

Responses by Sharon Young, on behalf of The Humane Society of the United States

Adm. James D. Watkins
U.S. Commission on Ocean Policy
1120 20th Street NW. Suite 200 No.
Washington, DC 20036

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Dear Admiral Watkins,

Thank you for forwarding the additional questions asked of me and my panel in Boston by the Commissioners. I am happy to try to answer them and also wish to add a few additional comments.

1. Each on the panel suggested various solutions to improve how we manage our oceans and coasts, involving either changes to regulations and laws or changing the governmental structure itself. In your opinion, is it more important that the laws and regulations be changed or the structure, or are both inextricably linked so that the two have to be changed in tandem?

To some extent I believe that they are linked, but certain issues or areas of concern can be addressed better through one or the other. For example, there is an inherent conflict of mission within the National Marine Fisheries Service (NMFS) that could best be addressed by a structural change. It is very difficult for the Service to meet a dual mission of promoting sustainable fisheries and protecting marine species. In many instances, restrictions imposed on gillnet fisheries to protect turtles or small cetaceans, create hardships for the industry, which is vociferous in its opposition to these protections. We note, for example that the very lucrative lobster fishery in New England is largely responsible for entanglement of North Atlantic right whales, yet the fishery strongly opposed any restrictions. Indeed for many years it was categorized as a fishery “unlikely” to interact with marine mammals and was thus exempt from restrictions until a lawsuit forced re-categorization and imposition of restrictions. Protecting the right whale has meant a hardship for the industry, which is one of the few lucrative fisheries left in New England. This dilemma might have been averted had two different agencies been involved so that the NMFS was not always “consulting with itself” under Section 7 of the Endangered Species Act with regard to the impacts of commercial fisheries on marine protected species. I believe that protected species conservation should be in a department other than the National Marine Fisheries Service in the Department of Commerce.

Contrarily to this, simply changing laws and or regulations can assist us in protecting the outer continental shelf from rampant development in the absence of an overarching process for governance of permitting projects. Similarly, reducing impacts from noise in the ocean requires legislative or regulatory standards. In other instances, such as reducing incidental by-catch of marine mammals, there is a legislative mandate and a regulatory structure in place but the lack of enforcement of regulations results in lack of compliance and undercuts likely benefits from requirements of modified fishing practices.

In general, I believe that the biggest gain to the protection of marine species (my area of focus) would be changing the structure of protected species management to avoid the conflict of mission in the National Marine Fisheries Service.

2. What is your organization doing in terms of public education on ocean and coastal issues? Is this process coordinated, or is it being done on an ad hoc basis by individual organizations? How can it be better coordinated?

Each organization has separate publications that address their members and/or the general public. These serve as educational vehicles and their content is ad hoc. The HSUS, for example, has several publications that have run pieces about the plight of right whales, the need to protect coastal habitats, and issues pertaining to international whaling. Additionally, groups may work with film companies such as NOVA, Outdoor Life Channel, etc to cooperate in the production of educational programs, but this is also done ad hoc for the most part.

There are occasional meetings of regional or national groups in which a specific issue is discussed and joint planning is made with regard to outreach to members and to the general public. A recent example is a coalition of groups that has been meeting on an on-going basis in Washington D.C. to address threatened changes to the applicability of the National Environmental Policy Act (NEPA) in the marine environment outside of 3 nautical miles, as has been proposed by the Bush administration. Groups have planned jointly to release member action alerts, submit op ed pieces to various news outlets, discuss purchasing Newspaper advertising space, and gain press interest in the issue.

Collaboration is sometimes difficult, as many groups have differing missions. For example, Oceana is strictly concerned with ocean issues and is a conservation group, the HSUS is concerned with marine protected species and is an animal welfare group, Sierra Club is interested in certain marine issues, but is an environmental organization whose primary focus is terrestrial. As a result, issues may be perceived as more germane to some groups than others. Additionally, the educational "tactics" of some groups are antithetical to others. People for the Ethical Treatment of Animals (PETA, an animal rights organization) is willing to demonstrate and participate in civil disobedience to attract media attention to issues that affect marine animals, but such strategies would almost never be used by a conservation group such as World Wildlife Fund.

Each believes that the other's strategies are inappropriate or ineffective and thus they would have a difficult time coordinating action even with a common issue.

As to how we can all coordinate better, I am not sure that much more can be done than is already being done. We try to maintain contact with one another, attend meetings of common interest and raise issues with other groups whose interests may coincide with our own.

3. How can the U.S. provide effective leadership in the International Whaling Commission? In other areas critical to marine animals?

We often lead by our example. If we are perceived as being more protective in our approach

while minimizing economic consequences, other countries may follow. For example, when the US established Potential Biological Removal (PBR) as a means of assessing the sustainability of human impacts on marine mammals, this was adopted by other countries as well. Our leadership was also effective when we had the ability to impose sanctions against other nations whose standards were weaker than our own—e.g., in the case of the tuna-dolphin controversy. This tool was effectively removed (thus weakening our leadership) by the signing of multi-lateral trade agreements which limited our ability to sanction our “partners.” In turn, this has weakened some of our own domestic protections.

With regard to the International Whaling Commission (IWC), our stance on commercial whaling has been strong and consistent in opposition since shortly after the formation of the IWC. As such we are leaders. We are losing our ability to lead with regard to limiting coastal whaling and whaling to serve “cultural needs” of other countries. Japan has long argued (as have many Caribbean nations) that their whaling is traditional, a part of their culture. We have long opposed this, particularly with regard to fragile or endangered populations of marine mammals. The decision of the US government to support whaling by the Makah tribe has weakened our ability to oppose local whaling by Japan and other nations, since the Makah hunt was rationalized, not as a subsistence hunt, but because they had a cultural tradition to uphold. This appearance of a “double standard” with regard to “cultural” whaling by our own people weakens our ability to provide leadership that would protect whales elsewhere.

Unless we are consistent with our message and our methods for conveying it, as we have been in the past, we will have a problem providing the strong leadership in the whaling commission and in other fora as well.

4. Is the U.S. in danger of pushing aquaculture abroad, and how can the U.S. help foreign nations?

I am not sure of the exact meaning of this question. It can mean either: are we in danger of driving our aquaculture out of this country and abroad instead; or: are we in danger of promoting aquaculture abroad? I will assume that the intent is the former.

I was a participant in the Congressionally mandated Pinniped-Aquaculture Task Force that met for the purpose of reviewing impacts of predation by seals on aquaculture facilities in the Gulf of Maine. In the course of that Task Force, we were apprised of the status of aquaculture abroad versus U.S. based aquaculture. It was clear that the U.S. government does not provide the same resources to our own growers as do other nations, and it was also clear that some of the environmental standards in the U.S. are higher than abroad. The administration has recently provided additional financial incentives to develop domestic aquaculture. My concern is that we not weaken environmental standards to accommodate this and that we also establish guidelines/requirements for siting and husbandry that do not currently exist. I believe that aquaculture (particularly shellfish and algal aquaculture) have the potential to be profitably and properly managed in this country. This should not mean that we will not support aquaculture domestically, simply that we should not encourage domestic aquaculture if we cannot assure maintenance of strict environmental standards.

If we are to encourage aquaculture abroad, I believe that it should be the encouragement of environmentally sound aquaculture. There have been a number of instances in which ecological damage has accrued from improperly sited aquaculture installations (e.g., shrimp aquaculture in the far east) and we need to help other nations in assuring proper siting and husbandry. As discussed above, we can lead by our own example.

5 Additional Comments

In my testimony to the Commission in Boston, I briefly addressed the concerns surrounding proposed developments in the outer continental shelf. Since that time an additional 17 wind farm sites have been formally proposed from Massachusetts down to Virginia. There has also been additional discussion of expanded offshore aquaculture development. The pressing need for a formal governance structure cannot be understated. It is my belief that, at least with regard to wind power, it would be helpful to have a regional or national workshop/meeting that would bring together specialists in Coastal Zone Management, marine species, hydrogeology and physical oceanography as well as experts in Global Information Systems (GIS) technology and other fields germane to siting of projects. This joint effort could identify areas of greatest benefit and least risk, in order to facilitate appropriate siting. This dovetails with recommendations from fisheries experts and others that we need to look at "ocean zoning" where we have fragile marine resources and multiple potential users of an area. Such a cooperative venture to identify appropriate use areas could coincide with the establishment of a regulatory framework that would address issues of permitting, environmental review, and engineering concerns. It is my sincere hope that the Commission can impress the Administration and Congress with a sense of urgency and can provide them with recommendations for resolving this pressing need for regulating uses of the outer continental shelf.

I must also reiterate my concern that the U.S. military be strongly encouraged to consult with regulatory agencies when planning areas for military exercises in the ocean. The Navy need not risk national security, simply identify the areas where possible impacts are likely to be highest and lowest so that practice exercises can be designed to minimize potential damage. Failure to do so has resulted in the Navy siting a bombing area adjacent to right whale critical habitat in the NE and, in 1996, the deaths of 5 right whales in the S.E.U.S just outside of their critical habitat and coincident with Naval gunnery exercises. These are simply two of the most egregious examples. Proactive planning should replace retrospective accusations and regret.

Thank you for allowing me the opportunity to address the Commission with our concerns. Feel free to contact me if you have any additional questions that I might answer.

Sincerely,
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Marine Issues Field Director
The Humane Society of the U.S.