

**Presentation to UNOLS Council**  
**6 March 2003**  
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1. Ewing Case

In spring, 2002, Mike Purdy and Lamont decided, with concurrence from NSF, to begin consultations with NOAA-NMFS on MMPA and ESA permitting issues for all Ewing cruises scheduled in CY2003.

Lamont also implemented marine mammal mitigation measures for upcoming Ewing cruises in CY02, beginning with the cruise to Gulf of California in September.

On September 24 two beaked whales were reported stranded on Isla de San Jose at a time when the Ewing was making seismic measurements approximately 100 km away.

Ewing suspended operations for about 10 days to assess the situation. When no evidence was presented establishing a link between Ewing operations and the strandings, Ewing resumed operations and with additional mitigation measures, including aerial surveys to look for any additional stranded animals.

After various legal maneuvers, the Center for Biological Diversity filed a motion for a Temporary Restraining Order in Federal Court in San Francisco, which was granted on Oct. 28, 2002. NSF immediately requested that the Ewing cease seismic operations, which it did.

No appeal of the TRO was filed.

In December, CBD filed a motion indicating that they want to amend the TRO to include all Ewing seismic cruises in 2003. DOJ filed a motion to dismiss the case. Hearing is scheduled for early April.

2. Permits.

Both NSF and Lamont have met several times with Roger Gentry, Ken Hollingshead and others of NOAA-NMFS, Office of Protected Resources to discuss MMPA and ESA permits for small take authorizations. This will now be standard procedure for all NSF-funded seismic cruises (with the exception below).

3. EEZ.

NSF (and some other federal agencies) argue that ESA/MMPA permits are not required when working in the EEZ of other countries. There is a "discussion" on this issue among various Federal agencies, but no formal administration position yet. At present, we will not let NSF-funded operators who are doing seismic work EXCLUSIVELY in the EEZ of other countries file for MMPA and ESA permits. We are, however, encouraging them

to obtain the same documentation as required by the permit process and adopt appropriate mitigation measures. We are also evaluating the possibility of a special panel to evaluate marine mammal safety for each cruise.

4. Regardless of the permit or no permit issue, NSF wants its operators to act responsibly. We are discussing with UNOLS the possibility of a person to help and advise our investigators and operators on MMP A and ESA permit issues and related activities; we are funding the costs of obtaining any required assessments associated with the permit process for NSF-funded investigations; we are considering a "Marine mammal safety panel" as part of our proposal review process; and ONR and NSF will propose a NOPP-funded research program to study effects of acoustic sources on marine mammals using guidance from NRC/OSB.