

SHIPWRECK DIVERS - RESPONSE

In response to the interview conducted by Wreck Diving Magazine, we'd like to comment on several aspects of Craig MacDonald's statements.

The interview in its entirety can be found here: <http://wreckdivingmag.com/interview.html>. Excerpts and quotes from the interview have been used with permission.

First, it is important to establish the timeline, as many dates were thrown around in this dialogue. To review, the following statements (in *italics* unless otherwise indicated) were made by Craig MacDonald:

"...quite honestly we didn't have any sense that there was a strong interest on the part of divers to dive in the sanctuary. In fact we didn't know that there was any activity at all as we went into this management plan in this stage of process. So there was no channel for us to specifically target wreck divers and communicate directly with them, so eventually we had a public scoping and comment period in the year 2000."

"...we really didn't begin appreciating what was out there in the way of shipwrecks until about 2001."

"...I was approached by some technical divers after the presentation who said "Hey guys we're out here, you should do things with us." ... "Oh this was probably November 2002. It was just after the whole scoping process."

"In 2003, we (Ben Haskell) who was the team lead for the Maritime Heritage Working Group gave a presentation at the Boston Sea Rovers conference..." ... "We have had a booth at the Sea Rovers every year from 2003 right through to this past conference in 2006."

"In 2004, we had an exhibit at the Metro West Dive Club Wrecks Symposium; Ben Haskell also gave a presentation on the sanctuary's shipwrecks at the symposium."

"She [the technical diver representative on the Maritime Heritage Working Group] started doing that [the survey] in February, 2004, it might have been March. She did it at the Sea Rovers Conference."

"We started there in 2003 and the public scoping ended in 2002."

From this timeline of events, it is clear the diving community was not known to the Sanctuary, nor was it a participant during the public scoping/commenting period from 2000-2002. At the end of the 2002 commenting period, the Sanctuary became aware of the presence of a technical diving community and made efforts beginning in 2003 to establish some visibility in the community via industry trade shows/clinics.

The question is – what have they learned? There seems to be a lot of importance placed on the results of a 55-person response survey distributed barely one year after the Sanctuary began its outreach to the diving community.

"55 were returned to her."

With such a low number of surveys returned, one must question the design of the tool and how it was distributed, especially given the large number of local divers that attend the Sea Rovers Clinic. Nevertheless, some trends could be observed in this small dataset.

"Most of the respondents knew about the sanctuary but only 17 out of the 55 said that they currently dive out in the sanctuary."

Since "most" wasn't defined, one can assume it is a majority number; however, the extent of their knowledge about the sanctuary was not established. The descriptive statistics on these results are biased towards suggesting few divers visit the sanctuary. "But only" in this instance actually refers to 31% of the respondents. One third of the responding divers, who have not been characterized in terms of type, experience level, interest, etc, actually said they dove in the sanctuary. The language used here suggests 31% is not a meaningful number. What is a meaningful number?

"Fifty-two responded they would like to dive in the sanctuary for reasons tied to wreck diving and lobstering. Thirty eight of the respondents typically dive in water less than 130 feet."

According to the most recent metrics on the Stellwagen Bank Sanctuary website [<http://www.stellwagen.noaa.gov/visit/diving/diving.html>], 15% - or 126 square miles – encompasses waters less than 130 feet. So by these numbers 69% of the responding divers could access up to 15% of the sanctuary. Even excluding technical divers, who have diving range to as deep as 400 feet (in practical terms); this is actually a sizable area (126 square miles) within a sizeable sanctuary (842 square miles). And since 52% of the respondents indicated they would like to dive in the sanctuary, one can certainly suggest there is interest in diving in Stellwagen.

The question of course is why the other 48% would not be interested in diving in the Sanctuary? Do they have different interests that were not stated (other than lobstering and wreck diving)? One might speculate the lack of response had something to do with the level of awareness regarding the Sanctuary's resources among these individuals, as well as perhaps the format of the survey (how much background on Stellwagen was included, or were they "cold" questions?).

Forty-one of the respondents knew that there were prohibitions about mooring or removing historical resources. I think this is important because it relates to one of the other questions."

"Forty-five of these respondents or 82% would be willing to give notification of their intent to dive on a shipwreck in the sanctuary by radio or phone."

Were these respondents asked if they felt the current prohibitions were adequate? If not, why weren't they adequate? And of the 41% and 45% respectively, which subset was dominantly represented? The half who did or did not have interest in diving in the sanctuary?

In an ongoing survey among a 231 member Northeast Wreck Diving discussion group, NEwreckdivers [<http://groups.yahoo.com/group/NEwreckdivers/surveys?id=1953282>], the following results have been obtained:

The question posed:

If some shipwrecks in Stellwagen bank are classified as "Public Access" one of the potential requirements attached to this classification is that the sanctuary must be notified of your plans to dive the site in advance of your visit (by phone call). The stated reason for this requirement is to collect data on site usage to assess changes in the site due to environment, visitation, etc. Do you agree with this requirement (prior notification of planned visits to public sites)?

The current responses (N=30):

<u>Response</u>	<u>Number (%)</u>
Yes, I agree. This an acceptable requirement	2 (6%)
No, I do not agree. This is not an appropriate requirement for public sites	28 (93%)

How does one explain the Sanctuary's result (82% positive response, N=55) against the vastly different result in the poll taken among the local wreck community (93% negative response, N=30) with respect to prior notification?

Let's look at the responses concerning the technical diving community:

"Only 5 checked that they dive in water greater than 300 feet.

Without a doubt, this number will be small, but there are still a number of wrecks in the 130-300 foot range that more divers would be able to access. Why weren't technical divers asked about wrecks in that depth range?

"The information she gathered, even though it was only one person's efforts, gave information to the working group before the action plan was finalized. That was really the first sense we had of the kind of diver interest within the sanctuary. Now again, all of these were not wreck divers (technical wreck divers) because the Sea Rovers attracts a broad range."

Fair enough. But what was the "take home" message? Was the message that there was a valid rationale for implementation of restrictive measures on access and monitoring because there is proven diving happening in the sanctuary that is of concern, or that 82% of 55 people (and of that 55, 48% of whom are not interested in diving in the sanctuary) would agree to such measures? In the absence of a well characterized population how could anything

outside of “people are interested in diving here” be concluded? How could this information actually be used in a serious manner when formulating the Action Plan?

The issue of bias towards restricting diving has already been raised once, and in the interpretation of comments obtained during the formal commenting period, we see it again:

“There are two of them, one that says “Do not turn this sanctuary into a public dive site”, and the other one “Protect cultural resources such as the shipwreck of the Portland from all disturbances”. This isn’t the measure of how many times this sentiment was expressed. What we did was go through the 20,000 comments received and capture the sentiment, and try not to duplicate it multiple times. From this list I can’t tell you whether it came from one person, two people or more people. I would have to actually go through all the original comments and count each comment which I haven’t done. But, the important thing is when we do our scanning of the comments, what we are trying to do is gather the essence of public concerns. It’s not weighted by how many people are saying the same thing.”

It is interesting how one moves from a survey of 55 people where percentages and descriptive statistics are used to interpretation of comments to capture the “essence” of them. Were these comments expressed this way in a meaningful number because a known problem did exist, or were these comments amplified to address a problem that in fact did not exist? In other words, is the diving “problem” in the sanctuary anything at all like issues concerning commercial fishing? According to MacDonald,

“...it [scuba diving] pales in comparison to the number of issues that were actually raised like whale watching and commercial fishing. “

What else can the diving community conclude except that a series of restrictive measures were proposed off an insignificant survey, and the “essence” of a small number public comments? MacDonald also points to the Working Groups as a source of problem identification:

“A lot of the discussion that grew around divers actually grew out of the discussions of the working group. The scoping comment information was given to the respective work groups. And then they went about their business.”

It is critical to note that only one member of the Maritime Heritage Working Group was a technical diver. Of the 15 member Working Group, 4 members were NOAA employees. And of the 4 technical advisors, 2 were NOAA employees. Reference: <http://stellwagen.noaa.gov/management/workinggroups/archwg.html#membership>. This hardly constitutes what we believe is an adequate number of diver representatives when such important discussions are taking place.

However; when the interview discussion turns to the topic of “prior notification” for diving public sites, MacDonald indicates Working Group membership will be different than that described above:

“If it turns out that when we do periodic reassessments and it looks like the sites are being degraded, we can go to our sanctuary advisory council and ask them to convene a working group made up of the public, the folks diving out there. It will be comprised of those people who are calling in.”

The diving community did not have the opportunity participate with greater representation in the meetings where the recommendations were initially made, but according to this, complying divers can participate in the meetings where recommendations will be made that could result in changes (possibly in a way that will be more restrictive)?

Further exploring the discussion regarding prior notification, MacDonald states the following:

“We’re not going to know who is out there if they don’t tell us they’re out there. We’re not going to know if there is degradation due to a site’s over-use or a result of environmental deterioration. The national parks service does it all the time. They call it “limits of acceptable change”. What they do is monitor use. If it turns out the area is getting a lot of use they take a step back. They assess whether what they are doing is the best way to protect a site for long term. It’s hard to argue against doing that if it’s not a hard reporting burden on the diver. It’s putting them in closer communication with the sanctuary. It’s actually developing a relationship with us. Then we can go to them when there is a problem on the wrecks so that they can continue to enjoy diving there.”

It is interesting that MacDonald believes a measure like this will actually develop a relationship with divers, especially when it is based on a fundamental lack of trust. If the Sanctuary is only interested in monitoring site degradation (which is impossible by this method, by the way), then another data collecting tool, such as a web-based data submission form (where dates, locations, observations, photos, video, etc can be uploaded) would be far more

effective and conducive to “developing a relationship.” It is not a matter of this requirement being a “hard reporting burden” – rather it is about the simple reality that divers will likely receive surprise visits while diving a site to check up on compliance. If one falters in any way, this will not only be grounds for either site closure or individual prosecution, but it will simply give the Sanctuary the opportunity to tighten restrictions and make more sites unavailable. The Sanctuary has no record or established relationship with the public wreck diving community as far as diving in Stellwagen is concerned, especially since their own embargo prevents them from engaging the community to allay some of these fears. In the absence of an established relationship, along with released public documents that recommend the implementation of highly restrictive measures with regard to diving, how can the Sanctuary be given the benefit of the doubt on this? They cannot. What guarantee will the Sanctuary make to complying parties that their cooperation will give them some advantage over those who choose to ignore this requirement (aside from prosecution for violating a regulation if caught)? Is it that they get to participate in the meetings that will determine site accessibility?

Bottom line is – from our perspective this requirement is unreasonable, impractical and for no other purpose than to monitor diving activity.

Are recreational boaters going to be required to call in when they decide to fish over a public wreck? Are commercial fisherman going to have to call in to report when they lose gear near or on a public wreck?

Why single out divers – the smallest user group with the least impact?

Moving on to another aspect of the interview, with regard to concessionaire permits, MacDonald states:

Well, what came up in the discussions of the working group is that the sanctuary can't be looking over everybody's shoulders all the time to see if people are anchoring over a wreck and diving on it. Having a concessionaire who was responsible for any damage to the wreck that might have occurred by the divers was one of the underlying considerations. In other words, if we're authorizing a commercial operator to take people there, how can the sanctuary gain some oversight and essentially apply some responsibility on the part of the operator so if damage is done to the sanctuary resource that person would be ultimately responsible. That was part of the discussion leading up to that recommendation.

If the sanctuary intends to hold commercial operators to a higher standard and look to them as the accountable party if damage occurs at a site (MacDonald does not state how it would be proven the damage was actually done by the commercial operator – or whether or not the commercial operator would be responsible for the actions of customers in this regard), then the sanctuary must provide assurances to commercial operators that the area will be policed to keep unauthorized individuals or groups from accessing the site, whether by diving or fishing. Otherwise, for what reason would a commercial operator want to go these sites? What guarantees would be made to the concessionaire that they are being supported by the sanctuary? All the operators are doing is putting themselves at risk for accusations, investigations and perhaps even prosecution in the absence of the sanctuary presenting any conclusive evidence at all that in fact said operator cause damage to the site. If the sanctuary intends to “apply some responsibility” to the operator, then the sanctuary owes those operators the protection and support of policing the site to ensure unauthorized groups or individuals are not accessing the site. We would like to know how this would be done. How much of NOAA's budget will be devoted to this aspect of sanctuary management?

MacDonald does indicate this recommendation is being carefully reviewed:

Actually Joe, that's something we're still chewing on. Like I said before the action part of the working group is to produce advice. It's when we're really considering all the recommendations, but there are some of them we have to rethink. And that's one of them. We're not quite sure where NOAA's going to fall on that. I don't think we've fully evaluated it internally.

And we hope their conclusion is to abandon this concept.

With regard to diving in the sanctuary, according to the website [<http://www.stellwagen.noaa.gov/visit/diving/regulations.html>]

Under the above regulations divers are not permitted to grapple a shipwreck, drop a down line directly onto a shipwreck, or tie a down line onto any part of a shipwreck. Divers are also not allowed to leave an unattended mooring in the sanctuary at any time.

We would like to know exactly how the sanctuary conducts all diving operations on shipwrecks. Since one cannot put a line down on a wreck, or tie the line into the wreck, we would like an explanation on how the sanctuary conducts their dives, with details. How does the sanctuary get close enough to the wreck to send divers down? We know that presently no permanent moorings exist in Stellwagen. Do their divers come up a line? If they do, where is the line relative to the wreck and how is this line secured? How is it removed after the dive?

This statement is not in the spirit of the regulations, nor is it in the spirit of promoting access or safe diving. There is nothing that explicitly states the above in the existing regulations. This is simply a rigid, biased and frankly unreasonable interpretation of the regulations meant to deter divers from accessing wreck sites. The regulations presently in effect state:

Prohibited or otherwise regulated activities:

(3) Drilling into, dredging or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material or other matter on the seabed of the Sanctuary, except as an incidental result of:

- (i) Anchoring vessel;*
- (ii) Traditional fishing operations; or*
- (iii) Installation of navigational aids.*

(4) Moving, removing or injuring, or attempting to move, remove or injure, a Sanctuary historical resource. This prohibition does not apply to moving, removing or injury resulting incidentally from traditional fishing operations.

(7) Possessing within the Sanctuary (regardless of where taken, moved or removed from), except as necessary for valid law enforcement purposes, any historic resource, or any marine mammal, marine reptile or seabird taken in violation of the Marine Mammal Protection Act, Endangered Species Act or Migratory Bird Treaty Act.

How can the Sanctuary make a statement that divers cannot establish a safe means to access the wreck on their website based on this language? Limited information on a subset of shipwrecks is presented and they explain that diving is allowed in the sanctuary – but then indicate that all conventional means of accessing a site are prohibited – and they do so in the absence of suggesting another method, and they do so in the absence of implementing a suitable means for safely accessing the wrecks.

In the absence of installed and maintained moorings, which we know the Sanctuary not only lacks the budget and resources to implement on a widespread basis, basically no one can dive in the sanctuary according to the above statement – especially since an appropriate means of diving a wreck has not been suggested.

We expect the Sanctuary to post detailed guidance on how divers should access wrecks without using a line to reach them directly on their website, perhaps even an instructional video clip on their website showcasing their methods in action would be helpful to the public dive community.

The Sanctuary further reveals its lack of understanding of how technical diving operations can be conducted on deep shipwrecks when MacDonald states:

“So to have someone anchor a boat at depths of 300 feet or more you’ve got a 7 to 1 scope, a couple thousand feet a line and a boat that’s 30ft or more on the surface and very strong currents working against that line. Where’s that anchor going to go when you drop it?”

To suggest that a dive operation would put 2,100 feet of line in the water to dive a shipwreck in 300 feet in depth reflects a serious lack of understanding of technical diving in general, as well as how shot lines and live boat operations are used.

Moving on to another issue: historical significance. When the subject of “historically significant” comes up, MacDonald is vague in his responses:

“Joe - Would a wreck like that be in an exclusion zone where a diver would not be able to get a permit to dive on it?”

Craig - It would be historic preserve status. It looks like those two categories of vessels would qualify for preserve status, but not all coal schooners for example would.”

And this means...? No diving period? No diving without a permit? A permit must constitute a scientific study? MacDonald does not answer the question. He also does not address the issue of “potentially eligible” for inclusion in the National Register, which is a point of concern that rose out of the Action Plan, since many wrecks could be “potentially” eligible.

In summary, the interview was a positive step forward, at least in confirming that the proposal outlined in the Action Plan is not too far off from what we can expect to see in the DMP. What this means is the dive community should continue to worry about the level of monitoring, and the degree to which sites may be restricted in the new management plan. The dive community must remain vigilant and continue to generate comments, feedback and remain aware of developments in this process. We thank both Joe Porter of Wreck Diving Magazine and Craig MacDonald of Stellwagen Bank National Marine Sanctuary for their work in this regard.

The recent revisions/upgrades and improvements to the Sanctuary website: www.stellwagen.noaa.gov is a vast improvement from prior versions, and this is certainly a step in the right direction. However, it is somewhat soured by the statements regarding how divers cannot access wrecks by conventional means, which amounts to no-access in the absence of sanctuary-installed moorings for all practical purposes.

Little that has been presented so far allays our concerns that the Action Plan as published won't be significantly integrated into the Draft Management Plan (DMP), particularly with regard to the prior notification issue (which MacDonald clearly supports and thus will very likely appear in the DMP), restrictions on diving operations (such as securing a line to the wreck in cases where a permanent mooring does not exist), the ultimate accessibility of restricted access wrecks, the evaluation/determination of historical significance and use of concessionaire permits. While MacDonald points out differences between Thunder Bay and Stellwagen that make them incomparable, in his opinion, we feel it should be noted that despite the different diving conditions in the two areas, there are many similarities, especially with regard to the fragility of the wrecks given that they are freshwater sites, which are truly "museum quality." Museum quality sites, where the use of a line is permitted in certain instances. The regulations in regard to use of a line when diving a wreck (excerpt from the Federal Register for Thunder Bay [<http://thunderbay.noaa.gov/pdfs/tbnmsregs.pdf>]) state:

Due to damage to underwater cultural resources that could be caused by grappling hooks or anchoring devices, and in response to a recommendation from the Sanctuary Advisory Council (SAC), NOAA added a prohibition on the use of grappling hooks or other anchoring devices on underwater cultural resource sites that are marked with a mooring buoy (15 CFR 922.193(a)(3)). If a site is not marked with a mooring buoy, grappling hooks or anchoring devices may be employed. However, because of the potential of damaging an underwater cultural resource, NOAA recommends that such devices only be used at a nonmooring buoy-marked site when there is no alternative. In such case, the person intending to use an anchoring device should consult with the Sanctuary manager to determine ways of avoiding damage to the underwater cultural resource at the site (e.g., obtaining information about how the anchoring device should be placed and oriented to avoid damaging vulnerable parts of the resource).

And this is not feasible in Stellwagen for what reason(s)?

The comments expressed here, and the nearly 400 that have been collected via the Shipwreck Divers website that will eventually be submitted to the Sanctuary should serve to communicate the "essence" of the diving community's concerns on these issues. We hope to see the management plan reflect consideration of these matters.