



## Hawaiian Islands Humpback Whale National Marine Sanctuary

### Sanctuary Advisory Council

*Fifty-Sixth Meeting*

November 16, 2009

9:30 a.m. to 3:30 p.m.

6600 Kalaniana`ole Highway,  
Suite 301, Honolulu, Hawaii 96825

#### NON-GOVERNMENT (Voting)

Jim Coon  
*Business and Commerce*

David Hoffman  
*Citizen-At-Large*

Dale Hazlehurst  
*Commercial Shipping*

Louis M. Herman, Ph.D.  
*Conservation*

Liz Kumabe  
*Education*

Robert Bruck  
*Fishing*

Luana Howell  
*Hawai`i County*

William A. Friedl  
*Honolulu County*

James Yamamoto  
*Kaua`i County*

Cheryl Sterling  
*Maui County*

Pohai Kirkland  
*Native Hawaiian*

Teri Leicher  
*Ocean Recreation*

Adam Pack, Ph.D.  
*Research*

Michael Stanton  
*Tourism*

Reginald A. White  
*Whale Watching*

#### GOVERNMENT

Marmie Meyer  
*DBEDT - OP*

Elizabeth Corbin  
*DBEDT Ocean Resources*

Athline M. Clark  
*DLNR - DAR*

Vacant  
*DOH*

Dean Watase  
*DOT - Harbors*

Gene Brighthouse  
*Fagatele Bay NMS*

Jerry B. Norris  
*OHA-Voting*

Jeff Pollack  
*NMFS - Law Enforcement*

Lisa Van Atta  
*NMFS - PIRO*

`Aulani Wilhelm  
*Papahānaumokuākea MNM*

Eric Kingma  
*WESPAC-Voting*

Cindy Barger  
*US ACOE*

Eric Roberts  
*US Coast Guard*

Rebecca Hommon  
*US Navy*

#### Attendance:

##### *Primary Council Members Present:*

Bob Bruck, Bill Friedl, Lou Herman, David Hoffman, Liz Kumabe, Teri Leicher, Jerry Norris, Mike Stanton, James Yamamoto, Adam Pack, Jim Coon, Cheryl Sterling, Reg White, Becky Hommon, Naomi McIntosh, David Nichols, Kelly Finn

##### *Alternate Council Members Present:*

Trisha Kehau Watson (for Pohai Kirkland), Terry O`Halloran, Marc Lammers, John Barylsky (for Jeff Pollack), Andy Collins (for `Aulani Wilhelm)

##### *Excused:*

Cindy Barger, Gene Brighthouse, Jeff Pollack, `Aulani Wilhelm, Joana Varawa, Kathy Yim, Lindsey Kasperowicz, Jill Komoto, Jennifer Barrett, Liz Corbin, Dale Hazlehurst, Luana Howell, Eric Roberts, Lisa Van Atta, Dean Watase

##### *Others Present:*

HIHWNMS: Joseph Paulin, Paul Wong

#### Distributed Materials:

##### Meeting #56 Information Packet

- Notes Page
- Meeting Agenda
- Action Items Report
- Chair's Report
- Sanctuary Superintendent's Report
- Sanctuary Co-Manager's Report
- Hawai`i County Report
- Honolulu County Report
- Kaua`i County Report
- Maui County Report
- Conservation Committee Report
- Research Committee Report

#### Additional Meeting Materials Distributed: NONE



## Hawaiian Islands Humpback Whale National Marine Sanctuary

### Additional Materials Available to Council:

- [Federal Register: August 12, 2009 (Volume 74, Number 154)] Endangered and Threatened Species; Initiation of a Status Review for the Humpback Whale and Request for Information <http://www.epa.gov/fedrgstr/EPA-SPECIES/2009/August/Day-12/e19336.htm>
- NOAA Office of Protected Resources Links for the Humpback Whale <http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/humpbackwhale.htm>
- Information on the internet meeting technology WebEx [www.webex.com](http://www.webex.com)

### Other Materials Distributed via Email and Available Upon Request:

- Revised HIHWNMS Advisory Council Charter
- Draft Meeting #55 Minutes (for approval)

### Quick Links:

- Proposed draft comment on the NMFS listing status review of the humpback whale included in the Conservation Committee report. [Draft Statement Listing Status](#) pg32
- Draft comment for the President's Ocean Policy Task Force and their Interim Report. [Draft Statement OPTF](#) pg41
- US Coast Guard Update [US Coast Guard](#) pg42
- 2010 SAC Summit Case Study Guidelines [Case Study Guidelines 2010 SAC Summit](#) pg44

### Call to Order:

Council Chair Bill Friedl called the meeting to order at 9:40 am and noted the addition of Joey Lecky and Brenda Asuncion to the MPR team. He reviewed the agenda and focused attention on the status review, Ocean Policy Task Force (OPTF) interim report, Change Solutions Working Group (CSWG), SAC recruitment of youth seat, and SAC Summit 2010 (case study submission). Council Secretary Teri Leicher then took roll.

### Approval of Meeting #55 Minutes:

Minutes from the council's July 14 2009 meeting were previously distributed for comments. Bill Friedl reviewed action items briefly (e.g. CSWG, revised charter, ocean acidification resolution which was forwarded to Dan Basta, decision to go paperless). There were no comments regarding the minutes. Bill Friedl asked for a motion to approve the minutes. Jerry Norris made the motion that was seconded by Teri Leicher. The minutes from meeting #55 were approved unanimously.

**Public Forum:** Bill Friedl called for any public comments. No comments were made.



## Hawaiian Islands Humpback Whale National Marine Sanctuary

### Discussion on Reports and Updates:

**Chair's Report:** Bill Friedl submitted a written report; he noted that the report primarily summarized meetings he had attended. In addition to the written report, he briefly discusses council performance measures.

Lou Herman asks for an example of a target measure. Joe Paulin responds with example: if the research committee prepares a report for the SAC, it counts as one action item, and if the SAC approves, that also counts as another action item.

Bill Friedl acknowledged the ocean acidification resolution and notes that other councils are passing similar resolutions ("ground-swell" among sanctuary councils).

Bill Friedl asked about appropriate discussion of case study to be discussed under new business. Joe Paulin gave a brief summary: a University of Hawaii Masters of Business Administration, Net Impact Volunteer group is working on a marketing plan project to raise awareness about the sanctuary. They are currently focusing on North Shore of O'ahu. Terry O'Halloran and Bill Friedl have provided guidance. A test message about SAC member recruitment was created; note that this council will be one of the first sanctuaries to recruit a youth member. The team will assess whether the message was received, and this will inform further decisions. The project / case study is a potential abstract for the 2010 SAC Summit at Olympic Coast National Marine Sanctuary.

**Sanctuary Superintendent's Report:** Naomi McIntosh noted that she will stand by her submitted written report. She briefly emphasizes the Management Plan Review initiatives that have been taken on recently.

In addition to the report, she commented on the Maui office learning center, announcing that stabilization efforts for the main building have begun, and that those efforts were very necessary; the roof was particularly problematic, so Office of National Marine Sanctuaries Head Quarters Office has offered additional money. She adds that staff members have been displaced and comments on the long-term plan for an integrated campus.

Naomi McIntosh discussed the Lana'i and Moloka'i events that occurred July through November 2009. She highlighted the fact that these efforts gave way to great positive impacts. The Lana'i cruise hosted by Jim Coon was noted as an example of a good opportunity. Jim Coon commented that Patty Miller will conduct further outreach to the community through the turkey giveaway at Thanksgiving. He emphasizes that these interactions are good since Lana'i is the only island completely surrounded by sanctuary waters.

Naomi McIntosh added that she toured the wind farm site on Lana'i with Liz Kumabe; opportunities to address outreach and education needs on Lana'i will be explored with the education committee. She also mentions that on the Hi'ialakai cruise that went to Moloka'i, a community member from Moloka'i toured the ship and a former Moloka'i high school student helped host the visit as a crew member of the Hi'ialakai.



## Hawaiian Islands Humpback Whale National Marine Sanctuary

Naomi McIntosh elaborated on the proposal for wind farms on Lana'i and Moloka'i, which would provide energy to O'ahu. She noted that the Environmental Impact Statement (EIS) proposal has gone out, so they are looking for a contractor for the EIS, and they are trying to do the EIS within 19 months. Note: this would be the largest construction project investigated for Hawai'i. Naomi McIntosh pointed out that concerns regarding the permitting process has been communicated regarding the State's experience in multi-agency EIS processes. The sanctuary's permit reviews will likely be done with NOAA Fisheries. Clarification: Marine Minerals Service is the permitting agency for the cable that would connect to O'ahu, but they don't have permitting authority within the sanctuary.

Jim Coon asked: if they don't have permitting authority, and we don't have permitting authority, who does? Naomi McIntosh referred to NOAA Fisheries would have permitting authority under Section 7 of the Endangered Species Act and also the Army Corp of Engineers.

Terry O'Halloran noted that he went to the pre-proposal meeting for "Inter-Island Wind". He recommended visiting the website and explains that the project has four components. SOEST has already done upfront work, especially on the cable portion. The incidental take permit for birds on Lana'i is already in place. HEPA oversees the EIS for the programming portion. Marine Minerals Service will have the federal authority. He explains that the timetable is short because federal stimulus money will pay for the contractor, but it expires in April 2012.

Trisha Kehau Watson asked (1) Clarification about Marine Mineral Service's permitting authority for the undersea cable. (2) Will there be a review committee as there was for the rail project?

No indication of a committee being formed. Trisha Kehau Watson commented that it would be a good place for a SAC member to participate.

Liz Kumabe questions Naomi McIntosh: there was a SeaGrant symposium for wind farm information earlier this month; did anyone from the sanctuary attend? Naomi McIntosh responded that she didn't hear anything about it.

Jim Coon noted that in the first week of December, Marine Coastal Zone Advocacy Council will hold a meeting in Lana'i and they're addressing the wind farm as a key issue.

Adam Pack asks Naomi McIntosh about the sanctuary budget. Naomi McIntosh respond that we are on a continuing resolution, operating at 95% of last year's budget. There's already a \$150,000 deficit (e.g. salaries, facilities, no travel money, no program money). Funds to support the current SAC meeting had to be requested from Dan Basta. She further pointed out funds have been requested to support the management plan review process, research and mentions concerns about the stability of the state sanctuary staff positions. Adam Pack got more specific, wondering about the current whale season. Naomi McIntosh mentioned that there is a need to replace inflatables for response and rescue efforts in addition to needing to upkeep and maintain equipment funding at this point would need to be an addition to base.



## Hawaiian Islands Humpback Whale National Marine Sanctuary

**Sanctuary Co-Manager's Report:** David Nichols commented that he has nothing to add to the written report that he submitted. He noted that the comments are dominated by information regarding issues such as monk seals. Becky Hommon asked David Nichols to provide a brief summary.

David Nichols started off with a goodbye note to Jeff Waters. He proceeded to note that there's a lot of monk seal information followed by summaries of cetacean strandings on Kaua'i. He discusses the inflatable situation; those on Big Island and O'ahu especially need replacement, but it's not likely to happen in time for this season because it would be about \$5000 for each repair.

Adam Pack asked if state permits will still be handled by David Nichols, and David confirmed that it would.

Adam Pack asked about KP2. Trisha Kehau Watson responded: KP2 was removed from the harbor; she summarizes the protests. She stated that KP2's cataracts are speculated to be a result of nutrient deficiency in its youth. KP2 will be flown to California for eye surgery and rehabilitation. On Wednesday, by community resolution, there will be a private blessing before KP2's departure.

Naomi McIntosh added some observations. When she was on Moloka'i, Karen Holt was the community member accepted an invitation to come onboard the Hi'ialakai education cruise. There were subsequent discussions at Kaunakakai Harbor with her and other people that interacted with KP2 (Peter and Sarah), e.g. Peter claimed that he mitigated a fisherman's aggression towards KP2 and he and his wife were the first to notice KP2 in the harbor. Naomi McIntosh summarized that KP2 has a unique story: in that KP2 would likely not have survived as a pup without human intervention and now he is raising awareness about his species that is also unique. It would be helpful if those people that interacted with KP2 could document their story with KP2, e.g. video, storybook...this could potentially be a part of a healing process on Moloka'i because it would be an opportunity for people to share their stories and experiences with KP2. NOAA would also be able to share their stories with the goal of recognizing the common bond that both NOAA and the community had with KP2. Naomi McIntosh emphasized the need to maintain an open door to interact with this community in the future, especially regarding the management plan review process.

Trisha Kehau Watson noted that family members were very upset when KP2 was suddenly not there. There is a young boy who is flying to O'ahu for the blessing; he is a part of a group of six individuals. She emphasizes that relationships need to be maintained, especially when children are involved. Naomi McIntosh noted that maintaining communication is important.

Teri Leicher commented that she had a similar experience with Curious George; "monk seals need to be a part of the sanctuary". Trish Kehau Watson raised a question: is it reasonable to constantly ship seals away if we want their population to grow? She emphasizes that interactions with seas will continue to happen in the future.



## Hawaiian Islands Humpback Whale National Marine Sanctuary

Bill Friedl commented that this represents the larger issue of the sanctuary's role as a conduit for the community to interact with the environment and the areas that the sanctuary protects. He notes that there is an opportunity for gaps to be filled.

Adam Pack noted that the SAC only has a Maui County representative, so perhaps it's time to have island representatives instead of county members. Mitigation for events such as this could happen immediately.

Naomi McIntosh commented that these situations are difficult, and that NOAA Fisheries shouldn't be criticized for their efforts.

Joe Paulin commented that he was invited to present on his experiences with human-wildlife conflict resolution at a NMFS workshop on resolving unwanted human-monk seal interactions. Other mainland experts invited to speak gave examples of experiences with human interactions with wolves and sea lions. In summation, the meeting explored possible ways to address situations where monk seals are in close proximity to people before unwanted situations arise.

Trisha emphasized that being a SAC member was a key to her interactions in the situation because she was a tie to NOAA, and that allowed her to offer some perspective because the community doesn't always want realistic things.

**Hawai'i County Report:** Nan Howell was not present

**Honolulu County Report:** No further comments from Bill Friedl

**Kaua'i County Report:** James Yamamoto discussed the killing of a monk seal on Kaua'i and noted that two sides exist: "Local vs. monk-seal-protectors". The latter group is pursuing a course of action regarding the verdict that was made. He noted that he's a pup-sitter, so he doesn't know much about the other side (e.g. he hears people say that the seals are eating the fish, etc). The course of action may involve going to the state legislature to support the passing of a law making it a felony.

Trisha Kehau Watson and James Yamamoto noted that currently, it is just a misdemeanor, but it can be amended to a felony. Hunters currently support the effort and will help lobby to make it a Class C Felony, in which firearms are taken away. Bill Friedl asked who would sponsor the legislation. Trisha Kehau Watson had been talking with Patty Sullivan. Resolutions have been "floating around" on Kaua'i. She noted that she's willing to help move things along.

Note: Florida has just made it a Class C Felony for manatees.

Bill Friedl asked for updates from Trisha Kehau Watson regarding legislative actions; this could be a potential action item.



## **Hawaiian Islands Humpback Whale National Marine Sanctuary**

Jim Coon asked John Barylsky to discuss NOAA's role in this, John discusses the process that leads to a judge's decision.

Trish Kehau Watson noted that currently, federal and state laws make it a misdemeanor. If the state law were to be elevated, there could be options to follow that route. It would probably need House and Senate movements.

### **Maui County Report: Cheryl Sterling**

Cheryl Sterling stood by her report and talked briefly about a monk seal pup in Hana. She called attention to the Oceanlinx wave energy project which is proposed to be on the north shore of Maui.

### **Education Committee: Liz Kumabe**

Liz Kumabe didn't submit a report. She addressed the youth SAC seat issue: one youth representative for only one year, may be "overrated"; she emphasized that mentoring will need to play a big role and comments that we just need more time to evaluate the situation and make a good first impression.

Joe Paulin noted that as a part of the charter resolution that the council passed last July, the youth seat was written in as a 2-year term, the same as any other council seat, but non-voting. There would be a primary member and an alternate member. Monitor National Marine Sanctuary has a youth working group, and they are looking to recruit a youth advisory council member. Joe Paulin is currently sharing information with their coordinator about ideas for the recruitment process.

Liz Kumabe noted that if the requirement is for a 14-17 year old, we may be limited to a 15-year old. Joe Paulin stated that the sanctuary superintendent has the discretion for addressing age if the youth member turns 18 while on the council. Liz Kumabe commented that she would like to proceed slowly so the SAC can advise the process of bringing a youth member into the current group.

### **Hawaii County Report: Conference call with Nan Howell**

Nan Howell called in and discussed the GEMS experiences, notes that it was very positive. She mentions the WESPAC meeting in July. She noted that there is a bottlenose dolphin with a hook from its jaw to its eye. Five days were spent trying to catch the dolphin in deep water; Justin Viezbicke had been watching it since then. In general, the dolphin has been habituated.

Nan Howell also noted that Linda Prescott oversees the new program - Eyes on the Reef; there is a focus on invasive algae.

### **Blue Seas, Green Communities – no report submitted**

Joe Paulin noted that the council initiative to go paperless may count as a national performance measure. Cheryl Sterling requested that material be sent out earlier for time to review. Joe Paulin noted that the meeting was on short notice because funding came through unexpectedly. Ideally we would like to have all materials go out to the SAC at least two weeks prior to the meeting to



## **Hawaiian Islands Humpback Whale National Marine Sanctuary**

give more time for review. He also pointed out that the quick-links on the electronic packet can connect to the internet.

### **Conservation Committee – Lou Herman**

Lou Herman pointed out that the conservation committee members drafted a statement regarding the NMFS status review of the humpback whale for the SAC consideration to be discussed under new business. Note: last meeting had down-listing (under IUCN) discussion. Now the NOAA “5-year” review is underway. We are in good position to provide input.

Joe Paulin pointed out that he is asking other sanctuary councils if they are commenting on this issue as a group, although some individuals may comment on their own, no other councils were scheduled to provide comment. Becky Hommon asked if there is an Alaska Sanctuary. Lou Herman noted that Channel Islands, Monterey, and Stellwagen Bank National Marine Sanctuaries may have involvement in this issue. Naomi McIntosh commented that she will advise other sanctuary managers of the action / statement that the SAC decides on.

### **Research Committee – Adam Pack**

Adam highlighted David Mattila’s involvement in drafting the letter for SAC consideration, and commended the smooth process of working amongst research committee members in the revision and discussion process. He noted that the biennial conference on marine mammal biology in Quebec was attended by several research and conservation committee members, and the report highlights presentations that were made on humpback whales (> 60 publications). Hawai’i was well-represented.

Adam Pack commented that he and Marc Lammers talked with Dave Johnston, Amy Reed, Lars Bajder, who are planning research on spinner dolphins in Kealakekua Bay and other bays. There has been talks of mitigating interactions in that bay between spinners and swimmers. They are assessing the dolphin community’s behavior further. Adam Pack asked them for a presentation (perhaps a conference call) to the SAC when they are ready. He highlighted the option of other groups being involved (e.g. University of Hawai’i).

### **Aquaculture Working Group – Mike Stanton**

Mike Stanton noted that Kona Blue has received 50% of their funding for their Sea of Cortez site. The Kona site will be used primarily for research and evaluation and the Mexico site will be the primary site for production. Their original business model underestimated the transportation cost between Hawaii and mainland / Japan, so their business model has been amended.

Mike Stanton noted that there is a distinction between compatibility and suitability, and under that perspective, aquaculture may not always be suitable in the sanctuary. He offered thoughts: technology will advance such that cages will be massive, 2-3,000 feet, controlled by satellite and solar power. Kona Blue is only the beginning. He offered the following questions: What impacts will this have if boundaries are expanded? What about thoughts from the Native Hawaiian



## Hawaiian Islands Humpback Whale National Marine Sanctuary

community, since products would likely be exported rather than supporting the local community? Environmental impact assessments would need to be at the front of our thoughts.

Currently, the Sanctuary has had preliminary discussions to work with partners to collaborate on co-hosting an aquaculture workshop. Mike Stanton believed a representative on O'ahu would be useful as a liaison to monitor activities on Oahu.

Becky Hommon commented that Randy Cates' operation is outside her [Navy] training area, and he intends to expand.

Jim Coon asked about the proposal on Lana'i. Mike Stanton responded that he hasn't heard anything back yet. Bob Bruck commented that you can see their opakapaka at the Maui Ocean Center. Jim Coon noted that in a Lana'i meeting, discussions were heated because opposition exists in the community. Mike Stanton concluded: the aquaculture industry will grow, so the questions now are - How will the issue be addressed? How will it interact with the community?"

### **Change Solutions Working Group: Terry O'Halloran**

Terry O'Halloran noted that there have been three meetings thus far, in addition to internal meetings with Joe Paulin and Malia Chow. They have tried to find ways for SAC to meet with reduced expenses. WebEx was suggested and it was trialed with the working group; there will be a demonstration later today if time permits. It would allow for consistent communication amongst SAC members and the public, and it can operate in the face of a small budget. The working group recommends its utility and it will be discussed further in new business.

The charge of the working group is to maintain sanctuary engagement with constituents during the management plan review process. In questioning how this can be accomplished, a workshop is recommended for early 2010. To broaden the sanctuary's constituency, community members who may not have been previously involved with the sanctuary, could be invited to a facilitated 2-3 day workshop focusing on better engaging communities in the MPR process. Planning would be taken on by the working group. The following questions could be addressed: How do we understand local issues and how they overlap with sanctuary goals? How can the Sanctuary offer services.

Terry O'Halloran noted that it is important for SAC to be engaged, so workshop is up for approval by SAC. Workshop recommendations should be discussed before a full SAC meeting.

**Break:** Bill Friedl called for a break at 11:30 a.m.

**Call to Order:** Bill Friedl reconvened the meeting at 11:45 a.m.

### **Presentation – David Mattila: SPLASH UPDATE**

David Mattila noted that the sanctuary co-hosted the Structure of Populations, Levels of Abundance, and Status of Humpback Whales (SPLASH) symposium at the Marine Mammal Biennial Conference in Montrea, Canada 2009. Approximatey 125 of 400 study participants attended. He mentiond that this presentation will not discuss stable isotope work. SPLASH is



## Hawaiian Islands Humpback Whale National Marine Sanctuary

known as a great success; David also presented at a biennial conference, and it's fair to say that the sanctuary played a key role in the success of the project. Today's talk is geared towards providing information and perspective for the NMFS status review of the humpback whale.

- Adam Pack asks when the largest growth rate (10%) was observed in Australia – David Mattila responds that it's still maintained.
- Andy Collins asks David Mattila to clarify the locale of missing breeding ground. David Mattila responded that realistically, it could be anywhere, but it's likely between Hawaii and Japan since there is a large open space. That being said, that particular location could also be an extension of Hawaii's breeding area.
  
- Michael Stanton: cool, it's mostly a North-South movement, not really East-West. David Mattila: in fact, there is some movement between Japan and Hawaii, South America area and Hawaii
- Lou Herman asked for further comment regarding mitochondrial DNA. David Mattila noted that it's interesting to see gene flow from Central America, but it stops at Baja.
- David Mattila emphasizes that offshore islands are interesting because they are different than coasts.
- Genetics / toxins can offer information in conjunction
- Marc Lammers asked for clarification regarding the value of identifying sex. David Mattila: this would offer finer-scale information.
- Terry O'Halloran marvels at the male:female ratio in SPLASH samples. Lou Herman noted that there's a range in timing of pregnancy for females. David Mattila also offered the question: What if males spend more time in Hawai'i? This would result in getting more male samples.
- Paul Wong asks if sampling methodology can bias one sex over the other. David Mattila responds yes, yes; for example, when competitive groups are followed, there are disproportionately more males than females.
- David Mattila pointed out: how does the status review deal with distinct population segments? Some are in fact still endangered (e.g. Okinawa / Philippines – Russia group).
- There are management precedents for endangered distinct population segments which exist within and mix with larger populations.
- SPLASH has supported international visibility for the sanctuary. E.g. first International Conference on Marine Mammal Protected Areas (ICMMPA) on the island of Maui in the spring of 2009.
- Regarding research this year
  - o Zero budget
  - o Energy has gone to ICMMPA
  - o Energy has also gone towards the International Whaling Commission (IWC) conference that will occur, mid-April 2010 in Maui, HI. Since it's a formal meeting, it is invitation only, and attendees will produce a document at the meeting's completion.
- Adam Pack asked for brief counsel on historical versus current population of humpback whales in the Northwestern Hawaiian Islands (NWHI).
  - o Dave Johnston got 2 fluke photographs on a cruise and they matched the SPLASH catalogue.



## Hawaiian Islands Humpback Whale National Marine Sanctuary

- David Mattila deferred to Lou Herman. Lou Herman stated that in 1977 – 78, ship surveys and US Coast Guard aircraft never saw whales in the NWHI. The Naval base on Midway Atoll never detected them. Fishermen never saw them. Lou Herman commented that perhaps historically, they didn't utilize those areas. David Mattila commented that currently, data suggest an expansion of their activity range.
  
- Marc Lammers: acoustic recorders in the NWHI pick up song at all locations, and some locations are more prominent in their detections, perhaps even comparable to the rate of detection at main Hawaiian Islands (MHI) recorders. Acoustic data suggest that their presence coincides with activities of whale season in MHI (in terms of temporal scale). There is a current investigation of song pattern to identify the breeding ground from which those individuals are associated...is there separation from MHI song pattern?
- David Mattila noted that there was song structure flow from west to east in the South Pacific, with a one-year lag between locations.

**Break:** Bill Friedl called for a lunch break at 12:15 p.m.

**Call to Order:** Bill Friedl reconvened the meeting at 1:00 p.m.

### **NEW BUSINESS:**

**National Marine Fisheries Service Status Review of Humpback Whales under the Endangered Species Act:** Bill Friedl opened the discussion on the draft comment written by members of the Research and Conservation Committees. Lou Herman set precedence of implications for the sanctuary: e.g. will there be people questioning the necessity of the sanctuary? If de-listing occurs at some point in the future, will there be questions about whaling? David Mattila made a comment about Japan previously making a motion to continue whaling in the Antarctic; he noted that they may be pulling out and this would increase interest in the Pacific.

Lou Herman asked Naomi McIntosh about funding. Naomi McIntosh responded that the sanctuary's position would be that there is need for management through the sanctuary, regardless of status. In fact, if the population increases, there is more potential for interactions, so management is especially important.

Kelly Finn noted that we should concentrate on the need for a Distinct Population Segment (DPS) to be established. This offers a valid reason to ask for more time for the status review.



## Hawaiian Islands Humpback Whale National Marine Sanctuary

Lou Herman emphasized that the draft statement avoided political overtones. He clarified that three criteria can be invoked for delisting: considered extinct, recovered, or interpretations were in error. The only valid criterion for this current review is that they (humpback whales) are recovered. Determinations shall be based on the best available evidence. Two giant projects are still in analysis: Yonah in the North Atlantic and SPLASH in the North Pacific. Although photo identification is complete for both projects, genetic analyses are only partially completed; this would offer information about population separation / discreteness. Our current understanding is that there are two populations which are small and far from recovery: Western Pacific and Central America. Lou Herman noted that the statement recommends that analysis should be completed in order to determine the status of the population.

Another issue is the question of current numbers versus original abundance. Original numbers could be estimated based on harvest records. That assumes that the whaling data was accurately

reported, which is likely far from reality. A Russian report stated that the number of kills was in actuality 10 x the numbers which were reported to the IWC. Additionally, the Japanese haven't come forward with corrections to their data. When considering the Russian report, re-analysis is possible to estimate the original population. Without re-analysis, the estimate of original population is 15,000 humpbacks in the Pacific, so with the current population estimate of 20,000 the population could be considered recovered.

Mitochondrial DNA information uses diversity as a proxy for pristine abundance. Some estimates in the North Atlantic suggest original populations which are 10x more than estimates based solely on whaling data. Someone is currently working on the North Pacific new estimates, which are supposedly coming out next year. Thus, evaluation for the status review should be deferred until those estimates are available. If after analyses are finished, de-listing is still on the table, assessments should be for discrete populations rather than a holistic group. In summary, the recommendation is to defer the review until analyses are finished to understand the original populations.

Teri Leicher questions: since SPLASH suggested such high degrees of mixing between different regional groups, shouldn't all populations still be protected, rather than protecting discrete populations and leaving some unprotected?

Lou Herman noted that the important question is whether there is mixing between breeding populations. The SPLASH data is more depictive of mixing in feeding grounds.

David Mattila commented that the way genetic distinction is regarded, there is support for discrete groups with minimal mixing. Now we also know that there is strong fidelity to feeding grounds and mixing at breeding grounds. So which combination of genetics and feeding data do we refer to?

Bill Friedl stated that the wording in the draft comment is ideal in that there's an emphasis on the need to wait before management decisions are made. Bill Friedl directs a question to Naomi McIntosh: this is a recommendation, so if the SAC approves it, does it get sent to Naomi McIntosh with the thought of being forwarded to NMFS? Naomi McIntosh confirmed and offered her



## Hawaiian Islands Humpback Whale National Marine Sanctuary

thoughts: when do the science and management concepts interface, and how do they interact? A statement from SAC would help her to address the policy issues on the other end of the science.

Mike Stanton wonders: should there be concern regarding our role in the North Atlantic...Can we make a comment about that population. Lou Herman directed the question to Naomi McIntosh and she responded that we do focus on the North Pacific. Adam Pack clarified that the Federal Register regards everything, so it would be shortsighted to leave out the Atlantic population. Bill Friedl notes that according to Dan Basta, we can say anything regarding anything. David Mattila commented that it's not clear what NMFS is assessing - whether they're regarding the global population or not.

Kelly Finn offers her perspective from her previous affiliation with NMFS. The necessity for the best available information is the key point in arguing for a delay in completing the status review. She recommends not even mentioning de-listing, but rather, sticking to the science and

emphasizing the need to define a DPS. She also recommends that SAC should send the statement directly, but Bill Friedl noted that as an advisory council the SAC can provide recommendations to sanctuary management and request that it be forwarded to the appropriate person or agency.

Lou Herman commented that the statement refers heavily to the Federal Register for de-listing, which means that the concept (of de-listing) can't really be avoided. Reg White recommended taking the first sentence of the last paragraph and making it the last sentence, as well as the first sentence of the whole statement, without "in summary".

Becky Hommon noted that since we're not certain of the information, then two of the criteria can't be upheld sufficiently. Thus, it's not appropriate to make decisions on both grounds. Lou Herman noted that there is a good point regarding the unknown numbers of the pristine population.

Marc Lammers asked David Mattila if there's any discussion about the rate of increase of the population. E.g., if the population was considered recovered, would the recovery rate plateau? David Mattila responded that he is not sure if that would be used as an argument. Terry

Terry O'Halloran commented that yes, the statement mentions the recovery rate still being sufficiently high to suggest continual growth. Lou Herman confirmed and pointed out the section in the statement that notes growth rate.

Jim Coon notes the change in herring availability; he's witnessed a decrease in the food stock and he thought that this would limit the recovery. He suspects that the original population was indeed larger than 15,000. Lou Herman noted that krill is also a main food species in the feeding grounds.

Bill Friedl asked for a motion to support the statement. Jim Coon made a motion, Bob Bruck seconded that motion. The following discussion addresses changes and revisions.

- Becky Hommon clarified that there are two reasons for asking for a delay in status review process. (1) The original population estimate is too low and (2) the agency won't have the



## Hawaiian Islands Humpback Whale National Marine Sanctuary

best available data without the completion of the two studies. Lou Herman confirmed Becky Hommon's statement. Kelly Finn agrees that arguing for a DPS is the way to go (e.g. are we considering global species or discrete groups).

- Dave Hoffman: we need to think about the ramifications of down-listing or del-listing in terms of regulations. Naomi McIntosh addressed the implications and noted that the approach rules are currently under the ESA and National Marine Sanctuaries Act (NMSA) (in the sanctuary). So its possible that whales could lose some protection in areas outside the sanctuary i.e. approach rule and other Section 7 consultation under the ESA. Although downlisting wouldn't change anything, the perception of being 'endangered' is worth a lot. It's hard enough as it is to communicate the concept of protected areas and at-risk species.
  - David Mattila noted that there is also the idealistic desire to protect species regardless of recovery status.
- 
- Becky Hommon commented on a comparison to green turtles, which are threatened. They have been downlisted, but they're still covered under ESA and considered in Section 7 consultations. Does the state have ability to regulate approach. Naomi McIntosh pointed out that there is a 3-mile issue for thrillcraft; this State rule was only authorized for humpbacks.
  - Bill Friedl asked for a vote and the motion passes unanimously. Becky notes that the Navy doesn't have a voting seat on the council. Lou Herman questions whether there's a need to review the revisions that have been discussed. Bill Friedl said no because it's the same idea.

### **Ocean Policy Task Force Interim Report:**

Adam Pack/ Joe Paulin / Trisha Kehau Watson / Bill Friedl contributed to this draft statement. Bill Friedl asked Joe Paulin to summarize. Joe Paulin noted that the statement reiterates the comments that people submitted to the Ocean Policy Task Force (OPTF) at the pubic listening session in Honolulu in September 2009. The document lists items that should be considered in future policy decisions. Bill Friedl clarified that this statement would go through the superintendent to the Ocean Policy Task Force. Joe Paulin also clarified that the OPTF is moving to the second phase of developing policies, so this document offers insight for that process. Adam Pack emphasized that this document points out that the Hawaiian Islands have unique physical and cultural aspects, and this needs to be considered – in general, an overarching blanket policy is not appropriate.

Terry O'Halloran noted that he is involved with marine spatial planning and in a Hawaii meeting, he heard that as the marine spatial planning framework is developed, they want to ensure communication between state and federal waters. Contrastingly, the OPTF is a federal policy, so they aren't really considering the integration of state planning.



## Hawaiian Islands Humpback Whale National Marine Sanctuary

Teri Leicher questioned whether adding a #9 item could address this concept of integrating federal and state planning. Bill Friedl directs the question to Joe Paulin, who agrees that it would fit and language can be added to incorporate that.

Kelly Finn noted that in general, she is concerned about top-down management and another layer of bureaucracy. The OPTF is basically dominated by CEQ, and all ocean entities would be managed from D.C. She thinks management should be done regionally, and emphasizes that local authorities (e.g. here, the NMSA) should not lose precedence. Bob Bruck wondered: since we fall under the Department of Commerce, what does that mean?

Cheryl Sterling offered editorial comments: issues are listed but there are no mitigation suggestions offered, nor efforts to address the issues. The sanctuary should be depicted as promoting an action.

Bill Friedl attempts to gauge the SAC members' stances. Joe Paulin noted that the comment period ends in mid-December. Becky Hommon adds that time is of the essence, its fine how it is and it captures the main concept. Terry O'Halloran agrees that the time spend editing and reviewing should not be overly extensive; comments can also be submitted by individuals separate from the SAC. Bill Friedl commented that establishing a large entity (OPTF) is the same pattern;

nothing gets done. Reg White notes that we have only given opinions and haven't really offered suggestions on items to be addressed. Kelly Finn questioned whether anyone has read the [OPTF] report.

Reg White commented that they should be forced to answer the issue of the Hawaiian Islands being unique. Naomi McIntosh noted that with regard to marine spatial planning, she's heard that areas identified as important should be overlaid with other areas to see if they're compatible. Kelly Finn briefly discusses a spatial planning presentation that she saw; it was a PowerPoint from Headquarters and there was a lot of emphasis on energy development.

Teri Leicher asked: do we want a #10 item regarding an outside agency?

Andy Collins suggested that the document should just be more specific on a few points (e.g. narrow the list) because in his experience reviewing things, it's often easier to pull out strong items that are well-developed.

Bill Friedl asked for a motion. Bob Bruck noted that we strongly support it (OPTF), and the document gets that message across, but we really just don't have enough time to make big changes. Teri Leicher motioned that the SAC accept the statement with following edits: add #9 for incorporate federal and state relationship. Reg White seconded the motion. Discussion: Adam Pack noted the good comment from Reg White regarding the unique status of the Hawaiian Islands, so this should be added as #10 (first sentence of last paragraph).

Joe Paulin noted that if new things are added, the sentence preempting the list which states that the issues were raised at the listening session should be changed. Terry O'Halloran commented that



## Hawaiian Islands Humpback Whale National Marine Sanctuary

the two new items actually were covered by comments at the meeting, so that change is unnecessary.

Unanimous vote for the motion.

### **Change Solutions Working Group:**

The workshop on the management plan review-related issues is being planned for early 2010. Bill Friedl thinks it would be appropriate for council to endorse the workshop. Terry O'Halloran commented that the working group is developing questions to be addressed at the workshop, as well as defining what the products will be – these things will be flushed out and fed back to the SAC. The sanctuary has the ability to help staff the workshop.

The following discussion is a slight diversion from the workshop issue:

Lou Herman questioned the cost of WebEx and Joe Paulin responded that we aren't allowed to use Skype at the sanctuary office because of security issues, but WebEx has been approved by NOAA. It seems to be approximately \$40 / month. It could be used for timely issues that SAC needs to comment on; the O'Halloran O'ahu conference room would be the venue for public forums. Terry O'Halloran emphasized that the important thing is that WebEx allows for SAC meetings to occur legally – public notice, public comment, and voting capability. Jim Coon asked about subset availability under the same license, e.g. working groups. Terry O'Halloran responded that this

would be really useful for the Change Solutions Working Group, because all islands would be involved.

Bob Bruck voiced concern about proprietary issues for images or information used in presentations. Terry O'Halloran noted that these meetings [SAC] are open to the public, so presenters should consider that issue before they give presentations. Joe Paulin noted that in WebEx, the moderator has control, so no one else can download or modify documents or presentations do unless control is given by the moderator.

Jim Coon voiced concern that this has the potential to eliminate face-to-face meetings, which would be a loss of valuable face time. Terry O'Halloran agreed and noted that it is not the intention of the CSWG to eliminate in-person meetings. Bill Friedl noted that the reality is that there is only support for two face-to-face meetings in the next year. Thus, the meetings would have to be much more focused.

Terry O'Halloran stated that if the sanctuary wanted SAC commentary on an issue, we could do single-issue meetings, which would be more focused. This could be good for new issues such as de-listing; this could also be good for issues which need a vote. Joe Paulin emphasized that the public will be able observe the meeting so that voting can take place.

Bill Friedl asked for a motion regarding MPR-related workshop in January 2010, and endorsement from SAC. Adam Pack motioned and Bob Bruck seconded. Discussion: Adam Pack recommended island representation rather than county representation; this would be an additional bullet. Unanimous vote supporting the motion.



## Hawaiian Islands Humpback Whale National Marine Sanctuary

Bill Friedl asked for a motion regarding WebEx. Adam Pack motioned and Reg White seconded. Discussion: Adam Pack suggested that we write a letter to Dan Basta asking for at least 2 meetings, as long as we can utilize WebEx for everything else.

Liz Kumabe noted that WebEx could also be used for communication between certain committees.

Lou Herman offered a question for the CSWG: what about the mission of considering monk seals as additional species? Terry O'Halloran confirms that those types of issues will be addressed in the workshop.

Unanimous vote for WebEx support.

### **SAC Recruitment:**

Becky Hommon, Dave Hoffman, Teri Leicher, and Bill Friedl volunteered to be on the review committee

### **2010 SAC Summit Case Study:**

Bill Friedl clarified that the SAC case study submission is a process to discuss lessons learned from actions taken. He offers examples from the 2009 SAC Summit at Thunder Bay National Marine Sanctuary, ocean acidification report at Channel Islands, Monterey's trouble getting buy-in from particular factions within the council to move forward in management plan review phase. He thinks it's a good idea to present the University of Hawaii Masters of Business Administration marketing plan project; it's a new approach and a way to utilize marketing through marketers.

Joe Paulin described the project – partnership with UHMBA students (1<sup>st</sup> years, this project became a component in a class, 8 graduate students). They focus on the N. Shore of O'ahu. They've been briefed on the sanctuary programs. They've surveyed residents (we're Office of Management and Budget compliant) to gauge how people hear about the sanctuary and what they know. The test message is about new SAC member recruitment. There will be follow-up assessment of whether or not the message was received. They'll submit report to the sanctuary at the end of the year and they've indicated that they'd be interested in presenting at a future SAC meeting.

Terry O'Halloran added that the students are sharp! He thinks the sanctuary will get a lot out of the partnership. They're also working on developing a template for the sanctuary to market in other communities (e.g. on other islands) – how well do we communicate?

Adam Pack asked: are they surveying in the coasts that are included in the sanctuary? Joe Paulin responded that they are surveying various communities within and adjacent to the sanctuary boundaries. Adam Pack noted that it would be nice to see a control group; Naomi McIntosh commented that the West side may be good control group.

Joe Paulin clarified that it's a short questionnaire, and they distinguish residents from visitors. Interestingly, they've already identified that respondents are concerned about water quality.



## **Hawaiian Islands Humpback Whale National Marine Sanctuary**

Cheryl Sterling questioned what the role of the term "SAC recruitment" is in the project? Joe Paulin clarified that the team has made initial recommendation on how to get message out (e.g. popular bulletin boards, local publications, etc...). Those recommendations will be used for the test message, which is about the upcoming SAC recruitment. The re-survey will be whether or not that message was received. Cheryl Sterling wondered if the response would vary based on the test message. Joe Paulin commented that the initial message will also include the types of issues that the SAC deals with.

Kelly Finn wondered if there is biased sampling: what about people that don't go to the beach? The project should make sure to include everybody. Liz Kumabe noted that results can't be applied to the whole island; Joe Paulin agreed and added that another question gauged the type of ocean use that the respondent participates in.

Bill Friedl questioned the need for a motion regarding the project. Joe Paulin clarified that the motion is needed to support its use as a case study for the 2010 SAC summit. Lou Herman thinks it would be good to have motion on the record, because the sanctuary should acknowledge / commend the students / endorse the project.

Lou Herman motions, Dave Hoffman seconds, unanimous supporting vote.

### **2010 Meeting Schedule:**

Naomi McIntosh discussed a proposal for a meeting in 2010 after the workshop, so there can be post-workshop reporting. Joe Paulin added that it would be good to have the meeting close to the

end of the workshop so that voting can be made on products from workshop...this way, the official public scoping process can be started shortly after. Schedule will be worked out

Adam Pack asked about the public scoping process. Naomi McIntosh is hopeful that it would start after the workshop / SAC meeting, but we need a budget to accomplish it. The process would have to adapt. Becky Hommon asked if Dan Basta has authority to negate the need for MPR. Naomi McIntosh responds that Dan Basta has made it clear that it (MPR) is necessary.

Cheryl Sterling asks about aquaculture workshop. Naomi McIntosh commented that the UH aquaculture coordinator is interested in co-hosting.

Cheryl Sterling asked about SAC recruitment. Joe Paulin responded that the SAC recruitment process has begun and will continue into 2010. This will also include seating a youth member sometime 2010.

**Public Forum:** no comments.

### **Announcements**

Becky Hommon stated the Monk Seal Recovery Team is meeting last week of November, its public (NOV 30, DEC 1). This precedes the Marine Mammal Commission Meeting at the end of that week (DEC 2-4), it's also open to the public. Naomi McIntosh noted that the sanctuary is on the agenda. She will send agendas to everyone through Joe Paulin.



## **Hawaiian Islands Humpback Whale National Marine Sanctuary**

Lou Herman general request: can Joe Paulin confirm pertinent meetings and inform SAC members?

Becky Hommon announced that there's a proposal regarding monk seal critical habitat (and constituent elements of those habitats); this petition is for habitat in the MHI.

Bill Friedl announced that he is not seeking re-appointment to the Honolulu seat.

Naomi McIntosh: note that Athline Clark is moving from DLNR to Army Corps of Engineers.

Naomi McIntosh: this Thursday-Friday is a first meeting of the False Killer Whale Take Reduction Team.

### **Review of Decisions and Action Items**

**Adjournment:** Bill Friedl adjourns the meeting at 3:08 pm.