February to focus on the Brunswick, Fernandina Beach and Jacksonville ship channels in the right whale's calving ground critical habitat area.

The reduction in survey effort may effect the total calf count for the season, but as most calving is over by the end of January, the number seen so far – 15 or 16 – may be the total for the year. The reduced survey effort will also limit the increase in our much-needed understanding of right whale activity off the coasts of North and South Carolina as they migrate to and from the calving ground.

Bay of Fundy Traffic Separation Now Official

In December, the International Maritime Organization formally adopted the changes in the traffic separation lanes in the Bay of Fundy that had been recommended by Transport Canada and others (see *Right Whale News* 9(3):1-3). The shift is expected to reduce the relative probability of the potential for ship strikes of right whales by as much as 80 percent.

The amendment to the Bay of Fundy shipping lanes will take effect on July 1, 2003 at 00:00 GMT. Implementation will be by Transport Canada, the Canadian Coast Guard and the Department of Fisheries and Oceans. New navigation charts and notices to mariners will soon be available.

Moe Brown Receives 2002 Gulf of Maine Visionary Award

Dr. Moira Brown of the Center for Coastal Studies and the Canadian Whale Institute has received the 2002 Gulf of Maine Visionary Award from the Gulf of Maine Council on the Marine Environment. The award reads:

“Working to protect the critically threatened North Atlantic right whale, Moira ‘Moe’ Brown is truly a Gulf of Maine visionary. Currently serving as a researcher with the Center for Coastal Studies in Provincetown, Massachusetts, Moe is a mentor to countless whale researchers. Managers rely on Moe to help enhance right whale protection measures, and she frequently initiates outreach efforts to increase public awareness of cetacean issues and conflicts. Recently, Moe initiated and successfully led the charge to relocate shipping lanes in the Bay of Fundy to reduce the likelihood of right whale ship strikes by an estimated 80 percent, and serves as co-chair of the Canadian Right Whale Implementation Team.

“Moe was born in Montreal and later studied with David Gaskin, founder of the Grand Manan Whale and Seabird Research Station. In 1985, Moe founded East Coast Ecosystems, a right whale conservation organization based in Freeport, Nova Scotia. Moe also served as director of Allied Whale, the marine mammal laboratory of the College of the Atlantic in Bar Harbor, Maine, and helped create the Atlantic Coast Disentanglement Network.”

At the awards ceremony, Moe’s response to the award was typically self-effacing:

“Thank you for the award and the recognition for right whales. The Bay of Fundy is likely one of the most important habitat areas for right whales, they are seen there for longer and in greater numbers than any other habitat areas. There should be another 15 names on this award to represent the essential contributions of others to make this work possible including the right whale research team at the New England Aquarium who shared 15 years of data, representatives from the Canadian Coast Guard, Department of Fisheries and Oceans and Transport Canada as well as representatives from shipping, fishing and whale watching industries. There was some cost to the Nova Scotia fisherman who lost access to some bottom fishing grounds with the shift in the shipping lanes, but they recognized the conservation importance to right whales. I would like to applaud Canada for taking this important conservation step for right whales and the fact that this was done in the absence of any legislation obliging them to do so is compelling and encouraging.”

She has asked *Right Whale News* to specifically recognize the following individuals: **Scott Kraus** and **Amy Knowlton** of the New England Aquarium, **Robert Kenney** of the University of Rhode Island, **Jenny Beaudin Ring**, a GIS consultant, **John Logan** and **Richard Goddard** of Irving Oil, **Sean Perry** of F. K. Warren Ltd., **Laurie Murison** of the Grand Manan Whale and Seabird Research Station, **Klaus Sonnenberg** of the Grand Manan Fishermen's Association, **Hubert Saulnier** of the Maritime Fishermen's Union, **Christopher Taggart** and **Angelia Vanderlaan** of Dalhousie University, **Jeanette Owen** of Cardiff University, **Fred Webster** and **Craig Middleton** of Fundy Traffic,

Peter Turner of the Saint John Port Authority, **Bill Scott, Janet Kavanagh, Garry MacCaull** and **Robert Turner** of Transport Canada, **Jerry Conway** of the Department of Fisheries and Oceans and **Lindy Johnson** of NOAA.

She noted that for her role in the Bay of Fundy traffic separation decision, “I was just the professional pest!”

The Gulf of Maine Council includes representatives from the states and provinces that border the Gulf of Maine, U.S. and Canadian federal agencies and nongovernmental organizations. For more information on the Council, consult their web site at: www.gulfofmaine.org

Canadian Parliament Passes Species at Risk Legislation

A nine-year legislative process marked by intensive debate came to an end on December 12 when the Species at Risk Act (SARA) received Royal Assent. The measure provides federal protection for the North Atlantic right whale and some 400 other species that are at risk of extinction. The new law includes provisions for the scientific assessment of species and their listing as being at risk. It also addresses species recovery, protection of critical habitat, compensation, permits and enforcement. The development of “A Canadian Recovery Plan for the North Atlantic Right Whale” and other actions by the Department of Fisheries and Oceans were taken in anticipation of SARA’s eventual passage. For additional information on SARA, consult Environment Canada’s Species at Risk web site: www.cnf.ca/species/species_risk.html

NMFS Finds That Critical Habitat Expansion May Be Warranted

In July 2002, NOAA Fisheries received a petition from The Ocean Conservancy requesting NOAA Fisheries consider revising and expanding the current critical habitat for Western North Atlantic Right Whales in waters off the northeast and southeast United States (see *Right Whale News* 9(4):3). The petition argues that since the designation of right whale critical habitat in 1994, knowledge of the distribution and mortality of North Atlantic right whales has increased substantially, indicating that critical habitat boundaries may need to be revised to provide proper protection for right whales.

On November 19, 2002, NOAA Fisheries published a notice for a 90-day comment period on the petition, announcing that the petition presents substantial scientific information indicating that the requested action may be warranted. Within 1 year of the receipt of the petition, NOAA Fisheries will determine how it intends to proceed with the requested revision.

It is important to note that the designation of critical habitat does not, in itself, restrict

activities within the area or mandate any specific management action. A critical habitat designation contributes to the conservation of endangered and threatened species by identifying specific areas within the geographic range of the species that contain those physical or biological features essential to the conservation of the species, thus alerting public and private entities to the importance of the area. Therefore, critical habitat designation helps focus Federal, state, and private conservation and management efforts in those areas.

To view a copy of the November 19th Federal Register announcement, please look under "What's New" on the Atlantic Large Whale Take Reduction Plan (ALWTRP) web page (<http://www.nero.nmfs.gov/whaletrp/>) or go to <http://www.nero.nmfs.gov/whaletrp/rwch90day.pdf>

Commentary

Wrong Congress for the Right Whale?

The November elections brought a Republican majority to both houses of Congress and consequently a greater likelihood of support for the President's anti-environmental and aggressive defense agendas. Some of the administration proposals that were defeated in the last Congress, or fought in court battles, are likely to reappear in this coming year. Some of these changes could weaken protection for right whales.

*Department of Defense (DoD) Last year the DoD sought to exempt itself from compliance with the Endangered Species Act, the Marine Mammal Protection Act and a host of other environmental legislation. A coalition of environmental groups was successful in halting the agenda in the last Congress, but the DoD has announced its intent to re-open this battle for exemptions on the grounds of national security.

*Coastal Zone Management Act (CZMA) The CZMA provides state review of federal actions that could affect the management of resources within state waters. At the close of last year, the Administration submitted an advanced notice of proposed rulemaking, seeking comments on a proposal to dramatically limit the powers of the states under the CZMA. This would make it harder for states to constrain federal actions that could affect marine life or habitats in or near state waters (generally within 3 nautical miles).

*National Environmental Policy Act (NEPA) is a key statute that mandates environmental review of government actions that could result in adverse impact on the environment. Currently it requires review of projects out to 200 miles from the coast. The Humane Society of the United States and other groups recently won a suit against the Bush administration which had sought to limit NEPA's authority to coastal waters only. The Administration is contemplating amending NEPA to "clarify" its jurisdiction.

*Marine Mammal Protection Act (MMPA). Congressional Republicans have already announced their intent to amend the MMPA. Among the changes that are being considered: restructuring the take reduction team process; removing the Zero Mortality

Rate Goal from the Act (this currently mandates that fisheries have insignificant impacts on populations); requiring recreational fishermen who use commercial-type gear to comply with take reduction mandates that are imposed on identical commercial gear; and reconsideration of the formula that is used to calculate the Potential Biological Removal (PBR) level. The PBR defines the maximum number of human-related mortalities that a stock can sustain. In addition, at the request of the DoD, the administration proposes to amend the definition of harassment, requiring a higher burden of proof that harm will occur before an activity can be considered harassment.

Any of these changes are likely to affect current protective measures for right whales. Stay tuned for future developments.

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Marine Mammal Commission Says Pace of Progress Too Slow

The Marine Mammal Commission (MMC) has informed the National Marine Fisheries Service that it is “gravely concerned that the pace of progress is too slow given the critical status” of both the North Atlantic right whale and the North Pacific right whale. Noting that these two species were two of the world’s most critically endangered mammals, and that the North Pacific right whale was the most endangered marine mammal in U. S. waters, Dr. John Reynolds III, chair of the MMC, stated in a November 27 letter to Dr. William Hogarth, Assistant Administrator for Fisheries that “The National Marine Fisheries Service must strengthen its work on both species. If more determined commitments are not made now, both populations face a very real possibility of declining to levels from which recovery may be impossible.”

The MMC made a number of specific recommendations as well. To reduce the risk from ship strikes, the MMC recommended that NMFS quickly complete a proposed plan of action to prevent right whale deaths and injuries and circulate the plan and a timetable for implementing it for review. NMFS should also analyze what speed and routing actions could be taken under existing domestic authority, what actions would require approval from the International Maritime Organization and what new authority would be needed to implement the recommendations contained in the “Russell Report.”

With regard to the reduction of entanglement in fishing gear, the MMC noted that the NMFS has relied on three principal strategies: disentangle whales, modify fishing gear so that whales will be less likely to get entangled, and preventing fishing in specific areas when whales are present. The MMC recommended that NMFS prohibit fishing with gillnets or traps in right whale critical habitats during peak right whale occurrence. The MMC also made specific recommendations regarding deadlines for the required use of

sinking line or neutrally buoyant line and expanding gear modification requirements to include crab and fish traps in the southeast.

People

We are saddened to learn of the death of **Dr. David St. Aubin** on September 10. He was the Director of Research and Veterinary Services for the Mystic Aquarium in Mystic, Connecticut. In that capacity, he led or participated in a number of necropsies of marine mammals including right whales.

Dr. Tom French of the Massachusetts Division of Fish and Wildlife has stepped down as chair of the Northeast Implementation Team. Serving as chair of the team since its inception in May 1994, Tom said it was time for a change in leadership. Tom remains on the team.

At its February meeting, the members of the Northeast Implementation Team elected **Captain Tom Fetherston** of the U.S. Naval Undersea Warfare Center as chair and **Kate Van Dine** of the Stellwagen Bank National Marine Sanctuary as vice chair. **Joe Pelczarski** was reelected secretary. Officers of the Team serve one-year terms.

Barb Zoodsma continues to serve on the Southeast U.S. Right Whale Recovery Plan Implementation Team but with a new hat on. She will represent the National Marine Fisheries Service, replacing **Dr. Kathy Wang** on the team. Barb's contact information is: Barb Zoodsma, Protected Resources Division, NMFS, 2382 Sadler Road, Suite 5, Fernandina Beach, FL 32034. Tel. 904-321-2806. Fax 904-321-1579. E-mail: Barb.Zoodsma@noaa.gov

Scientific Literature and Reports

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Richards, R. 2002. Southern right whales: a reassessment of their former distribution and migration routes in New Zealand waters, including on the Kermadec grounds. *Journal of the Royal Society of New Zealand* 32 (3): 355 – 377.

Waldick, R. C., S. D. Kraus, M. Brown and B. N. White. 2002. Evaluating the effects of historic bottleneck events: an assessment of micro satellite variability in the endangered North Atlantic right whale. *Molecular Ecology* 11 (11): 2241 – 2250.

Calendar of Events

March 28 - 30: Southeast and Mid-Atlantic Marine Mammal Symposium. Christopher Newport University, Newport News, Virginia. For further information, consult the SEAMAMMS web site: <http://users.cnu.edu/~seamamms>

April (specific date not set at press time): Meeting of the Atlantic Large Whale Take Reduction Team. For further information, consult the ALWTRT web page (<http://www.nero.nmfs.gov/whaletrp/>) or contact Diane Borggaard at 978-281-9145 or diane.borggaard@noaa.gov

May 8 – 9: Spring meeting of the Southeast U.S. Right Whale Recovery Plan Implementation Team. Location to be determined. For further information, contact team chair Jamison Smith at 904-573-4910 or Jamison.Smith@fwc.state.fl.us

June 21: Abstracts due for the 15th Biennial Conference on the Biology of Marine Mammals (see Dec. 14-19 listing).

November 4-5: Annual North Atlantic Right Whale Consortium meeting, New Bedford Whaling Museum, New Bedford, Massachusetts. For further information, contact the Consortium secretary, Marilyn Marx at mmarx@neaq.org or 617-973-6584.

December 14-19: 15th Biennial Conference on the Biology of Marine Mammals, Greensboro, North Carolina. Sponsored by the Society for Marine Mammalogy. For more information, visit the SMM web site: <http://pegasus.cc.ucf.edu/~smm>

Right Whale News

Right Whale News is a publication of the Southeastern 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, Mike Payne, Sigrid Sanders and Jerry Wallmeyer.

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The **current issue** of *Right Whale News* is now available on line at a web site maintained by the Georgia Environmental Policy Institute: www.GEPInstitute.com An **index** of the first eight years of *Right Whale News* (1994-2001) is available along with current and **back issues** on the Internet, thanks to Alex Score and Marcy Lee of the Gray's Reef National Marine Sanctuary. The web site address is: <http://www.graysreef.nos.noaa.gov/rightwhalenews.html>

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