SC/68D/CMP/13

Sub-committees/working group name: CMP

Western Gray Whale Advisory Panel: Closing Statement

Randall Reeves, Greg Donovan and David Weller

Western Gray Whale Advisory Panel: Closing Statement[1]

Randall Reeves[2], Greg Donovan[3] and David Weller[4]

Background and Panel History

The Western Gray Whale Advisory Panel (WGWAP) was officially convened by the International Union for Conservation of Nature (IUCN) in October 2006 to provide advice on western gray whale conservation with a focus on impacts from oil and gas development on the Sakhalin shelf in the Russian Far East. The Panel was disbanded at the end of March 2022 when the contract between IUCN and Sakhalin Energy Investment Company (Sakhalin Energy) expired.[5]

At the time the WGWAP was convened and through its first few years of activity, the gray whales that spend the summer-autumn feeding season off Sakhalin Island were considered to be a Critically Endangered remnant (primarily due to whaling) of a population that stayed in the western North Pacific year-round (i.e. also for migration and breeding). We now know that some of the whales that feed off Sakhalin migrate to the eastern North Pacific for the winter before returning to Sakhalin the following spring and early summer. The number of whales feeding off Sakhalin and south-eastern Kamchatka has been growing steadily at around 5% per year (1995-2020), with 220-270 individuals not including first-year calves as of 2020. The Red List status for western gray whales has improved from Critically Endangered to Endangered although the number of individuals that use the once-important wintering grounds in the western North Pacific is unknown.

The WGWAP held 22 formal meetings (open to observers) at venues in Russia, Canada, the United States, Switzerland, Japan and the Republic of Korea. In addition, 38 closed meetings of technical 'task forces' (convened by and reporting back to the Panel) were held to consider issues such as the effects of noise, environmental monitoring, photo-identification techniques, use of new technologies, and oil spill risk and response. A primary product was the development of monitoring and mitigation plans to address the risks to the whales posed by seismic surveys. All WGWAP and Task Force reports are available at https://www.iucn.org/western-gray-whale-advisory-panel. The WGWAP comprised 8-12 scientists at any given time (experts in a variety of relevant technical disciplines)[6], none of whom had any recent direct relationship to Sakhalin Energy or other company operating on the Sakhalin shelf; panel members were solely responsible for WGWAP reports and recommendations.

Importantly, the WGWAP meetings were attended not only by Sakhalin Energy staff and contractors, but also by observers from the lenders, Russian federal and local governmental agencies and academic institutions, Russian and international non-governmental organizations, and occasionally representatives of other companies operating on the Sakhalin shelf. The IUCN Secretariat provided administrative support and oversaw and coordinated the Panel's work. Sakhalin Energy was obliged to either implement Panel recommendations or provide an explanation

---

[1] This document was finalized on 28 February 2022, i.e. shortly after the Russian invasion of Ukraine began on 24 February 2022.

[2] Okapi Wildlife Associates and IUCN-SSC Cetacean Specialist Group, Hudson, Quebec, Canada; Marine Mammal Commission, Bethesda, Maryland, USA

[3] IUCN-SSC Cetacean Specialist Group, Haddenham, UK and Roskilde, DK

[4] NOAA Fisheries, Southwest Fisheries Science Center, Marine Mammal and Turtle Division, La Jolla, California, USA

[5] The WGWAP was created under the auspices of IUCN as a follow-up to an Independent Scientific Review Panel (ISRP) that addressed potential impacts of Sakhalin Energy's oil and gas project (Sakhalin II–Phase 2) on gray whales. The ISRP met four times from September 2004 to January 2005, before issuing its report (https://www.iucn.org/sites/dev/files/isrp_report_with_covers_high_res.pdf). The Panel process was a condition of the agreement set up by the banks and other lending institutions that had provided funding for the Sakhalin II–Phase 2 project (hereafter, the lenders). IUCN received funding for running the Panel and had responsibility for maintaining the Panel's independence. This type of lender–company–panel relationship is rare if not unique. The position of the lenders in requiring conservation measures based on independent external review allowed for meaningful conservation efforts that otherwise may not have been pursued.

[6] All told, 25 different experts – from Russia, Canada, the United States, Germany, Ireland and Sweden – served on the panels. In 2021-22 the WGWAP membership consisted of Justin Cooke, Greg Donovan, Leslie New, Doug Nowacek, Randall Reeves Olga Shpak, Greg Silber, Leigh Torres, David Weller and Alexander Vedenev. In addition, Alexander Burdin and Brandon Southall were associate scientists during this period.

for not doing so, and all recommendations and company responses to the recommendations were made publicly available by IUCN[7].

Panel Successes and Weaknesses

In all, the WGWAP and its predecessors issued a total of 639 recommendations between 2004 and 2021, the vast majority of them directed to Sakhalin Energy, the only company formally participating in the panel process. Perhaps the most tangible achievement of the Panel was the Company's decision, made as the result of a recommendation by the ISRP, to reroute (at considerable expense) its offshore pipeline that would have crossed the whales' nearshore feeding area off Piltun Lagoon. From 2005 onwards, much of the WGWAP's guidance and advice was incorporated into Sakhalin Energy's standards and practices that often exceeded the formal requirements of the Russian Federation. Important examples include: stringent measures to minimise the impacts of noise from construction activities and seismic surveys on the whales, vessel traffic management to minimise the risk of whales being struck accidentally, improved scientific monitoring and analytical methods, and modifications to Sakhalin Energy's oil spill prevention and response planning to include special consideration to protect the whales and their habitat. Finally, the synergy maintained between IUCN and the IWC throughout the 'panel era' (2004-2022) was one of the real strengths of the panel process.

From the outset, IUCN and the WGWAP stressed the importance of having all companies operating in and near the gray whale feeding areas on the Sakhalin shelf, along with relevant authorities, participate and co-operate in the WGWAP process, reasoning that long-term conservation of the whale population would ultimately depend on regional efforts rather than solely on those of a single company. All parties to the WGWAP agreement (IUCN, Sakhalin Energy and the Panel itself) made moderate progress, at times, towards collaboration and coordination. For example, increasing co-operation with local and national authorities in Russia during recent years enabled the Panel and IUCN to contribute towards the development of a draft national strategy for western gray whales. However, formal collaboration and coordination amongst companies, scientists and authorities remained a major challenge throughout the agreement period.

Particular disappointments related to the lack of data sharing with the joint gray whale monitoring programme (Joint Programme) of Exxon Neftegas Limited (ENL) and Sakhalin Energy and disagreement between the Panel and the companies on necessary components of the programme. Despite considerable efforts and an offer from the International Whaling Commission (IWC) to maintain and manage a single database of photo-identification and genetic information obtained by both the Joint Programme and the independent Russian Gray Whale Project (including data collected in earlier years under the Russia-U.S. Programme), ENL did not agree to this undertaking which would have greatly improved (and still could improve) the scientific basis for conservation efforts throughout the range of gray whales. Somewhat ironically, one of the major successes of whale research in the region, something that expanded our understanding of gray whale stock relations and movements in the North Pacific, was the satellite tagging programme in 2010-2011 carried out under the auspices of the IWC and co-sponsored by ENL, Sakhalin Energy and IUCN.

We sincerely hope that efforts to strengthen regional co-operation and address the outstanding issues summarised below will continue, ideally nationally under the auspices of the Ministry of Natural Resources and Environment of the Russian Federation [Minprirody] in collaboration with Russia's Marine Mammal Council (the MNR initiative[8]) and internationally in collaboration with the IWC and by range states through the Memorandum of Cooperation Concerning Conservation Measures for the Western Gray Whale Population (MOC) and the IUCN/IWC Range-wide Conservation Management Plan (CMP) for Western Gray Whales.

Lessons learned that should be incorporated into future approaches to integrated conservation off Sakhalin and beyond

National and international efforts in the future would do well to consider the following lessons learned from the IUCN panel process as well as from experience with similar whale monitoring programmes in the context of marine energy development elsewhere (e.g. Greenland, Ireland):

(1) Both **independence from** *and* **collaboration with** industry and civil society need to be maintained, and this is not a simple task.

[7] https://www.iucn.org/western-gray-whale-advisory-panel/recommendations

[8] The Expert Section on Cetacean Conservation and Recovery was convened by Minprirody under the auspices of its Working Group on rare and endangered wildlife taxa that require priority measures for restoration and reintroduction. Western gray whales were added to the list of such 'taxa' in 2020.

(2) Discussion and documentation of science and management issues need to be **transparent**, i.e. as open and inclusive as possible, with conditions, if any, regarding confidentiality clearly spelled out[9].
(3) Continued **collection of key scientific data** on whales and their habitat, along with **consistent analyses** using up-to-date technology and methods, must be assured by all parties, and the newly collected data must be compatible with existing long-term datasets.
(4) Existing and new data and information need to be **secured** and **archived** and made openly **accessible** for long-term use.
(5) Legal frameworks need to be refined to ensure a **level playing field**, meaning that all companies and sectors follow the best available practices in monitoring their activities and assessing likely impacts. The results of such efforts can then be used for impartial and state-of-the-art analyses of cumulative impacts and the setting of overall industry standards. All offshore industrial developments need to be assessed, in terms of impact and impact reduction, **in the same way and on the same scientific basis and in a transparent manner,** using freely available data from all sources (including companies, governments and independent scientific bodies).
(6) The entire process needs to be underpinned by **sufficient funding** and the support of **national authorities**.

In the absence of the Panel, a number of possible approaches that incorporate these principles at the national and international level come to mind. These approaches include (preferably involving all parties in co-operation):

(1) The MNR initiative that was under development, which included a recently completed western gray whale conservation strategy for the Russian Federation and which was expected to eventually include a roadmap and action plan for implementation
(2) Continued IWC Scientific Committee annual review as well as an agreed schedule of international expert rangewide workshops (e.g. every few years depending on assessed need)
(3) Continued regular updates of the IUCN Red List assessments of gray whales by the Cetacean Specialist Group
(4) A revitalised range state Memorandum of Co-operation (MoC) on western gray whale conservation in the light of an updated IUCN/IWC Conservation Management Plan (CMP) to facilitate conservation and management measures throughout the range.

Unfinished Business

We highlight the following key issues that were ongoing in early 2022 (more details were provided in the Panel's reports and especially that of its final meeting in November 2021[10]) that can best be addressed by incorporation into national (Minprirody) and international initiatives (the MoC and CMP) as well as an improved and transparent Joint Programme (the research and monitoring programme undertaken by primarily Sakhalin Energy and Exxon Neftegas Limited).[11]

(1) The Russian Gray Whale Project (founded and led by Dr. Alexander Burdin of the Kamchatka Branch of the Pacific Geographical Institute) is the longest-running (since the mid-1990s) cetacean study of its kind in Russia and its openly accessible, annually updated photo-identification and more recently genetics datasets have formed the basis for population assessments. This project must continue in the future, ideally as part of a single catalogue with full archiving and agreed accessibility protocols and consistent methodology.
(2) Regular population dynamics modelling based on all available photo-identification data supplemented by genetic data must be continued and evaluated. This is essential to assess *inter alia* whether mitigation measures are working.
(3) Although the sound energy introduced into the marine environment by Sakhalin Energy's activities is likely to continue to decline, assessment of the long-term and intra-seasonal underwater soundscape in the Sakhalin feeding areas should be monitored, preferably via control-station analyses overseen and mandated by a regulatory agency. Where noisy activities are to take place (e.g. seismic surveys), review of the results of all companies' mitigation efforts should be integrated into consistent monitoring and mitigation measures.

[9] The IWC approach for management advice on whaling provides an example, where methods and terms of data availability are specified.
[10] Which, however, had not yet been posted at the time of writing this document.
[11] In March 2022 it was announced that both Shell and Exxon were removing their personnel and other assets from Russia. This presumably has had and will have major implications for the future of the Joint Programme as well as for Sakhalin Energy's monitoring and mitigation program during its planned Piltun-Astokh seismic survey in summer 2022.

(4) It is now over a decade since the last satellite tagging work on western gray whales was completed and a better understanding of movements away from Sakhalin (and thus exposure to threats) remains an important conservation issue to be addressed, especially for gray whales in the western North Pacific, by conducting additional studies and employing various techniques (e.g. more telemetry initiated at the end of the feeding season; bioacoustic monitoring in Asia, particularly in Japanese and Chinese waters; more regular photo-identification effort in Kamchatka; continued comparisons between gray whale catalogues from the western and eastern North Pacific).
(5) Studies of gray whale habitat (e.g. prey biomass in known feeding areas) must be resumed and integrated with analyses of diet, stress hormone levels (in whale faeces, biopsies or whale exhalation) and body condition (via photogrammetry and field observation by researchers) to evaluate the 'resilience' of gray whales to environmental change, whether anthropogenic or natural.

Conclusion

The new or ongoing work that we are calling for should not be the responsibility of a single company, organization or institution. There is a need for government-mandated co-operation amongst all stakeholders, sharing of the costs of acquiring and analysing data, and sharing of the data under a fair and secure process, always with a focus on agreed conservation and management objectives and incorporating international co-operation at a rangewide level to the greatest extent possible.