

# STATE OF EMERGENCY FOR ATLANTIC WHALES

By Jim Lovgren

A retired commercial fisherman, and ex-fishery manager

The National Resources Defense Council [NRDC] in a press release has declared a state of emergency for Atlantic Whales. Here are some excerpts from a piece written by Francine Kershaw, NRDC's leading east coast Marine mammal expert. "Something is happening off our Atlantic coast. Unprecedented numbers of great Whales are washing up dead on our shores." After a paragraph noting the recent Whale strandings and The National Marine Fishery Service announcement of three different unusual mortality events [UME] in the past year, the release states, "The North Atlantic Right Whale has suffered serious losses since 2010. Scientists recently estimated that, at this rate of decline, they may become functionally extinct in less than twenty years, [meaning there would be no individuals capable of reproducing left in the population]. The loss of a young female therefore represents a particularly devastating blow."

The release then points to Ship strikes and fishing gear entanglements as the leading cause of marine mammal strandings, and that climate change has caused a change in the migratory paths of Whales closer to shore where they encounter more ship and fishing activity. From its operational playbook, NRDC then offers mitigation ideas to help reduce the Mortality of said mammals. "What can be done to reduce these strandings? Whale habitat is shifting in a way that is heightening the conflict between these much-loved animals and the ways in which we use our ocean, possibly for the long term. We therefore need lasting and timely protections from the stressors that are causing the most harm, such as more expansive regulations to reduce vessel speeds and a concerted effort towards ropeless fishing technology. NRDC is actively working with other environmental groups to advocate for these improved protections. It is also essential to minimize other stressors facing our great Whales to give them the best possible chance of survival."

Here is where it gets interesting; "To protect our Whales, we must stop seismic. We must stop drilling. And we must protect the marine mammal protection act. As part of its atrocious giveaway to oil companies, the Trump administration has proposed permitting five large scale seismic surveys that, if approved, would crisscross the Mid-Atlantic and southeast coasts, blasting every 10 to 12 seconds for months at a time, with noise as intense as dynamite. Impacts to many types of marine life would be severe. For our Atlantic Whales already struggling to survive, seismic blasting would drown out the sounds they rely on to survive over vast swaths of ocean, making it impossible to communicate with one another, to find food, to detect predators. The stress of all that noise could also have long lasting impacts on their health, making them less likely to be able to successfully rear young. The North Atlantic Right Whale, already teetering on the brink of extinction, simply will not be able to withstand this assault. And of course, seismic testing is simply the first

step down a path towards oil drilling off our coasts, placing marine life and our coastal communities at serious risk.”

“It is also crucial for us to defend the Marine Mammal protection act [MMPA], the bipartisan bedrock legislation that has successfully protected our nations for over 45 years. The act requires that industry act in a manner that minimizes harm to marine mammals. It will come as no surprise that special interests in Congress are actively lobbying to gut the act.”

NRDC has been the leading opponent of military sonar usage, its lawsuits successfully targeted the loud noises produced by military grade Sonar and even forced the US Navy to admit to killing hundreds of dolphins and Whales. This press release, which was dated February 23, 2018, was in response to the proposed use of seismic testing off the US East coast for oil exploration using seismic air gun arrays that operate in the 240 to 250 DBs range of underwater sound. Military Sonar typically operates in the 230 to 240 DBs range. Marine creatures of any size, in the direct path and close proximity to a sound source of that level will die a horrible death. Since the NRDC has been such a vocal critic of seismic testing, [and manmade oceanic noise in general] due to its fatal effects on marine creatures, one would think that the recent upsurge in Whale deaths this past year, coincidental with a bunch of survey vessels using seismic and sonar apparatuses to map the seabed for offshore wind sites in close proximity to the stranding site events would have NRDC up in arms. But apparently, they do not care. Could this be because of the generous gift of one hundred million dollars from Jeff Bozo's, who is, just coincidentally, the biggest investor in wind-power in the US, if not the entire world?

Conflicts of interest arise everywhere you look, in concern to offshore wind projects on the east coast. Formerly conservative minded entities have blindly accepted millions of dollars of hush money to go along with the green mafia's attempt to destroy the United States energy independence and force reliance on Chinese manufactured goods for the benefit of Wall Street investors. Here are a few of the infamous Vichy collaborators that have taken money from offshore wind companies, Woods Hole Oceanographic institute, New England Aquarium, Mystic Aquarium, National Audubon Society, The Nature Conservancy, World Wildlife fund, etc. The Etc. is needed because the amount of bribery involved in this massive swindle of what will be taxpayer owed debt is enormous and a threat to national security.

Over the last few decades, the NRDC has successfully challenged the US Military in regard to sonar effects on marine organisms, while also challenging seismic activity related to oil exploration. Both of these issues have national security implications that require a more robust examination of the possible causes of the legal actions taken, and why they were taken. What's NRDC's excuse for ignoring the growing amount of dead Whale carcasses that keep washing up on east coast beaches, while the same research vessels that would have been doing the seismic and sonar research for the oil companies are doing it for the wind factories? They will argue that the vessels are not using a seismic air gun array, and that there is no proof that the lower powered Sonar and Seismic, [Sparkers are seismic and can operate above 200 DBs noise level] have killed any marine mammals.

This is the scoundrels crutch, they know it is near impossible to prove that sonar and seismic killed a particular animal, so they ignore the dead carcasses, and their previously accumulated mountain of evidence that they used against the US Navy, and continue to save the planet for the good of Wall Street, I mean mankind.

So, the most relevant question, to NRDC, NMFS and BOEM is this; Why has the NMFS issued over 63,000 incidental harassment authorizations for level B takes [with over 100,000 more pending] which also includes 332 level A takes, which is death, if the sonar and seismic research does no harm? If Sonar and seismic has not killed the Whales, then why do the wind factories need to have incidental take authorizations, [which are simply a government issued license to kill]? I want to see someone from NMFS explain this seeming contradiction about no evidence that the research has caused the deaths of the Whales, yet the agency feels compelled to issue incidental takes to these vessels. If they are not causing any harm, what are you issuing permits for? How are those 332 marine mammals going to die?

And yes, the level A takes include at least one Northern Right Whale, of which NRDC expresses its regret, despite its previous concern about the death of any Northern Right Whale. Can't stop progress.

NRDC insists that we must protect the Marine Mammal Protection Act at all costs, yet the wind companies have been allowed to thumb their noses at its provisions aided all along by a compliant NMFS that now appears toothless after years of ripping the commercial fishing industry a new A-hole. Attention NMFS, there are, and have been research vessels performing sonar and seismic activity before they have been issued proper authorizations. But they already know this, they're just busy trying to hide it. This is a clear breaking of the law, but no one is doing anything about it. The wind research vessels would rather pay a fine for breaking the law than have to pause their work due to the enormous daily operating costs of such vessels that can reach over \$500,000 per day. But they have not even been charged. Do you think this would be allowed if the vessels were working for oil exploration?

From NRDC's Joel Reynolds paper, "Submarines, Sonar, and the death of Whales" he writes; "The endangered species act, {ESA} requires federal agencies to obtain an incidental take permit before they engage in an activity that may "take" any threatened marine mammal or an endangered species. These permits must be obtained through formal consultation with NMFS or the Fish and Wildlife Service and apply additionally to any adverse modification of critical habitat. Under NMFS regulations, formal consultation MUST be requested and reinitiated where an agency discovers unforeseen effects on any listed species or critical habitat."

I do not think it's hard to argue that turning the waters off the US east coast into an enormous electric factory doesn't constitute an adverse modification to critical habitat. Likewise, the recent stranding events [of unknown cause] should cause a reconsultation of the permits since unforeseen events on listed species have taken place. Repeatedly.

Reynolds goes on in his paper regarding NEPA; "The National Environmental Policy Act, [NEPA] establishes mandatory procedures for objective disclosure and analysis of a project's individual and cumulative environmental impacts, consideration of alternatives, and identification of feasible mitigation to ensure that the project will not needlessly or carelessly destroy or harm the affected environment or species. This act also applies extraterritorially when federal agencies are taking actions with a significant environmental impact." Here's one ripe for a legal challenge. The NMFS and BOEM have both ignored the cumulative effects of having thousands of huge wind turbines placed throughout the whole range of the US east coast. They have been issuing incidental take permits in a vacuum one project at a time, and never considering what the cumulative effects of all the noise, and construction will have on the effected species. This is an absolutely unforgivable dereliction of legally required investigative work and is definitely cause for a suit. If it was the oil companies getting away with this, NRDC would have had them in court in a minute. Here's an idea, use some of Bozo's 100 million dollars to sue NMFS over NEPA, while there are still a few Whales left alive.

One last issue that came from NRDC's Naval lawsuits is the recognition that not even national defense is exempt from environmental rules and regulations, so any claim that the wind factories must be installed as quickly as possible to save the planet have no basis in fact.