

October 23, 2016

On behalf of the Cetacean Commonwealth:

**Toward Mutually beneficial Harmonious Cetacean-Human Co-species Partnerships:
Comments regarding NOAA's proposed rules concerning dolphins**

The Dolphins – a personal view – and suggested solutions

by

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**We support Alternative 1 – No Action; We suggest Alternative 6 (described below)
We request an extension of the comment period to evaluate NOAA's proposals.**

I am Dr. Michael Hyson, Ph.D., research director of the Sirius Institute. I first met dolphins at age 14 in Texas now have some 50 years of dolphin-related swim experience, the last 25 years here in Hawaii.

The Cetacean Commonwealth - A framework for cooperation with NOAA

Sirius Institute developed the Cetacean Commonwealth, founded March 7, 2002 to provide a commonwealth of Cetacea Nations to gain their recognition and rights. It also includes the humans who wish to support the Cetacea. We presented the Commonwealth, for example, at the Hawaiian Constitutional Convention. The Commonwealth is a framework for our proper relationships with the Cetacea.

The Commonwealth offers cooperation with NOAA as part of a solution that preserves and extends our partnership with the Cetacea.

For example, we could issue certificates or passports to those trained in dolphin contact etiquette so that they would then be vetted to swim respectfully anywhere with the Cetacea.

In the following I offer some important things I know from my experiences. I detail some of best in-water observations of dolphin behavior with humans. This is a whole perspective lacking from the NOAA data and yet are crucial to a proper understanding of this situation

The dolphins can usually take care of themselves

Dolphins are powerful, intelligent creatures. They can use their sonar to cavitate water eight feet from their rostrum, crack 2x4's with their sonar, or stun a fish. They can leap 20 feet into the air, swim at 30 knots, dive to 1000 feet, etc. They could easily ram or bite us or drive us out of the water should they so choose. They can also use these same capabilities to heal children and others. Knowing their capability, I am in awe of their patience and gentleness.

It is my view that *anything that happens in the water with a dolphin is something they make happen or allow to happen*. They are in complete control of human-dolphin encounters. While it is humbling, when you are in the water with a dolphin, *you are the one that can hardly hear, hardly see, hardly swim or dive, have a smaller brain and a shorter evolutionary history*. I have learned a great deal, have had my neck fixed by the sonar of Dreamer Dolphin. In general, I feel I have been a good dolphin pet. Yet they exhibit great love of us.

I have seen dolphins annoyed, usually for good reason. In this case one may experience powerful jaw claps, flukes slapping the water, and a few times I have been pushed strongly, I was *always* safe.

In some 50 years *I have yet to see ANY aggressive behavior from ANY free dolphin*. I have heard from others of perhaps 3 times when a dolphin in the sea jaw clapped or acted aggressively. When included in with the centuries of human history, the dolphins are remarkably safe and gentle, far better than most human societies. This is one of the many reasons to learn from them.

Can Dolphin Interaction with Humans Enrich Dolphin Lives?

In: Jack Kassewitz , James Denny Townsend, James McDonough IV, MYTHS vs FACTS - DOLPHINS IN HUMAN CARE, Kindle Edition, 2015, it is reported that Dr. Roberto Sanchez, DVM for Dolphin Discovery in the Riviera Maya, measured stress levels in dolphins that were performing or in swim-with-dolphin programs. He concluded that the dolphins interacting in this way showed *decreased* stress levels as shown by cortisol and muscle enzyme measurements. He has thus shown that *humans can enrich dolphin lives while decreasing dolphin stress levels*. Perhaps this is also true of the free dolphins interacting with humans?

I suggest that we measure the stress chemical levels of free dolphins with and without humans to gain direct measures of stress rather than the shore and boat based data that has been collected so far. Before any NOAA ruling is finalized, given its major repercussions on the current Hawaiian culture and its impact on the island of Hawaii and its global status as a favored destination, NOAA should *prove* that dolphins are actually stressed when in the ocean with humans before being allowed to change our lives significantly.

Some in-water evidence that the dolphins choose to be with humans

1. Two baby Spinners about 2 feet long, breached in tandem about 2 feet in front of my face, right at the surface. Obviously this was OK with the mothers. Obviously the babies freely chose their behavior. I felt it was a way of showing off – “*see what we can do*”
2. One day eight dolphins spiraled up to where I was on the surface. Usually they immediately take breaths and go down again. This time, they just hung at the surface. We were still for a while and then I swam a bit, and the dolphins moved with me! I soon realized that they had formed a pattern around ME! There were three dolphins in a pattern from left to right in front of me. I was just behind the left front dolphin. At my right side was a baby dolphin and next to it was the mom. Behind me there were 3 more dolphins. They were moving in precise synchrony with my motions! SO they had formed a small formation around me and were allowing me to “lead” for a while.
3. The Leaf Game – I have played leaf, where I exchange a leaf with a dolphin and the dolphin usually puts it on its body. One day – a male came and swam about 5 feet from me. He had a leaf on his nose, on both pectorals, at the base of the dorsal fin AND on both blades of the flukes and he was still swimming! What an art form! I felt he came over to show off, much like the babies above – “see what I can do”. He must have wanted to show me what he was doing because the visibility was about 50 feet that day. With a displacement of 50 feet, I would have never seen him.
4. Once near sunset, on my birthday, while I was in the water watching the sun go down, a dolphin leapt about 20 feet in front of me and in just such a way that it looked like he was “standing” on the water for an instant, and was precisely outlined by the golden light of the sun behind him. Think of the precision alignment that took! I think he gave me that experience deliberately, out of free choice.

I have yet to see any signs of stress from the dolphins when in the water with swimmers.

I have observed several times that a large group of dolphins were with us and they immediately left when a boat entered the bay. We should look into this.

ALTERNATIVE SIX – Give the dolphins choice

At the moment, the five NOAA alternatives all unilaterally remove humans from the dolphins' environment. This ignores their rights of assembly to choose to be with humans and ignores their rights of free choice. We have a *right of assembly among consenting species*.

NOAA contends with rather weak data that humans bother the dolphins. Let us do a definitive experiment to find out the truth of this matter while preserving much of the Zero Action alternative.

We suggest that buoys be set to divide the bays into two parts. Humans would be allowed to swim on one side, while the other side would be only for the dolphins. Then, the dolphins can be on *their* side at any time, and **IF THEY CHOOSE**, they can cross the lines to be with the humans.

This is better than beach closures with the buoys marking off most of the bay for most of the day. **Alternative 6** offers the dolphins a quiet area reserved for them at *all* times while leaving the beaches open for swimming etc. while honoring the rights and free choice of the dolphins.

With **Alternative 6** we can actually answer the question: **DO THE DOLPHINS CHOOSE TO BE WITH HUMANS?**

See:

Julian A. Tyne, David W. Johnston, Robert Rankin, Neil R. Loneragan and Lars Bejder, The importance of spinner dolphin (*Stenella longirostris*) resting habitat: implications for management, *Journal of Applied Ecology*, 2015.

“Distances over water are difficult to estimate (Kinzey & Gerrodette 2003). Therefore, we recommend that any management action implementing restrictions to geographical regions should include surface markers to delineate the restricted areas (e.g. U.S. Fish & Wildlife Service 2001).”¹

In conclusion, let NOAA and the community work together to achieve a better human-Cetacean partnership!

¹ Julian A. Tyne, David W. Johnston, Robert Rankin, Neil R. Loneragan and Lars Bejder, The importance of spinner dolphin (*Stenella longirostris*) resting habitat: implications for management, *Journal of Applied Ecology*, 2015.

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