

**Atlantic Large Whale  
Take Reduction Team Meeting**  
Baltimore, MD; April 25-27, 2005

**Meeting Summary**

**Overview**

The National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration (NOAA) convened a meeting of the Atlantic Large Whale Take Reduction Team (ALWTRT) on April 25-27, 2005. The purposes of the meeting were to:

- Update ALWTRT members on gear research and whale conservation activities and research;
- Discuss the Draft Environmental Impact Statement (DEIS) that provides alternatives for amending the Atlantic Large Whale Take Reduction Plan (ALWTRP) and reach consensus on the proposed alternatives, if possible;
- Update ALWTRT members on the status of the ALWTRP and review process;
- Follow-up on low profile and vertical line issues; and
- Discuss timing and locations for future regional subgroup and ALWTRT meetings.

**Day 1, April 25, 2005**

**1. Welcome and Introductions**

Abby Arnold, RESOLVE facilitator, welcomed participants to the meeting. ALWTRT members, alternates and observers then introduced themselves. (See Attachment A: List of Attendees.) Ms. Arnold reviewed the materials distributed to the team in mailings sent prior to the meeting, explaining that the materials were distributed as they were received from NMFS. (See Attachment B: Table of Contents of Mailings and E-mailed Materials.)

David Gouveia, Marine Mammal Coordinator, NMFS/Northeast Region, thanked participants for attending the meeting during prime fishing season. He also thanked and acknowledged the efforts and commitments of NMFS' Northeast and Southeast Regions and RESOLVE staff in coordinating the meeting.

Prior to reviewing the proposed meeting agenda, Ms. Arnold explained that the agenda was drafted by NMFS staff and with input from a 12-member ALWTRT planning committee. After Ms. Arnold reviewed the proposed agenda it was adopted by the TRT. (See Attachment C: Meeting Agenda.)

Ms. Arnold then reviewed the TRT ground rules, as adopted at the February 2004 meeting. She explained that a paragraph had been added to the February 2004 ground rules clarifying that a member's alternate to the ALWTRT meeting "*shall represent that*

*member and the member's point of view.*" She then reviewed the definition of "consensus" in the context of the ALWTRT meetings. After some discussion, TRT members consented to the revised groundrules for the April 2005 meeting. (See Attachment D: Revised Groundrules.)

[A list of presentation materials and other documents handed out at the meeting are included at Attachment E. These documents and materials are available upon request from NMFS.]

## **2. Follow-Up on Issues from the 2004 ALWTRT Meeting**

### **a. Status of Atlantic Large Whales**

Dr. Richard Pace, III, NMFS, provided an update on the status of Atlantic large whales. He reviewed the Potential Biological Removals (PBR) concept and described the factors used to calculate it. The PBR determines if the number of animals killed or seriously injured by commercial shipping and fisheries poses a risk to marine mammal stocks. Essentially, the PBR is an estimate of the number of animals that could be "removed" from a marine mammal stock without preventing the stock from reaching or maintaining its optimal sustainable population.

Dr. Pace reviewed recent research conducted on the interaction of humpback and right whales with fishing gear. As a group, female humpback whales with evidence of recent scarring produced significantly fewer calves than females with no evidence of scarring. Evidence from scarring studies on both right and humpback whales shows significant interaction between fishing gear and these two species is occurring on an annual basis (between 16-20% of the populations show evidence of new scarring events). More systematic surveys for whales are needed. Though the University of Rhode Island database includes extensive location data on right whales in the principal feeding areas of the Bay of Fundy, Cape Cod Bay, Great South Channel and Roseway Basin, more information is needed on right whales in the Mid-Atlantic. Acoustics research is being conducted in the Carolinas to listen for large whales as they migrate.

In response to an ALWTRT member question, Dr. Pace acknowledged that all sources of anthropogenic mortality, including ship strikes, are included in the PBR, but known deaths from undetermined causes (including animals that are either not retrieved or not thoroughly necropsied) are not included. Currently, activities other than fisheries are known to contribute to mortality.

In response to questions from members about the stock assessment, Dr. Pace clarified that the humpback whale deaths observed in the Mid-Atlantic area are attributed to either the Gulf of Maine Stock or the Northeastern Canadian Stock only when a positive match is made of a dead animal to a previously known animal attributed to one of those stocks. In order to accurately assess the whale stock, researchers will continue to employ photographic identification, genetic identification, cataloging, and photographic recapture methods.

## **b. Review of Status Report Outline**

Diane Borggaard, NMFS, reviewed the Status Report Outline. At the February 2004 TRT meeting, the team requested that a written status report be sent to the TRT prior to its meetings. The status report will update members on research results and assessments of the ALWTRP's progress toward reducing by-catch of large whales, amongst other issues. The status report, for example, would incorporate many of the "progress reports" noted below in Section 2.d. Ms. Borggaard noted that the status report would also include a section on monitoring of the TRP management regime. She recognized that criteria for measuring the success of the ALWTRP are still under discussion.

Ms. Borggaard concluded by listing the TRT members who volunteered in 2004 to be on a subcommittee to discuss the elements of the status report, including the monitoring criteria. She then invited other TRT members to join. TRT members who are interested in working on the Status Report subcommittee should contact Diane Borggaard.

## **c. Status of Finalizing Process for Considering Gear Modifications**

Ms. Borggaard provided an update and sought consensus on the "Process for Considering Gear Modifications under the ALWTRP." Ms. Borggaard reminded TRT members that they had discussed this process at the 2004 meeting. Currently, proposals for gear modification ideas can be forwarded to the ALWTRT or NMFS for input and support at any stage of development, from an idea to a fully developed, tested prototype. This process will help NMFS and the TRT initiate a more formal process to evaluate gear modifications.

In an effort to facilitate evaluation of gear modifications, NMFS proposed that the TRT consider adopting a standard set of questions that can be used to evaluate products brought to the TRT. Evaluations of gear modifications would focus on five categories: product description; feasibility; risk reduction; relationship with current requirements of the ALWTRP; and recommendation of the ALWTRT. Gear modifications would be evaluated by regional ALWTRT subgroups, rather than the Gear Advisory Groups (GAG). Recommendations for new gear modifications would then be drafted by the regional subgroups and presented to the full ALWTRT for possible incorporation into the ALWTRP.

An ALWTRT member suggested that questions about gear modifications should be presented to the potential principal investigators earlier in the process.

The TRT agreed to more explicit language for one of the gear modification questions. On page two of the February 2004 draft, under "Risk Reduction," members proposed the following language: *"(1) Is there any evidence to document previous entanglements that this portion or aspect of the gear to be modified has caused or contributed to entanglements before?"*

The TRT accepted by consensus the proposed process for evaluating gear modifications with the above edit.

#### **d. Review of Progress Report**

At the TRT's request to reduce the number of presentations, the progress report summaries were distributed prior to the meeting. (See Notebook contents for listing of progress reports.) A question and answer period on the material was included on the agenda. Jamison Smith, NMFS, clarified that the data presented in the tables on recent large whale entanglements reflects the available preliminary information for 2005-2006. The numbers and sources of mortality for 2004 are currently being finalized and will be available in 2006. A TRT member noted that the mortality figures include whale mortalities from any source, not just those from entanglements. He also noted that ship strikes usually result in mortality.

NMFS noted that most updates related to the ALWTRP will be included in future status reports, however progress reports may be distributed in the future to keep the ALWTRP updated on pertinent issues.

### **3. Overview of Draft EIS and Status of the Proposed Rule**

David Gouveia provided an overview of the Draft Environmental Impact Statement (DEIS). In 2001, NMFS issued Biological Opinions, stating that the existence of right whales is in jeopardy from Federal multi-species, monkfish, dogfish and lobster fisheries and that additional modifications to the ALWTRP were needed to meet the goals of the Marine Mammal Protection Act and Endangered Species Act. Amendments to the ALWTRP in 2002 included the Dynamic Area Management and Seasonal Area Management Programs, amongst other measures. Due to the continued serious injury and mortality of large whales since the 2002 ALWTRP amendments, NMFS convened the ALWTRT in 2003 to discuss additional changes to the ALWTRP to meet the goals of the ESA and MMPA.

On June 30, 2003, NMFS published a Notice of Intent (NOI) in the *Federal Register* to announce the agency's intent to prepare an EIS, which would analyze the impacts of alternatives for amending the ALWTRP. The NOI announced that NMFS would hold seven public scoping meetings along the east coast to solicit comment on the range of issues to be considered during the preparation of the DEIS. Proposals developed by the ALWTRT in 2003 were used to develop an issues and options document, which was made available to the public during the DEIS scoping process. NMFS then used the public input provided through the scoping process to develop alternatives for amending the ALWTRP.

Mr. Gouveia mentioned that at this time, NMFS believes that addressing the risk associated with floating groundline by requiring the use of sinking and/or neutrally buoyant groundline will reduce interactions between large whales and commercial fishing gear and reduce serious injury and mortality of large whales due to incidental

entanglement in commercial fishing gear. He noted that NMFS will be considering management options to reduce risk associated with vertical lines through a future rulemaking action. NMFS and others are currently researching other ways to reduce risk associated with vertical lines. This research includes investigations into how whales use the water column as well as their foraging ecology and diving behavior. These investigations will help to determine the appropriate mitigation strategies to reduce the entanglement risks of vertical line.

Mr. Gouveia added that NMFS has developed management options to further discuss with the ALWTRT and is investigating effort reductions that are occurring through fishery and protected species management plans. He pointed out that the DEIS states that more data and research is needed to better understand 1) effective methods and technologies for lowering groundline profiles; 2) whether lowering groundlines to depths other than the ocean bottom would reduce the potential for large whale entanglement; 3) what are the appropriate depths and areas for deploying low profile groundlines; 4) prey distribution; and 4) whale distribution and behavior. Mr. Gouveia urged TRT members to provide feedback on the topics he highlighted, which were scheduled for discussion on the last day of the meeting.

#### **a. Overview of DEIS Alternatives**

Following Mr. Gouveia's comments, Ms. Borggaard reviewed the ALWTRP alternatives. She noted that, although NMFS prefers Alternatives 3 and 6, the agency is accepting comments on all of the alternatives; however, only one alternative can be implemented in the final ALWTRP rule.

In response to TRT member's questions, Ms. Borggaard noted:

- Seasons indicated by the proposed alternatives are based on the distribution of all large whales, not just right whales.
- Although groundline requirements are considered exempt in depths greater than 280 fathoms, any proposed vertical line requirements would apply.
- The DEIS does not allow for setting shark driftnets at night or when visibility is less than 500 yards in the Southeast US Restricted Area during the restricted time period.
- NMFS is unable to quantify the expectation for change in right whale take.
- Although there are observer programs for some fisheries, NMFS is not able to use this data – as it would for other TRTs – to quantify expected changes in take rates.

#### **b. Overview of Public Hearing Comments**

Robin Roberts from RESOLVE provided an overview of the comments received during the public hearings. He explained that over 400 people attended the hearings. While most of the participants were fishermen providing testimony on the proposed broad-based gear amendments, there were also significant comments from scientists, students and marine conservationists from several non-governmental organizations.

Key points made during this presentation included:

- Selecting one DEIS alternative overlooks differences in regional fishing realities.
- Limited whale sightings do not warrant more regulation in some areas.
- Because data on whale behavior is insufficient the effectiveness of the proposed gear modifications is questionable.
- Ship strikes, the leading cause of whale mortalities, are the largest problem. Yet, there are no marine mammal conservation regulations for commercial shipping.
- Relative to harm caused by fishermen, they will be unduly burdened with expensive gear modification requirements.
- Better coordination efforts are needed with federal and state mammal and fishery management programs. The federal programs often have conflicting gear modification requirements while state fishery programs are sometimes more stringent than the ALWTRP.

One TRT member emphasized that several people who attended the public hearings, representing the environmental community, stressed that implementation of the current amendment to the ALWTRP, like its predecessors, had been too slow and not sufficiently protective of whales. Mr. Roberts acknowledged that the summary omitted this perspective and agreed to revise it accordingly. He invited others whose points of view were not reflected in the summary to meet with him. NMFS staff reminded the TRT that the RESOLVE summaries distributed at the meeting were not the official administrative record of the hearings; instead, they are a synthesis of comments made at the public hearing intended to update TRT members.

### **c. Status of Proposed Rule and Anticipated Timeline**

Mr. Gouveia provided an overview of the status of the proposed ALWTRP rule and anticipated timelines. Since the DEIS was issued in February 2005, the proposed rule has been forwarded to the Office of Management and Budget for review. During the 80-day public comment period on the DEIS, which ends on May 16, 2005, public hearings (see 3.b. above) were conducted in March and April. There will be a separate comment period on the proposed rule. Comments on the DEIS and proposed rule will be compiled and responded to by NMFS in the final rule. NMFS will consider comments on the DEIS and proposed rule when deciding how to proceed in the Final EIS (FEIS) and final rule.

Thirty days after the FEIS is issued, another public comment period will begin. The agency will compile and consider comments received on the FEIS, and note those comments in the Record of Decision (ROD). After the ROD is published – currently scheduled for the fall of this year – the final rule will be published.

## **Day 2, April 26, 2005**

### **1. Agenda Review**

At the beginning of the second day, TRT members determined that it would be more productive to meet in smaller groups than to continue in a plenary format. Consequently, they decided to form three breakout groups: a Science Group, a Northeast Group and a Southeast/Mid-Atlantic Group. The geographic dividing line between the two regional groups was defined as the southern border of Rhode Island. TRT members deliberated in the breakout groups until about 4:50 p.m., when the plenary session was reconvened. At that time, TRT members agreed to hear from the public as well as several scheduled presenters.

### **2. Public Comment**

No individuals provided public comment at the meeting.

### **3. Reports on Research**

#### **a. Large Whale Research**

Dr. David Wiley, Stellwagen Bank National Marine Sanctuary, reported on new technology that documents and visualizes a whale's diving behavior, including distance from the bottom, movement through the water column, duration on the bottom, and other characteristics that will assist researchers to better understand how or why whales might get entangled in lines on or near the bottom of the ocean floor. An important finding relative to the TRT's deliberations is that humpback whales in the Great South Channel (water depth ~300 ft), routinely dove to and likely foraged along the seabed. More on Dr. Wiley's research can be found by contacting him ([david.wiley@noaa.gov](mailto:david.wiley@noaa.gov)).

#### **b. Research on Right Whale Foraging Ecology**

Richard Merrick, NMFS, presented a summary of ongoing research, being conducted under the Cooperative Research Grants Program, on right whale foraging activity. He also explained the research goals set by NOAA's Northeast Fisheries Science Center, which included: supporting the ALWTRP and ship strike strategy data needs for right whale diving behavior and identifying right whale critical habitat in Northeast feeding grounds. In an effort to reach these objectives, NMFS will endeavor to obtain additional data on right whale behavior by:

- Conducting offshore field studies in Great South Channel and the northern edge of Georges Bank;
- Working cooperatively with other researchers; and
- Hiring a large whale biologist, with a foraging ecology background, as coordinator of the research effort.

Dr. Merrick indicated that he knew of no evidence at this time that right whales forage in the mid-Atlantic. Although aerial survey work has been previously focused in other areas due to reasons such as logistical difficulties, he noted that there is currently a survey effort south to New Jersey and north to North Carolina. Additionally, NOAA's Southeast Fisheries Science Center is attempting to contract for aerial surveys in the remaining area, but has not been able to conclude the procurement to date.

### **c. Whale Research Needs**

Diane Borggaard provided an overview of the whale research needs matrix. The document identifies critical information gaps regarding large whale habitat usage, foraging, migrating and breeding ecology related to the ALWTRP. Ms. Borggaard stressed that the matrix is a working document, focusing on whale research questions and recommendations for research aimed at reducing risk associated with vertical line and groundlines. The research questions and needs outlined in the matrix were taken from the 2003 and 2004 ALWTRT meetings, a 2004 working group meeting organized by NMFS entitled *Improving Right Whale Management and Conservation through Ecological Research*, and a 2004 NMFS/Marine Mammal Commission Gear Workshop, amongst other forums. In addition to the whale research questions that have been discussed or suggested is an implementation schedule including priorities and current status of research. The portion of the matrix specific to vertical lines is included in the *Working Draft of a Strategy to Reduce Large Whale Entanglement Risk Associated with Vertical Lines* that was provided to the team during the Baltimore meeting. Ms. Borggaard mentioned that although many of the research topics focus on right whales, the matrix will be revised in the future to reflect the research needs of humpback whales. TRT members were encouraged to provide comments on the matrix to Ms. Borggaard. The matrix would be available at the NMFS ALWTRP web site in the future to provide guidance for whale research efforts.

Following the presentation, members had an opportunity to ask Ms. Borggaard questions. Key points made in the discussion include:

- NMFS will broaden the matrix to include additional research topics and recommendations pertaining to risk reduction.
- The list of research topics was compiled from various forums, including a recent NMFS/Marine Mammal Commission gear workshop. NMFS took these ideas and prioritized them based on management issues and science need. But it was observed that there is often a lack of scientific information available to large whale managers and that the time needed to obtain that information is often lengthy.

One member questioned whether foraging was the only risky behavior of whales, pointing out that there is no evidence that whales only become entangled while feeding.

**d. Draft Summary of Gear Modifications and Recommendations for Research Aimed at Reducing Entanglement Risks Associated with Vertical Lines and Groundlines**

John Kenney presented an overview of a matrix of gear research needs. This matrix is a draft summary of gear modifications and recommendations for research aimed at reducing entanglement risks associated with vertical lines and groundlines. It is intended to identify and prioritize gear research needs. The gear questions and needs outlined in the matrix were taken from modifications presented/discussed at the ALWTRT meetings, NMFS/Marine Mammal Commission workshop amongst other sources. The matrix includes an implementation schedule and assigns priorities to each of the modification. The portion of the matrix specific to vertical lines is included in the *Working Draft of a Strategy to Reduce Large Whale Entanglement Risk Associated with Vertical Lines* that was provided to the team during the Baltimore meeting. Mr. Kenney stressed that the matrix was a working draft that would change over time as research progresses and as new ideas surface. He indicated that the matrix would be available at the NMFS ALWTRP web site to provide guidance for research efforts.

**e. 2004 Gear Evaluations**

Glenn Salvador presented a video presentation on his evaluation of different groundline sets. During his evaluation, he studied 3/8" and 5/8" poly line, poly line with weight added and neutrally buoyant line to determine their properties in the water. Mr. Salvador's presentation showed differences between sinking and float line and how float line might be altered to take on a reduced profile similar to sinking line.

Several clarifications and comments followed Mr. Salvador's video presentation:

- Tides run differently in Maine and Florida.
- The arcs between trap/pots were consistent with arcs between trap/pots in Maine.
- Although the bottom structure is different the arcs between trap/pots is similar.
- The gangions between the groundline and trap/pots were one fathom, similar to what fishermen would use.
- Groundlines with lead woven in (shown in the video) are not used by fishermen. These groundlines were presented to demonstrate how much weight was needed to bring poly groundlines close to the bottom.
- Time Tension Release cutters can be set for release at any desired time interval.
- The salinity of water at the Panama City test site is lower than in New England. It is possible that the groundlines shown might behave differently in New England.

**f. Gear Research**

Ed Lyman reviewed how mini-loggers, small archival pressure tags made by Star-Oddi, were used to profile fixed-fishing gear. Profiling of heights of groundlines off the bottom were determined by comparing the depths from loggers attached to the midpoint of the groundline to those loggers attached to lobster pots on the bottom. To date, nearly 60 lobster sets, representing over 420 days of logging, have been profiled.

Mr. Lyman also spoke about a joint effort between the Atlantic Offshore Lobstermen's Association, the Massachusetts Division of Marine Fisheries, and NMFS to find optimal lines that lower groundline profile and, at the same time, are practical for industry use. The joint effort evaluated performance characteristics of lines by testing them on a line testing machine that simulated the wear on line that is experienced from contact with an abrasive substrate and being hauled under great strain.

In response to a question about the data on groundline arcs, Mr. Lyman stated that data on how often the groundline arcs were high and how often low (i.e., groundline modes) was not available yet. He also clarified that the device used to test the groundlines used sand to simulate real world wear and tear scenarios.

#### **g. Maine DMR Large Whale Plan, Gear Research and Development Component**

Terry Stockwell reviewed Maine's efforts to develop, test, and implement groundline modifications that will reduce and, eventually, eliminate entanglement risks to large whales. DMR's approach includes documenting properties of existing lobster gear and related habitats; identifying alternate gear and fishing modifications that may result in lower rope profiles; and working with the lobster industry to develop and test operationally viable alternative rope, gear and/or fishing methods.

In response to questions, Mr. Stockwell noted:

- Some of the high float-line arcs were due to an uneven, rocky substrate.
- Though it is not known if whales are feeding anywhere other than sandy/muddy bottoms, Maine intends to lower groundline profiles wherever it can. More information on how/if whales forage on the rocky bottom would be very useful.
- Reducing the distance between trap/pots to six or seven fathoms significantly lowers profiles and also reduces gear conflicts.
- The latest foraging and sighting data was incorporated into Maine's 2005 whale plan. The sighting data does not include any satellite tracks.
- Maine's gear research has been focused in whale feeding areas because that is where entanglements are believed to occur. This, however, is not a consensus opinion.
- The challenge is how to provide the kind of lift that floating groundline provides while also significantly lowering the profile.
- Rope manufacturers have indicated that it would be easy to mark rope by weaving colored tracers into the line. This would simplify identification and enforcement of low profile groundlines.

## **Day 3, April 27, 2005**

### **1. Agenda Review**

Ms. Arnold reviewed and the team adopted the ALWTRT agenda for Day 3. The meeting opened with report outs from the Science, Northeast, and Southeast / Mid-Atlantic groups that were formed on Day 2.

### **2. Report Outs by the Science, Northeast, and Southeast / Mid-Atlantic Groups**

#### **a. Science Group**

Dr. Stormy Mayo, CCS, provided an overview of the Science Group's discussion. He emphasized that the group members were unanimous that a monitoring plan must be developed to assess the effectiveness of the rule before the rule is promulgated. Without a monitoring plan in place, the group cautioned that there would be no way to measure the success of the proposed rule. They acknowledged that developing a monitoring plan would be challenging.

Science Group members believed Alternative 2 provided concepts that would get closer to the PBR level. Positives included:

- using sinking groundlines over wide areas, which is important for bottom feeding whales;
- using gillnet weak links, although much uncertainty about the risk reduction of weak links remains;
- going forward with a gear and line marking regime; and
- leaving SAM and DAM programs in place until sinking groundline is required.

Negative aspects of Alternative 2 primarily included concern about the delay in implementation of sinking groundline.

Although Science Group members understood fishing industry issues, they thought implementation of sinking groundline requirements should occur within six months of the final rule. They pointed out that while new requirements for weak links in buoy lines and the composition of buoy lines (i.e., top 2/3 sinking line; bottom 1/3 floating line) should not be relied upon for a strong conservation effect, such requirements should not be abandoned either.

Dr. Mayo reported Science Group members' belief that the exemption area in Maine does not reflect right whale habitat use and should be treated as a test area where gear marking can be implemented to determine whether it is a problem area.

Science Group members provided several suggestions for NMFS to consider in the future, including: 1) a monitoring plan for the ALWTRP; 2) a gear marking scheme; 3) a vertical line assessment; 4) better use of technology lists; 5) an enforcement plan; and 6) coordination with Canadian fisheries. Science Group members emphasized that the plan

would fail without close coordination with Canada. They also observed that new technology was needed and that current technology could not be relied on to reduce entanglement risks.

Following, Dr. Mayo's summary of the Science Group's discussion, David Laist, Marine Mammal Commission (MMC), noted his disappointment with the DEIS. He noted that the MMC would be filing formal comments then stated that the DEIS did not analyze alternatives to close critical habitats to all hazardous fishing gear as recommended by the Commission on many past occasions. Consequently, he did not believe the DEIS met legal standards under the National Environmental Policy Act that require identification and evaluation of all possible and feasible options. Mr. Laist believed that the DEIS preferred alternatives rely too heavily on measures – e.g., weak links, limited/time area closures – which were unproven. Further, the measures that have shown some effectiveness – e.g., deadlines for replacing poly groundline with either sinking line or neutrally buoyant line – will not be implemented soon enough.

Mr. Laist added that, first, the DEIS should thoroughly discuss the available information on the frequency of whale entanglements in vertical lines equipped with weak links. Second, the DEIS should include a review of the feasibility of seasonally closing right whale critical habitats to all trap/pot fisheries and gillnets with vertical lines until proven gear modifications are available. Finally, the DEIS should consider an option for requiring all trap/pot fisheries along the East Coast to use sinking or neutrally buoyant groundline within one year of adopting the new ALWTRP rule.

Following Mr. Laist's remarks, the facilitator acknowledged that there were several TRT members who wanted to offer their individual comments on the DEIS and respond to Mr. Laist's remarks; however, in the interest of time, the facilitator did not open the floor to further comment. Instead, she encouraged members to provide their comments on the DEIS in writing before the DEIS comment period expires on May 16.

#### **b. Northeast Group<sup>1</sup>**

The Northeast Group discussed the pros and cons of Alternatives 2 and 5, from conservation and fishing perspectives. At first, this group included representatives of the fishing and conservation community. The offshore lobster pot fishery was not represented, due to a member illness. Part way through the conversation these parties were joined by NMFS staff and, later, representatives from the scientific community.

Generally, if asked to choose one alternative, conservationist representatives preferred Alternative 2. A few of the reasons noted were that Alternative 2: provides a date certain for prohibiting floating groundline, provides risk reduction outside critical habitats,

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<sup>1</sup> In discussion after each of the breakout group meeting, gillnet fishers from the Northeast noted interest in a proposal discussed by the Southeast/Mid-Atlantic Group concerning an alternative configuration for the installation of five weak links per 50-fathom net panel (i.e., one weak link on the bridle between panels, one in the middle of a panel and one per up and down line on each end of the net panel); however, this concept was not discussed by the Northeast Group as a whole.

requires surface buoys to be marked, maintains SAMs and DAMs until 2008, has surface marking requirements and requires breakaways that should offer some protection.

Northeast trap/pot and gillnet representatives preferred Alternative 5 in addition to a regional approach to fishery management that acknowledges uniqueness of regional characteristics. For trap/pot fishermen, Alternative 5 protects critical areas with strategies (e.g., SAMs with allowance for a second buoy line and floating line on the bottom of the buoy line) that industry can implement while also minimizing the regulatory burden outside these areas, especially on rocky bottoms where sinking line is operationally unfeasible and unsafe. The operational problems associated with using sinking line on the rocky bottom were cited as a reason for a low profile groundline option. They added that the 2008 timeframe for implementing the requirements was too constrained.

Trap/pot and gillnet representatives also commented on some of the problems associated with DAMs. For example, they explained that if a closure is announced fishermen cannot remove their gear from the closing area within 48 hours, and any gear that is moved out creates a wall on the edge of the DAM. For this and other reasons, the fishermen believed DAMs should be eliminated. They also noted that prohibiting single traps in federal waters may cause a problem with scup and black sea bass fisheries.

Gillnetters did not recommend Alternative 5 because they believed the requirement of installing five weak links per net panel by 2006 was unrealistic and too expensive to achieve. While explaining that the five-weak-links-per-net-panel rigging would be operationally infeasible in some areas, they pointed out that no research on such a rigging had been conducted to test if it could withstand the strain of fishing at depths greater than 100 fathoms.

The Northeast Group members did not reach consensus, however they did have a thorough discussion of options intended to address what each thought were strengths and weaknesses of Alternatives 2 and 5. All felt constrained by the restriction of choosing only one Alternative. The parties explored the following concepts, though the group did not try to, and did not, reach consensus:

#### Trap/Pots and Gillnets

- Identify whether it is possible to increase use of sinking or neutrally buoyant line in more areas sooner.
- Consider increasing special management areas (e.g., create new SAMs where there are repeated whale sightings; new DAMs if there is sufficient data to establish a need; and Year-round Management Areas – including Jeffrey’s Ledge – outside SAM and DAM areas to protect humpback and right whales but do not establish specific SAM and DAM programs for humpback whales.)
- The concern with the above kind of measures is that they may trigger NMFS to conduct additional analysis, which might cause delay in implementation.
- More data is needed before NMFS can know when/what triggers a management action.

- There should be discussion of fewer, or different, vertical line marking requirements until new/better technology becomes available (e.g., consider one or two marks/50 fathoms of vertical line until future options such as inserting vet chips into vertical lines become available.)
- For all fisheries and management measures, an excellent monitoring program should be established to determine the effectiveness of weak links, potential low profile groundline areas, and other technologies and practices.

#### Trap/Pots only

- Modify Maine's exemption line based on sighting data by fathom depth.
- Create an area in 50 fathom-deep waters off the Maine coast north of Saco where an experimental fishery is allowed to use low-profile line.
- If this fishery designation is considered, there would need to be some kind of rulemaking to address what happens if mortality or serious injury results from the use of experimental gear.
- A better definition of "low-profile" is needed.

#### Gillnets only

- Requirement to institute five weak links in six months after plan implementation is too short. This date needs to be extended to ensure adequate time to re-rig gear (2008-2009).
- Testing of the five weak link/50 fathom panel net set is needed in waters deeper than 100 fathoms.
- Modify breakaway requirement and expand the use of breakaways in critical habitat and other designated areas within six months of implementation in high risk areas such as Stellwagen Bank, Jeffrey's Ledge, year-round SAM areas.
- Acknowledge need to invest in developing new ropes such as a 1,100 lb. breakaway rope.

### **c. Mid/South Group**

The Mid/South Group met in two stages. First, fishermen and their representatives discussed which Alternative they preferred. After considerable discussion, they chose Alternative 3, provided that several modifications were made.

Second, the fishermen met with federal and state agency officials, scientists and environmental organization representatives to present and discuss the rationale for their support of Alternative 3 (with modifications). It was during this meeting that the participants reached agreement on several modifications to Alternative 3.

Mid/South Group participants *agreed by consensus* that any alternative should be phased in more slowly to 1) allow for more whale and gear research and to 2) allow fishermen to retire their existing line before having to purchase new line. Fishermen wanted the phase in period extended to 2009; other stakeholders believed the phase-in should occur sooner.

Mid/South Group participants *agreed by consensus* on four issues related to gillnet groundlines, trap/pot groundlines, weak links and exceptions for nearshore North Carolina fisheries:

#### Gillnet Groundlines

- The sinking line requirement is acceptable provided there is an option to instead use lead core weave in floating line that will cause it to perform similar to sinking line.

#### Trap/Pot Groundlines

- NMFS should find low-cost alternatives that are sufficiently risk averse. Such alternatives should include:
  - Allowing use of lead core weave (which could achieve close-to-sinking-line performance;
  - Prescribing a maximum distance for poly line used between trap/pots; and
  - Allowing fishermen to choose from the neutrally buoyant/sinking line developed by manufacturers.

(Note: participants were not able to agree on the meaning of the term “sufficiently risk averse.”)

#### Weak Links

- The definition of a weak link should be expanded to include knots, weak links or rope of appropriate breaking strength (e.g., float line with break strength < 600 lbs.). Members also believed that an alternative configuration for installing weak links in net panels set should be allowed:
  - One weak link in the middle of a 300’ net panel and one between connecting panels;
  - One weak link at the end of the float line prior to the anchor system; and
  - Twine used for breast lines.

#### Exception

- For North Carolina (between the VA/NC and SC/GA border):
  - Eliminate the 22 lb. Danforth anchor requirement to allow a safe anchoring system by using locally prevailing practices within 300 yards of the beach.

The rationale for this exception was that the North Carolina fishery includes a small inshore gillnet fishery (uses < five-inch mesh nets and 300-yard sets) that operates just beyond the surf at night within 300 yards of the beach.

The prevailing practice is to use an inshore deadweight and an eight lb. Danforth anchor on the outside end of the net. A suggestion was made to use the existing practice with a 600 lb. weak link in the net panel.

All participants in the Mid/South Group *agreed in concept* to the following issues related to gear marking requirements for gillnets, trap/pots and research needs.

#### Gillnets

- NMFS should make gillnet marking regulations consistent with other protected species plans and federal fishery management plans (FMPs) for oceanic waters.

#### Trap/Pots

- Participants agreed with the proposed surface buoy marking system if it is consistent with other protected species plans and federal FMPs for oceanic waters.

#### Research

- More research is needed on vertical line marking systems that yields better, more specific information about location of entanglement. This task should be designated to the Gear Marking Group.

In subsequent discussions, representatives of fishing interests in Florida and New Jersey proposed the following exceptions for their state fisheries. These exceptions were not agreed to by all Mid/South Group participants.

#### Florida

- Change fishing season from December 1 – April 1 to December 1 – March 1 for coastal strike net fishery and coastal shark fishery. The rationale for this proposed change to the fishing season is that Florida shark gillnet fishermen already have 100% federal observer coverage and currently comply with mandatory Vessel Monitoring System requirements.

#### New Jersey

- A fishermen representative asserted that in the last four years, New Jersey fishermen have made 72 trips without causing an entanglement. The New Jersey fishery is also a small inshore fleet with small sets and a short season. Further, the nets that often get snagged in sea grasses could snap the currently proposed weak links. For these and other reasons, the New Jersey fishery representative proposed that there should be:
  - No weak links for tended, actively fished drift nets regardless of the time of day; and
  - No weak link requirements for tended actively fished gillnets (strike nets) that do not have anchors and return to port with the vessel.

Following the presentations by the Science, Northeast and Mid/South Groups, the ALWTRT turned to identify and discuss issues that need to be addressed at the Fall 2005 regional group meetings and the Spring 2006 TRT meeting.

### **3. Overview of ALWTRP Principles: Reduce profiles of all groundlines**

Dave Gouveia provided an overview of NMFS activities related to reducing profiles of all groundlines. He stated that the agency is grappling with several scientific questions about how to lower groundline profiles. For example, is there a benefit to lowering groundlines to any height other than the bottom; if so, what is the appropriate height to

reduce risk; and how do whales feed (and therefore interact with fishing gear) over different substrates; when and how are whales getting tangled in ropes, is it during feeding; which behaviors make whales more vulnerable; and why do some whales avoid some gear?

There are also fishery policy questions. Should low profile groundlines be required in just certain areas or along the entire range? What are the appropriate gear modification options? How can the gear modifications be enforced? Mr. Gouveia stated that NMFS will continue to analyze the latest data and use it to inform the development of fishery regulations that conserve whales and are operationally feasible for fishermen.

#### **4. Discussion of Issues and Options to Lower Groundline Profiles (i.e., low profile lines)**

TRT members discussed the need for a clear definition of “sinking line” and “neutrally buoyant” line. Members agreed to refer to sinking line as any line with a specific gravity of at least 1.03. Several members observed that while neither neutrally buoyant line nor sinking line float, the former is livelier in the water. The TRT suggested that in the future, it might be useful to use only one term, “sinking line,” and include a list of its characteristics. NMFS noted that at previous TRT meetings some members requested that both terms be kept.

Some members were skeptical about the extent to which low-profile groundlines would reduce whale entanglements, especially since so little is known about the behavior that makes whales vulnerable to entanglement. One member suggested that research be conducted on “reflective” groundlines that whales could see.

A whale researcher stated that research on reflective rope, or “glow rope,” had been conducted in the past. The result of that research, however, was inconclusive and acquiring the permit to continue the work has been problematic. Several members agreed that glow rope seemed like a promising technology and questioned why there had been no effort to follow-up on the initial glow rope research.

In response, it was stated that, apparently, a permit request at NMFS was not approved. Several TRT members noted that research on glow rope was a fruitful area for more research. They asked that the permitting office be informed of the importance the TRT attaches to promising new whale conservation technologies such as glow rope. Another member asked that the TRT be kept informed regarding large whale permit requests.

In noting that that most of the whale research continues to occur in New England waters, one TRT member urged NMFS to begin whale research in other areas along the coast. This was supported by several other members in the course of the discussion who pointed out that how whales behave in Cape Cod Bay may not resemble how they behave elsewhere, especially in areas where the bottom is different from the bay’s sandy bottom. One member added that the data on whale behavior in the bay focuses primarily on right

whales and that less is known about how other whale species behave, not only in New England waters, but further south.

One member stated that low-profile groundlines were a good idea and that reducing the amount of line in the water is the surest way to reduce whale entanglements and keep fishermen fishing. He continued that fishermen need the regulatory flexibility to test and develop new gear that could possibly reduce the amount of lines in the water and, therefore, the possibility of entanglements. He believed that by narrowly defining what kind of gear should or should not be used for low profile groundlines, NMFS will foreclose the ability of fishers to fund, experiment and find their own workable, low-cost alternatives. He also supported more funding for NMFS to research and experiment with practical technologies.

When asked about the potential benefit of lowering the profile of groundline from 20 feet above the bottom to a lower height, one member responded that the benefit of lowering groundline is unknowable in the absence of more data about how whales forage and interact with groundline. This member urged NMFS to continue with its whale tagging programs so that more data about whale behavior on the bottom could be compiled. Another member noted that there is low-cost tagging technology that, though it yields less data than more expensive tags, could yield much-needed data on whale behavior and interaction with fishing gear.

NMFS staff acknowledged the TRT members' comments and concerns about the need for more and better data about how whales may interact with low profile groundlines, but pointed out that the agency's whale conservation imperative required action soon. NMFS staff noted that the agency is seeking feedback on the whale conservation benefits of low profile groundline. Further, NMFS suggested that research efforts to lower groundline profiles could occur at the same time as more research on whale behavior is conducted.

Some members maintained that without an established link between lower groundlines and fewer whale entanglements, NMFS should clearly define how low is low enough. They noted that, in some conditions, a sinking line can pose operability and safety concerns for fishermen. For example, sinking line used on the rocky bottom would have to be addressed. Nevertheless, some members believe that it is possible to reduce groundline arcs to a height significantly below 20 or 40 feet. This would make grappling less likely and easier to do.

One member supported the idea of requiring low profile on the rocky bottom and sinking line on the sandy bottom. Doing this, however, would require more data about East Coast substrates. Low profile could be phased in as indicated by the emerging data.

Enforcement could also be problematic if two different kinds of gear are allowed. A member noted, that a bad actor, for example, could use low profile gear on the sandy bottom and tell enforcement officials that he was fishing the rocky bottom.

One member stated that humpback whales have been observed with significant scarring on their noses and sides. This would suggest that they are in contact with the sandy bottom when foraging. The member observed that whales are unlikely to be similarly in contact with rocky bottoms. If they were, then low profiles might not be sufficiently conservative. She suggested that low profile groundlines could be considered over rocky bottoms and urged NMFS to continue monitoring whale behavior until definitive data indicates that low profile line works. In the meantime, she underscored the need for the agency to act promptly when/if whales are found entangled in low profile gear.

Members offered a variety of other comments about low profile groundlines:

- On April 15, 2005, the Maine Department of Marine Resources' (with assistance from NMFS) conducted a whale foraging workshop. From information discussed at that workshop, one member observed that there may be a tradeoff between groundlines and endlines. He noted, for example, that some "lift" on a groundline may reduce the need for more endlines. [For a final workshop report, contact TRT member Terry Stockwell, Maine Department of Marine Resources].
- One member urged NMFS to review and consider research recently conducted by, Mark Baumgartner, Woods Hole Oceanographic Institute.
- The term "rocky bottom" needs to be better defined. Does it mean boulders big as houses or brick-sized rocks? In Maine waters, the rocky bottom exists closer to shore at depths of less than 300 feet.
- Historical data suggests whales can come close to shore. In the South Pacific, whales are seen feeding in the surf.
- Better data on the bottom substrates and currents along the East Coast would help geologists predict where low profile would be an effective conservation measure.
- Better anatomical analysis of whales is needed to determine whether their jaw can slip under, for example, a two foot arc in a low profile groundline.
- A proactive approach at the state level has helped provide information on low profile groundline. Members suggested that NMFS develop a work plan to continue work with state agencies and to advance its research strategy.
- Biologist should be employed to develop a workplan to determine the conservation benefits of low profile lines.
- A monitoring plan for areas where low profile line may be allowed needs to be considered (e.g. gear marking)

Toward the end of the discussion, there was a general agreement by many members that low profile groundline could be considered over rocky bottom, wreck and coral areas as long as monitoring and enforcement programs were in place. Two foot profiles were suggested by some members.

As the discussion of the issues associated with low profile groundlines drew to a close, Ms. Borggaard encouraged TRT members to comment on the matrices of potential gear (including low profile groundline) and whale research projects that were provided. She added that feedback on whether all the appropriate research questions were listed would be especially useful. NMFS will post the research matrices on the ALWTRP Web site after member input on the matrices has been received and considered.

The TRT agreed that discussion of low profile groundline strategy would continue at the TRT Regional meetings anticipated to occur later in 2005.

## **5. ALWTRP Principle: Reduce risk associated with vertical lines**

### **a. Overview of Working Draft: Vertical Line Strategy Document**

Ms. Borggaard provided an overview of the document *Working Draft of a Strategy to Reduce Large Whale Entanglement Risk Associated with Vertical Line*. She stated that the TRT will discuss the document in greater detail at the regional working group meetings to be convened later in 2005. In turn, NMFS will reconvene a full TRT meeting in 2006 to further discuss the vertical line issues raised at the regional meetings. At that time, the TRT also will discuss in greater detail the management options available.

### **b. Discussion of Vertical Line Strategy Document**

A TRT member suggested that gear modifications be placed in an historical context that recognizes the substantial reduction in the number of Southern New England lobstermen over the past five years. In that time, there has been an 80% reduction in the number of Rhode Island lobstermen. This has resulted in dramatically fewer vertical lines in the water. He explained that fewer vertical lines surely reduce the likelihood of whale entanglements more than any of the proposed gear modifications. Given the potential costs of the proposed modifications, he urged NMFS to develop an ALWTRP that recognizes Southern New England fishermen's contribution to whale conservation and considers the industry's continued economic viability.

One member observed that while there are a variety of substrates that warrant different groundline configurations, there were no limits on vertical line constraints since such lines merely hang in the water column. Two members responded that there are a variety of factors that influenced how fishermen might rig their vertical line.

Members agreed that further discussion of vertical lines could be more appropriately pursued in smaller regional forums. TRT members requested that, prior to the regional meetings NMFS provide reports on entanglements – including those where weak links were recovered – so that members have time to review the effectiveness of the current vertical line management measures. TRT members also requested an opportunity to examine some of the gear removed from whales that might yield clues about the breaking strength of line or any other equipment.

NMFS and RESOLVE will work with regional TRT members to schedule meetings to develop a regional vertical line strategy.

### c. Request for Information in Advance of Regional Meetings

Following the discussion of the *Working Draft of a Strategy to Reduce Large Whale Entanglement Risk Associated with Vertical Line*, NMFS asked members to suggest what kind of information they would like to have and review prior to the Regional Subgroup Meetings.

One member expressed apprehension over making an information request since past requests for information and experimentation were not followed up on by NMFS before regulations were proposed and implemented. He noted, for example, that even though it was shown at the last ALWTRT meeting that sinking and poly buoy line have the same vertical profile in a three knot tide, NMFS seems to be leaning toward the use of sinking line for all vertical lines. He therefore urged NMFS to conduct research on vertical line that will reduce entanglement risks before going forward with an action that will unnecessarily increase rope costs.

Other members provided a variety of suggestions:

- Provide baseline information on vertical lines (by state, where possible), such as:
  - Number of vertical lines;
  - Configuration of surface systems;
  - Length, size and composition of vertical lines;
  - Buoy line length;
  - Behavior of vertical line in different locations and tides with different composition; and
  - Quantitative trends in vertical line (in US and Canadian waters) since 1998 and whether this matches trends in entanglements (One member noted that if the number of vertical lines has decreased and whale entanglements have increased, then there is cause for concern.)
- Provide maps with the types and locations of bottoms fished.
- Provide baseline information on fisheries (by state including federal waters), such as:
  - Number of fishermen;
  - Seasonality of trap/pot and gillnet gear usage;
  - Number and types of gear;
  - Location of gear sets;
  - Whether a fishery do or do not tend nets;
  - Average fishing depths;
  - Number of fishermen using risk reduction modifications (e.g., weak links in vertical lines. This would help quantify the extent to which take reduction measures are being used.); and
  - Gear compliance/violation rates and causes for such violations (One member noted that buoys are dumped at the entrance of Cape Canal by barges that break them loose and drag then en route to port).

- Provide information on and analysis of right, humpback and fin whale behaviors and entanglements:
  - Where are they located, what are their migration routes and patterns, what is their behavior (e.g., foraging, migrating, etc.) in specific regions and along different bottoms;
  - What is the strength and type of gear that a whale breaks free from;
  - What kind of gear is taken off whales, for example:
    - what is the diameter of the rope;
    - what is the weak link's breaking strength;
    - where do different types of entangled gear come from (i.e., location gear was set if known); and
    - what kind of entanglement trends does the gear seem to suggest?
  - Bring the gear recovered from whales to TRT meetings and explain the similarities and differences in why the gear failed; and
  - What kind of gear marking techniques could ensure that entangled gear could be traced to point of origin?
    - Provide a list of previous ALWTRT gear marking proposals.
- Provide information on emerging fisheries.
  - A reduction in lobster gear may not be as substantial if other fisheries using endlines develop.

NMFS stated that it would work with state fishery management agencies, ASMFC, and the Councils to explore the extent to which the information requested above could be provided in advance of the Regional Subgroup Meetings.

## 6. Public Comment

No individuals provided public comment at the meeting.

## 7. Next Steps

Throughout the meeting the ALWTRT requested several next steps outlined below:

- a. **Status Report Subcommittee.** A Status Report Review Subcommittee will meet to review the Status Report, including the monitoring component. NMFS provided the report at the May 2005 ALWTRT meeting. This Subcommittee was formed at the 2004 ALWTRT meeting and includes the following members: Leroy Bridges, Jack Finn, Pat Fiorelli, Amy Knowlton/Scott Kraus, David Laist, Rick Marks, Stormy Mayo, Dan McKiernan, Steve Nippert, Jooke Robbins, Bonnie Spinazzola, Terry Stockwell, Mark Swingle, Mason Weinrich, Pat White, Nina Young and Sharon Young. Other members interested in being part of the Subcommittee should contact Diane Borggaard.

Note: The subcommittee planned to meet by July 1, 2005; but, this meeting will need to be rescheduled due to conflicting schedules. RESOLVE will work with the subcommittee members and NMFS to set a mutually convenient date.

Following the subcommittee meeting(s), feedback from the subcommittee will be provided to the full ALWTRT. NMFS plans to have a Status Report for review by the TRT at the next full meeting.

- b. **Regional Subgroups.** NMFS and RESOLVE will organize regional subgroups. Work will be done through these subgroups and presented to the larger team. The first task of the subgroups will be to discuss the working draft of the vertical line strategy and any other outstanding issues from the 2005 meeting. NMFS will work with the Regional subgroups to determine whether an additional meeting is necessary before convening the full ALWTRT.

*Identification of Regional Subgroups.* NMFS and RESOLVE will schedule meetings in each of the regions: Northeast Region (i.e., Maine through Rhode Island) and Mid/South Region (i.e., Connecticut through Florida). Portsmouth, NH was identified as a potential location for the Northeast Regional Meeting. Philadelphia, PA, Baltimore, MD, Virginia Beach, VA, and Wilmington, NC, were identified as potential locations for the Mid/South Regional Meeting. When determining the dates and locations, RESOLVE and NMFS will get feedback from regional participants to ensure that the meetings do not conflict with other regional fishery management agency or scientific meetings.

*Regional Agenda Subcommittees.* NMFS will develop draft agendas and respective members of the agenda subcommittee will review the agenda prior to the regional meetings. Members on the Northeast Region Agenda Subcommittee include: Regina Asmutis-Silva, Bonnie Spinazzola, Amy Knowlton/Scott Kraus, Dan McKiernan, Steve Nippert, Terry Stockwell, April Valliere and Sharon Young. Other TRT members interested in being part of the Subcommittee should contact Diane Borggaard.

Members of the Mid/South Regional Planning Subcommittee include Greg DiDomenico/Warren Apel, Rick Marks, Margaret Murphy, Mark Swingle, Nina Young and Sharon Young. Other TRT members interested in being part of the Subcommittee should contact Diane Borggaard.

*Information Requests.* NMFS will work with others, including those groups/organizations identified at the 2005 ALWTRT meeting (e.g., fisheries commission & councils, individual states) to consider the ALWTRT information request and determine which information can be provided to the regional meetings

- c. **Process Review Group.** NMFS and RESOLVE will work with Nina Young, Pete Inniss and other TRT members to review process questions related to subgroup composition that were raised at the April 2005 ALWTRT meeting, as well as other process issues raised at the 2004 meeting.

Proposed options for any modifications will be sent via the regional meetings to the full TRT next year. Additional TRT members interested in participating should contact Diane Borggaard or Robin Roberts.

- d. **Research Needs Matrix.** NMFS asked TRT members to review the gear and whale research needs matrices distributed at the meeting and provide comments and feedback to the agency. NMFS will reformat the matrixes and distribute it to TRT members, via e-mail, by May 15, 2005. Comments are due to NMFS by June 15, 2005. After considering and incorporating comments where appropriate, NMFS will post the matrices on the large whale website.
- e. **Process for Considering Gear Modifications under the ALWTRP.** NMFS will finalize the document, after making the suggested modifications discussed at the meeting, and post on the large whale website.
- f. **Public Hearing Summary.** RESOLVE will revise the public hearing summary to ensure that main points heard at public hearings are incorporated. The summaries will be amended to reflect attendance at the public meetings. (Note: These summaries are not the official, administrative record of the hearings.)
- g. **ALWTRP: Proposed Rule Comment Period.** NMFS will notify the TRT when the proposed rule is released for public comment.
- h. **DEIS Comment Period.** NMFS will notify the TRT when the proposed ALWTRP rule is scheduled for release. Comments on the DEIS are due to NMFS by May 16, 2005. Comments can be submitted by mail, e-mail or fax.
- i. **ALWTRT Meeting Summary.** The draft summary of the April 25-27, 2005, ALWTRT meeting will be drafted by RESOLVE and reviewed by NMFS. When NMFS has completed its review, the summary will be sent to TRT members for their review and comment. RESOLVE will then incorporate this feedback and distribute a final draft meeting summary to all members. At that time, the final meeting summary will be made available for public distribution.
- j. **Next ALWTRT Meeting.** NMFS and RESOLVE will organize a full ALWTRT meeting tentatively scheduled for March 6-8, 2006. Suggested locations include: Tampa, FL; Wilmington, NC; Ocean City, MD; Charleston, SC; or Virginia Beach, VA.

**List of Attachments**

- Attachment A: List of Attendees, Atlantic Large Whale Take Reduction Team Meeting
- Attachment B: Table of Contents of Two Mailings and E-mailed Materials
- Attachment C: Meeting Agenda; April 25-27, 2005
- Attachment D: Revised Groundrules (*Revised April 25-27, 2005*)
- Attachment E: List of Presentations (*in chronological order*)

**List of Meeting Attendees**

**ALWTRT Members/Alternates**

Bill Adler	Chris Hickman	Jooke Robbins
Regina Asmutis-Silvia	Peter Inniss	Steve Robbins, III
Mike Baker	Amy Knowlton	Greg Silber (NMFS)
David Beresoff	David Laist	Bonnie Spinazzola
Diane Borggaard (NMFS)	Shannon Lyons	Terry Stockwell
Peter Brodeur	Rick Marks	Mark Swingle
David Bruce	Charles "Stormy" Mayo	Cynthia Taylor
David Cupka	Dan McKiernan	April Valliere
Cindy Driscoll, DVM	David Morin	Mason Weinrich
Jack Finn	Fentress "Red" Munden	Patten "Pat" White
Patricia Fiorelli	Margaret Murphy	David Wiley
Colleen Giannini	Steve Nippert	Nina Young
Lewis Gillingham	Larry Pieper	Sharon Young
Elizabeth Griffin	Tom Pitchford	Barb Zoodsma (NMFS)
Sonny Gwin		

**NMFS Staff**

Peter Burns	Kevin Collins	Vicki Cornish
Carl Gleaves	David Gouveia	Brian Hopper
Amanda Johnson	John Kenney	Juan Levesque
Parks Lewis	Kristy Long	Richard Merrick
Richard Pace, III	Paul Perra	Glenn Salvadore
Jamison Smith	Sarah Thompson	

**RESOLVE Staff**

Abby Arnold	Louise Gant	Robin Roberts
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**Others**

Ed Lyman

**ALWTRT Meeting Materials**  
April 25-27, 2005

1. **General Meeting Information**
  - a. RESOLVE Facilitator Biographies
  - b. TRT Member Roster
  - c. Draft Agenda
  - d. Ground Rules
  - e. 2004 Progress Report on Large Whale Issues
  
2. **2004 ALWTRT Meeting & Follow-Up Materials**
  - a. 2004 ALWTRT Meeting Summary
  - b. Status Report Outline
  - c. Draft Process for Allowing Gear Modifications Under the ALWTRP
  - d. Working Draft of a Strategy to Reduce Large Whale Entanglement Risk Associated with Vertical Line
  
3. **ALWTRP Draft Environmental Impact Statement and Proposed Rule**
  - a. ALWTRP DEIS and Proposed Rule Outreach Document
  - b. ALWTRP DEIS Notice of Availability (70 FR 9306, February 25, 2005)
  - c. Permit Holder Letter (March 3, 2005)
  - d. Methods for Submitting Comments on the ALWTRP DEIS
  - e. ALWTRP DEIS Public Hearings (70 FR 12446, March 14, 2005)
  - f. Additional ALWTRP DEIS Public Hearing – Machias, ME (70 FR 14656, March 23, 2005)
  - g. ALWTRP DEIS – Extension of Public Comment Period (70 FR 15316, March 25, 2005)
  - h. Draft Summary of Comments Received at ALWTRP DEIS Public Hearings
  
4. **Large Whale Research/Information**
  - a. 2003 Stock Assessment Reports:
    - 1) North Atlantic Right Whale (Western Stock)
    - 2) Humpback Whale (Gulf of Maine Stock)
    - 3) Fin Whale (Western North Atlantic Stock)
    - 4) Minke Whale (Canadian East Coast Stock)
  - b. Draft NMFS Whale Research Matrix
  - c. NEFSC Laboratory Reference Document (Large Whale Serious Injury/Mortality Determinations: 1999-2003)
  - d. North Atlantic Right Whale Sighting Survey (NARWSS) and Sighting Advisory System (SAS): 2004 Results Summary – NEFSC
  - e. Summary of Maine Department of Marine Resources Right Whale Foraging Workshop
  - f. Improving Right Whale Management and Conservation Through Ecological Research - Report of the Working Group Meeting, April 16, 2004

5. **Large Whale Entanglements**

- a. 2002 Entanglement Report
- b. 2003 Entanglement Report
- c. 2004 & 2005 (to date) Preliminary Large Whale Entanglement and Ship Strike Summary
- d. Analysis of Scarring on North Atlantic Right Whales (*Eubalaena glacialis*) : Monitoring Rates of Entanglement Interaction: 1980-2002 – Knowlton et. al., February, 2005
- e. Estimating Humpback Whale (*Megaptera novaeangliae*) Entanglement Rates on the Basis of Scar Evidence – Robbins and Mattila, May, 2004
- f. Marine Animal Entrapments in Fishing Gear in Newfoundland and Labrador and a Summary of the Whale Release and Strandings Program During 2004 – Ledwell, et. al., December, 2004
- g. Fishing Gear Involved in Entanglements of Right and Humpback Whales – Johnson et al. (in press)

6. **Gear Research**

- a. Draft NMFS Gear Research Matrix
- b. Summaries of NMFS/NFWF (National Fish & Wildlife Foundation) Funded Project Final Reports
- c. Scale Modeling of Fixed-Fishing Gear to Compare and Quantify Differently Configured Buoyline and Groundline Profiles: An Investigation of Entanglement Threat – Lyman and McKiernan, March 2005
- d. Gear Research Excerpt from Mass. Division of Marine Fisheries' 2004 Right Whale Conservation Plan Activity Report
- e. 2004 Modified Groundline Project Final Report (Excerpt) – Maine Department of Marine Resources, September, 2004
- f. Summary of Maine Department of Marine Resources Gear Research Projects
- g. NMFS Low-Profile Line Research Information

7. **List of Fisheries/ MMAP & Fisheries Information**

- a. MMAP 2005 Northeast Region Permit Holder Letter (November 8, 2004)
- b. MMAP Northeast Region List of Fisheries Information Sheet
- c. MMAP Northeast Region List of Fisheries Category I & II Definitions and Codes
- d. MMAP 2005 Southeast Region Permit Holder Letter and Associated Information

8. **Fisheries Information (e.g. Observer Programs)**

- a. The Directed Shark Gillnet Fishery: Right Whale Season, 2002 - Carlson and Baremore, December, 2002
- b. The Directed Shark Gillnet Fishery: Non-Right Whale Season, 2002 (Catch, Bycatch, and Estimates of Sample Size) - Carlson and Baremore, December, 2002
- c. The Directed Shark Gillnet Fishery: Catch and Bycatch, 2003 – Carlson and Baremore, December, 2003

- d. The Directed Shark Gillnet Fishery: Catch and Bycatch, 2004 – Carlson, Bethea, and Baremore, February, 2005
- 9. Rule Making Process Information**
  - a. NEPA Informational Guide
  - b. Data Quality Act (DQA)
- 10. Miscellaneous**
  - a. Zero Mortality Rate Goal Final Rule (69 FR 43338, July 20, 2004)
  - b. Guide to the Harbor Porpoise Take Reduction Plan (HPTRP)
- 11. Presentations**

Provided at TRT Meeting

**Atlantic Large Whale Take Reduction Team Meeting  
April 25-27, 2005**

Baltimore, MD

**DRAFT AGENDA**

Meeting Purposes:

- Update ALWTRT members on gear research and whale conservation activities and research
- Discuss ALWTRP Draft EIS Alternatives and reach consensus on recommendations to the extent possible
- Update ALWTRT members on the status of the proposed rule and the review process
- Follow-up on low profile and vertical line issues
- Discuss timing and locations for future Regional Subgroup and Full ALWTRT meetings.

**DAY 1: April 25**

**2:00-2:20pm WELCOME, INTRODUCTIONS AND GETTING ORGANIZED** (*NMFS and Facilitator*)

- Review meeting purpose and round robin greeting
- Opening comments
- Review and agree on agenda and ground rules

**2:20-4:30 FOLLOW UP ON ISSUES FROM THE 2004 ALWTRT MEETING**  
(*NMFS Staff and others*)

Presentations and Brief Discussion on variety of items

- Status of Large Whales
- Follow up on 2004 Issues:
  - Review of *Status Report* Outline
    - Overview of Status Report Components (proposed elements for future reports)
    - Feedback from TRT on *Status Report* components, (methods to monitor the effectiveness, and updates on fishery management plan and protected species regulations)
  - Status of finalizing protocol for considering ALWTRP gear modifications (draft presented and provided at 2004 ALWTRT meeting)
- Review of Progress Report (sent in advance packet). (*This progress report was written in response to the TRT 2004 recommendation that a report be provided in advance of the meeting so that TRT members can ask questions at the meeting.*)

**4:30-6:30**      **OVERVIEW OF DRAFT EIS AND STATUS OF THE PROPOSED RULE**  
*WITH BREAK*      *(NMFS Management and Legal Staff and RESOLVE)*  
Presentations and discussion

- Overview of Draft EIS Alternatives *(NMFS)*
- Overview of Public hearing comments *(RESOLVE)*
- Status of Proposed rule and Anticipated Timeline *(NMFS)*
- Review of NMFS's questions to the TRT *(NMFS)*

**6:30pm**      **ADJOURN FOR DINNER: BREAKOUT GROUP DISCUSSION**  
*Objective: Small group (by region OR issue) discuss and develop draft recommendations on the ALWTRP DEIS*

**DAY 2: April 26**

**8:00-8:15am**      **REVIEW AGENDA FOR THE DAY AS FULL TEAM** *(Facilitator)*

**8:15-10:45**      **DRAFT EIS DISCUSSION**  
Full team or Subgroup Discussion  
*Objective: Small group (by region OR issue) or full team discussion and development of draft recommendations related to the ALWTRP DEIS*

**10:45-11:00**      **BREAK**

**11:00-12:30**      **DRAFT EIS DISCUSSION: CONTINUE BREAKOUT GROUPS OR FULL TEAM DISCUSSION**  
Full team or Subgroup Discussion  
*Objective: Identify issues to focus discussion on recommendations to NMFS*

**12:30-1:30**      **LUNCH (ON OWN)**

**1:30-3:30**      **DRAFT EIS DISCUSSION: REPORT OUT FROM BREAKOUT SESSIONS OR FULL TEAM DISCUSSION**  
*Objective: Discuss issues and develop recommendations to NMFS related to the ALWTRP DEIS, coming to consensus where possible.*

**3:30-3:45**      **BREAK**

**3:45-5:00**      **DRAFT EIS DISCUSSION CONTINUED AND COMPLETED**  
*Objective: Discuss issues and develop recommendations to NMFS related to the ALWTRP DEIS, coming to consensus where possible.*

**5:00-5:15**      **BREAK**

- 5:15-6:15**     **ALWTRP STATUS REPORT AND ITS COMPONENTS: METHODS TO MONITOR THE EFFECTIVENESS OF THE TRP, CONTINUED**  
Full team Discussion  
*Objective: Allow members further discussion after reviewing the components from yesterday's presentation*
- 6:15-6:30**     **OPPORTUNITY FOR NON-TRT MEMBERS TO COMMENT**
- 6:30 -7:30**     **ADJOURN FOR DINNER**
- 7:30-9:00**     **REPORT ON RESEARCH**  
Presentations and Discussion  
*Objective: Present new research findings and suggest future research strategies*
- Large Whale Research
    - Diving behavior of large whales (*Dave Wiley, Stellwagen Bank NMS*)
    - Foraging ecology of large whales & future research plans (*NMFS*)
  - Gear Research (e.g. low profile and vertical line) (*NMFS; Ed Lyman, Mass Division of Marine Fisheries; Terry Stockwell, Maine Department of Marine Resources*)
  - Questions on presentations
- 9:00 PM**     **ADJOURN FOR EVENING**

**DAY 3: April 27**

- 8:00-8:15am**   **REVIEW AGENDA FOR THE DAY** (*Facilitator*)
- 8:15-10:30**     **OVERVIEW OF ALWTRP PRINCIPLES AND DISCUSSION OF OUTSTANDING ISSUES: LOW-PROFILE LINE**  
Brief Presentations (*NMFS*) and Discussion  
*Objective: Discuss low profile line, including development of research ideas and plan)*
- ALWTRP PRINCIPLE:** “ Reduce profiles of all groundlines”
- Review of options
  - Definitions of groundline
  - Discussion of issues and options to address groundline profiles
- 10:30-10:45**   **BREAK**

**10:45-12:00 CONTINUED -DISCUSSION OF OUTSTANDING ISSUES: LOW PROFILE LINE**

Full team or Subgroup Discussion

**12:00-1:00 LUNCH (POSSIBLE WORKING LUNCH IN BREAKOUT GROUPS)**

**1:00-3:00 APPROACH TO ADDRESSING VERTICAL LINE**

Brief Presentations (*NMFS*) and Discussion

*Objective: Present overview of Working DRAFT Vertical Line Strategy*

**ALWTRP Principle:** “Reduce risk associated with vertical lines”

- Brief Overview of WORKING DRAFT Vertical Line Strategy document (*NMFS*)
  - WORKING DRAFT Strategy
  - Available Options
- ALWTRT Questions on WORKING DRAFT Strategy
- Team discussion and agreement on next steps for the team actions on vertical line

**3:00-3:15 BREAK**

**3:15-3:30 NEXT STEPS (*NMFS and Facilitator*)**

- What will be done with product from this meeting?
- Next ALWTRT meeting – Regional and Full
  - Recommended dates and locations (*Regional meetings to discuss the vertical line strategy in more detail and any other issues identified at this meeting. Following the Regional meetings, a Full meeting will occur to discuss the outcome.*)
- Feedback on research matrices

**3:30-4:00 OPPORTUNITY FOR NON-TRT MEMBERS TO COMMENT**

**4:00 pm ADJOURN**

**Atlantic Large Whale Take Reduction Team**

*Revised Proposed Ground Rules for Use at April 25-27, 2005, ALW TRT Meeting*

1. Decision-Making: The Atlantic Large Whale Take Reduction Team (TRT) will seek to develop consensus recommendations where possible. In this context, “consensus” means that the recommendation in question is supported by all TRT members present at the meeting; this does not necessarily mean that each TRT member likes everything about the recommendation, but that each member is willing to accept it. Where consensus cannot be reached on a particular issue in the time available for developing a recommendation on that issue, the range of possibilities considered by the TRT will be presented, including the views of both the majority and minority.
2. Membership: Membership will reflect a balance or representation by interest, region, and sector. Members are encouraged to reflect their own viewpoints and the viewpoints of their constituencies.
3. Alternates: For those Members not able to attend a meeting, their designated alternate is invited to attend and will speak on behalf of the Member.
4. Attendance: Team members are encouraged to attend all TRT meetings. Team members can designate one alternate to attend in their absence. It is the responsibility of the Team member to keep their alternate informed and prepared for meetings. A Team member who needs to send an alternate is requested to notify NMFS that an alternate will attend for them, and who that person is, at least one week in advance of the meeting.
5. Meeting Agendas: Draft meeting agendas are circulated to Team members prior to each TRT meeting and finalized by the Team during the first portion of the meetings.
6. Meeting Summaries: Meeting summaries will be drafted by the facilitation team, and then circulated to TRT members for review and comment. The facilitation team will revise accordingly, and then mail the final summary to Team members. Members of the team are encouraged to circulate meeting summaries to their respective constituencies once they are finalized. Summaries will not attribute comments or suggestions.
7. Media Contact: Media inquiries concerning the TRT will be referred to the NMFS Public Affairs Officer, who will share the TRT roster upon request. Media representatives inquiring about the TRT process will be referred to approved meeting summaries. Team members may talk to media representatives concerning their own views about the issues being discussed by the Team. However:
  - A. TRT members agree not to attribute particular comments to particular individuals, nor to characterize others’ views;

## Attachment D

- B. TRT members agree not to portray ideas as consensus before the TRT has explicitly agreed on them.
8. Public Comment: Members of the public are encouraged to direct comments through TRT members or speak at designated times on the meeting agenda.

**List of Presentations** *(in chronological order)*

1. Status of Atlantic Large Whales, Richard M. Pace, III, NMFS
2. Status Report Outline; Diane Borggaard, NMFS
3. Process for Considering Gear Modifications Under the ALWTRP; Diane Borggaard, NMFS
4. Summary of Public Hearings, Robin Roberts, RESOLVE
5. Northeast Group Report Out
6. Southeast / Mid-Atlantic Group Report Out
7. Research on Right Whale Foraging Ecology; Richard Merrick, NMFS
8. Large Whale Research Needs, Atlantic Large Whale Take Reduction Plan; Diane Borggaard, NMFS
9. Gear Research Needs & Development of ALWTRP, John Kenney, NMFS
10. NMFS NERO Gear Research Team, Research on Reducing Groundline Profile & Risk Associated with Vertical Line; Glenn Salvadore, NMFS
11. Initiatives to Reduce Risk of Entanglements in Fixed-Fishing Gear; Ed Lyman, Commonwealth of Massachusetts, Division of Marine Fisheries, Right Whale Conservation Program
12. Right Whale Foraging in the Nearshore Waters of the Northern Gulf of Maine; Terry Stockwell, Maine Department of Marine Resources
13. Atlantic Large Whale Take Reduction Plan, Working Draft of a Strategy to Reduce Large Whale Entanglement Risk Associated with Vertical Line; Diane Borggaard, NMFS