

MARINE MAMMAL COMMISSION
4340 EAST-WEST HIGHWAY, ROOM 905
BETHESDA, MD 20814

9 October 2007

Mr. Sam D. Hamilton
Regional Director
U.S. Fish and Wildlife Service
1875 Century Boulevard
Atlanta, GA 30345

Dear Mr. Hamilton:

Thank you for your 18 April 2007 response to the Commission's letter concerning manatee harassment in Crystal River. We appreciate the updated copy of the "Manatee Manners" video for divers in Crystal River and the manatee watch guidelines that you enclosed. We also were pleased to learn that the Service is reviewing that video for further possible revision, that your staff has been working with the local community on these issues, and that further changes regarding the management of interactions between swimmers and divers and manatees may be reflected in a comprehensive conservation planning process for the Crystal River Refuge that will begin this fall. We hope you will find the following recommendations and comments helpful as you take further actions to protect manatees from people who seek to interact with them in the water.

RECOMMENDATIONS

The Marine Mammal Commission recommends that the Fish and Wildlife Service—

- develop and implement regulations to prohibit swimmers and divers from approaching manatees closer than 10 feet and require that they back away from any animals that approach them;
- include as part of the suite, a regulation to prohibit people from touching animals;
- modify its public outreach materials to reflect such provisions; and
- consult with representatives of the National Marine Fisheries Service to develop guidelines for human interactions with free-ranging marine mammals and to ensure that the guidelines of both agencies are consistent and protective of the animals.

RATIONALE

Although both the Fish and Wildlife Service and the National Marine Fisheries Service are charged with preventing people from harassing marine mammals, the two agencies are delivering markedly different messages about swimming and interacting with animals. Such mixed messages can create confusion in the public's mind about what constitutes appropriate behavior toward the wildlife. Greater consistency between the two agencies, particularly as regards touching animals, would significantly reduce the likelihood of such confusion and lead to reduced harassment of

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manatees and species under the jurisdiction of the National Marine Fisheries Service. The policy and regulatory approach followed by the National Marine Fisheries Service, which effectively prohibits

people from touching animals, is more precautionary, and, we believe, is more in line with the need to protect manatees from harassment.

The new "Manatee Manners" video is a significant improvement over the earlier version. The "passive interaction" message repeated several times in the video is a good one, and the written advice encouraging passive observation in the "Dos and Don'ts" portion of the manatee watch guidance is even better. However, the video includes three scenes that may be misinterpreted. In one scene, the narrative states "never poke, prod or ride a manatee" while the video shows a diver scratching a manatee's stomach. Although the video may have been intended to indicate that such interactions were inappropriate, we think it could be interpreted to mean that such interactions are acceptable. Scratching a manatee, however well intended, is not a passive behavior. Thus, the video likely will instill in at least some divers an expectation that they should be allowed to touch a live manatee. Those divers may therefore pursue animals until they succeed in doing so, whether or not the animals want to be touched, and thereby inadvertently encourage diver behavior that constitutes harassment.

In a second scene, the narrative advises divers with cameras to "never chase manatees for that last perfect shot," which is an appropriate message. However, at the same time the video shows a diver holding a camera within inches of a manatee's face. This again could be misinterpreted to indicate that divers should be able to get within inches of an animal's face even though many, if not most, animals would flee from such approaches.

The video also advises divers to "let manatees come to you." Here, we believe the proper message should be something like "slowly back away from animals that approach you; you are in their home and it is important not to interfere with their normal movements or behavior." The written "Dos and Don'ts" section in the manatee watch guidance includes the same mixed message. In all of these cases, the video may have been intended to illustrate activities that the public should not attempt. If that is the case, the distinction is not clear, and the unintended effect may be to encourage activities that constitute harassment.

Your letter notes that the Service is a participant in the national Watchable Wildlife program, but that manatees differ significantly from other marine mammals and that the Service's management approach reflects this uniqueness. The Commission agrees that one size does not necessarily fit all when it comes to marine mammal viewing guidelines. Indeed, different standards are currently reflected in the regulatory definitions of harassment for different species. For example, vessel approach distances of 100 yards have been set for humpback whales in Hawaii but are set at 500 yards for North Atlantic right whales along the U.S. East Coast. In the Commission's mind, the primary consideration in regulating approaches is what is in the best interest of the wildlife species.

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We do not believe that active interactions between humans and wild marine mammals that involve touching animals should be encouraged or condoned. Manatee responses, no matter how benign they may appear, may lead to altered behavior that in other contexts place them at risk. In

fact, such concerns are the underlying reason for prohibiting the provisioning of fresh water for manatees.

Allowing people to touch manatees also complicates enforcement. It places enforcement officers in the untenable position of judging when animals being touched are being harassed. Given the reported prevalence of harassment in Crystal River and the unacceptable nature of harassment incidents documented in the videos referenced in our earlier letter, we believe the Service should take steps to further separate manatees and divers. A prohibition on touching manatees would both eliminate a major incentive for divers to pursue and closely approach manatees and establish a standard that would be far easier for officers to monitor and enforce. The Marine Mammal Commission therefore again recommends that the Service develop and implement regulations to prohibit divers from approaching manatees closer than 10 feet and require that they back away from any animals that approach them. The Marine Mammal Commission also recommends that the regulations prohibit touching animals and that the Service modify public outreach materials to reflect such provisions.

As a general matter, we also believe that there is a need for greater consistency in guidelines developed by the Service and the National Marine Fisheries Service for watching marine mammals. The Marine Mammal Commission therefore recommends that the Fish and Wildlife Service consult with representatives of the National Marine Fisheries Service to develop guidelines for human interactions with free-ranging marine mammals that are both consistent and protective of the animals.

Once again, thank you for your letter and for your ongoing efforts to improve protection of manatees. Please let me know if you or your staff has any questions on our comments and recommendations or if we can be of assistance in any way.

Sincerely,



Timothy J. Ragen, Ph.D.
Executive Director

cc: Mr. David Cottingham