



March 16, 2009

Marine Resources Commission
Fisheries Management Division
2600 Washington Avenue, 3rd Floor
Newport News, Virginia 23607

Dear Commissioners,

We are writing in response to recent notices (dated February 24, 2009) of applications to site new pound nets in the area between the Chesapeake Bay Bridge Tunnel (CBBT) and Cape Henry. Mr. Dirk Sanford has requested a license for two nets in this area, while Mr. Charles Gregory has requested a license for one net. We are opposed to any new nets in this area for the following reasons.

The area from the Chesapeake Bay Bridge Tunnel to Cape Henry is an important habitat area for bottlenose dolphins, *Tursiops truncatus*. The Cape Henry coastal area has some of the highest recorded densities of bottlenose dolphins in the U.S. While this species is not endangered, bottlenose dolphins are federally protected and are currently the subject of an on-going Take Reduction Team (of which we are members) headed by the National Marine Fisheries Service (NMFS) Southeast Region. During the past 12 years, the Virginia Aquarium Stranding Response Program has documented over 60 bottlenose dolphin mortalities in this area with signs of entanglement in nets consistent with pound net leaders. We have held on-going discussions with the current owner of the six pound net sites between the Lynnhaven Fishing Pier and Cape Henry (four active pound nets in 2008), Dimitri Hionis, and with the former owner of those nets, Kenny Etheridge, on how to reduce or eliminate these lethal interactions. For the past two years, we have been working with Mr. Hionis to determine if a non-traditional string-hedge leader would maintain his commercial catch while reducing the likelihood of bottlenose dolphin mortalities. This project was funded through the NMFS Bottlenose Dolphin Take Reduction Team, the North Carolina Sea Grant Program, and the Aquarium's Foundation. As a result of this project and work with the former owner, we have extensive experience with the pound nets in this area that stretches back more than 24 years.

In addition to dolphins, pound net leaders have been shown to pose a threat of entanglement and entrapment to sea turtles. The Chesapeake Bay is a major seasonal developmental habitat for thousands of juvenile loggerhead sea turtles and has a significant presence of Kemp's ridley sea turtles. Both species are listed as threatened or endangered by the U.S. Endangered Species Act. In fact, the non-traditional leader that we have been testing at Cape Henry was originally developed to address sea turtle

mortalities in Bay pound nets. This leader style is now mandatory for all Virginia offshore pound nets inside the CBBT from May 6 through July 15. These new license requests are for net sites less than two miles from this restricted area and within the migratory path of sea turtles entering the Bay.

We believe that new pound nets in this area would pose significant risk of interactions with bottlenose dolphins and sea turtles. The few pound nets that are present near Cape Henry have a relatively high dolphin interaction rate compared with other commercial gear. The area between the CBBT and Cape Henry is characterized by high recreational use due to its location adjacent to large tourism and residential populations. Recreational fishing and boating, personal watercraft use, kayaking and other activities continue to grow and utilize this busy coastal area. Whether these factors play a role in the high levels of protected species interactions with pound nets remains uncertain.


We are convinced that existing pound nets should be modified to prevent continuing stress on protected species such as bottlenose dolphins and sea turtles. It is only because the current number of nets is relatively low that we have been able to work with the owners to try to address the interaction problems. This work is not yet complete and the final outcome of the project in terms of its effectiveness to prevent dolphin mortalities will not be known for at least several years. It is our opinion, however, that the non-traditional leader should be required at all times for offshore pound nets in this area.

In conclusion, we believe that the above concerns should be considered by the VMRC before allowing additional pound net licenses and sites to be developed between the CBBT and Cape Henry. The potential addition of new pound net fishing effort that is reflected in these applications is unlikely to be received favorably by fishers, fishery managers and protected species biologists on the NMFS Take Reduction Team. Please feel free to contact us if you have any questions about these comments or if we can provide further information.

Sincerely,



W. Mark Swingle
Director of Research & Conservation
Phone: (757) 385-0326
MSwingle@VirginiaAquarium.com



Susan G. Barco
Senior Scientist & Stranding Response Coordinator
Phone: (757) 437-7765
SGBarco@VirginiaAquarium.com