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## A Slaughter of Dolphins

*HALFWAY OUT OF THE WATER, A COSTA Rican spinner dolphin, caught by its beak in the mesh, wriggles free and drops back in. The triangular fin cuts under, and the dolphin rejoins its mates in the steadily shallowing belly of the net. Another entangled spinner rises. Its head is pressed awkwardly forward, its dorsal fin bent sideways, its beak half open. It is nearly to the power block when something -- the dorsal? -- appears to break, and the dolphin and dark fragments of it tumble back into the sea. The net at first is selective. The youngest spinners, quickest to tire, are the first to be caught in it. For a time mostly the slender bodies of calves are borne up the conveyer of the red mesh. The camera rolls on and soon the adults, too, die or surrender and begin the climb. They rise, a dense mass of bodies, until the steepening angle of the net tips them off, four or five at a time, to pitch downward, beak over tailfin, to be caught again by the nets shallower angle at the waterline, to begin the climb once more.*

*A large male dolphin, completely enshrouded in mesh, approaches the power block. It twists and backs wildly. The camera notices. The struggles of most dolphins at this stage are much feebler. In this animal the life force seems unusually strong. The camera zooms in. The dolphin passes quickly through the power block. Emerging, it slides down the red mound of brailed net, shoved and guided by the hands of fisherman. A strange thin" has happened to it. The amplitude of the big dolphins struggles has flattened out. Where before its flukes traveled through a wide arc, a reflexive swimming motion, now they beat in a shallow, spasmodic flutter. That moment in the power block was too brief, it seems, to have wrought the change. But that is how it always seems, of course, for mortal creatures passing through that particular door. The fishermen slide the big dolphin, its flukes still fluttering, along the wet deck. They shove it to the top of a sluiceway and send it along to the sharks.*

"The first day of the year, we got permission to fish in Costa Rican territorial waters," LaBudde says of this set, in January of last year. "To celebrate we went and wiped out probably five percent of the world's population of these Costa Rican spinners in a single afternoon."

The Costa Rican spinner is the largest of the spinner dolphins, and the rarest. In 1979 the population was estimated at 9,000. The Maria Luisa's set, a decade later, killed two

or three hundred of however many Costa Rican spinners remained in the world. When the last of the dead dolphins had been extricated and cast adrift, the fishermen had their catch -- ten or twelve yellowfin tuna.

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*A dense bolus of trapped dolphins pus the frame. Their beaks and dorsal fins push above the surface, making sharp tents in the mesh. They are unable to maintain the tents for long The weight of the net and of the snagged bodies below keeps striking the tents and dragging the dolphins down They are common dolphins, Delphinus Delphis. The camera is very close, and the sequence goes on for a long time. In the course of it the violence of the splashing subsides. With close attention one can pick out the moment in which first this dolphin, now that one, gives up and ceases to struggle.*

"Common dolphins are unique," Sam LaBudde says. "They behave differently in a net than other dolphins. Most dolphins get in a big ball and mill around. These common dolphins -- maybe because this was a school of only about fifty -- would come up and cycle in a long line, like a big snake, the mothers and children side by side. Then they'd all disappear for a while, go down in the net -- I guess to look for a way out. We killed them all, though. We wiped out the whole school. Captain hollered up to lookout, said, 'How many dolphins are in the net?' Guy says, 'About fifty.' Captain says, 'Haul the net!' No backdown. They didn't try to save any of them."

LaBudde, reflecting, reaches for one of the hand-rolled cigarettes he keeps behind his ear. "At least, I thought we had killed them all in the net. But I was looking at the film later that night. I saw one of the crew members, below deck, reach through a porthole and grab this baby dolphin. It was a newborn. They're hardly a meter long when they're born. The guy dropped it over the side of the net. He probably thought he was doing a good deed. But that dolphin didn't have a prayer. Not a prayer. I mean, from the sharks, from not being able to nurse, from just being *lost* and not knowing what the hell's going on out there."

This must be, for a creature as gregarious as the dolphin, the bleakest of fates. Anyone who has swum with wild dolphins can imagine how it went. The newborn dolphin, the last of its tribe, swam away from the thrum of the *Maria Luisa's* diesels. The ocean ahead was empty blue, and no whistles, clicks, squeals, or squawks sounded in it. For the first time in the calf's short life, the sea was silent. The calf called, but there was no answer.

"For about fifteen minutes I'd been filming these common dolphins fighting in the net, getting crunched in the power block," LaBudde goes on. "I thought, 'Whoa, you better put this camera away. These guys are going to really wonder what your trip is. Why all the fascination with dolphin mortality?' So I go back in the kitchen and

lock my camera up in one-of the kitchen cabinets.

"I walk back out on deck, and here's our captain filleting a dolphin on the deck of the ship. An animal with a brain almost as large as his own, and he's cutting it up to eat it. Something snapped in me. *I couldn't do anything.* Anything I could have done would have been self-destructive. Except filming. So I went back and got the camera. I walked out on deck and pointed the camera at the captain. I thought, If he looks up, I'm dead. He sliced about fifteen seconds more, using a little three inch penknife."

*Joseba is bending over the dead dolphin with his penknife. He straddles the animal, making cuts down the length of the body. He is quick and efficient. Clearly he has done this before. He wears only blue shorts and a pair of running shoes. His chest and belly hang a little slack -- the sabotage of LaBudde's good cooking, all those desserts. As he labors, a medallion -- Saint Christopher? -- swings from his neck. He glances up toward the camera and then back to his work. He does a double-take. Unbending stiffly at the waist, he gestates toward the cameraman. The scene abruptly ends.*

This has the look of LaBudde's Last Tape. Consider that warning in California about concrete galoshes. In fact LaBudde salvaged the situation with little difficulty.

He has told me what happened next.

"I clicked the camera off and walked over. Before he had a chance to say anything, I said, 'Gee, I didn't know these were good to eat! I didn't know you could do this. Are all dolphins good to eat?' That hands him the ball. It diffuses any sense that I'm anything more than naive, and it asks a question to get more information."

LaBudde shook his head ruefully.

"For months everything I did, in every moment, was calculated for effect. I needed a cover or to diffuse fears or intuitions that I wasn't on the level. I like to think that's contrary to my nature. I'd just come out of college. I was trying to become a biologist. I believed that working on yourself, and who you are, should be a constant process throughout your life. To have to start pretending so hard, for so long, is really contrary to that. It's easy to lose track of yourself."

"But you were good at it?" I asked.

"I was great at it."

In the eastern tropical Pacific, Sam LaBudde discovered a number of talents he had not known he possessed: cooking, film making, patience, deception. He also discovered some limits. In the evening of that January day on which *Delphinus delphis*, the common dolphin, became a

little less common, the crew ate dolphin for dinner. The cook did not partake of it. "I had a terrible lapse in my ability to understand Spanish," LaBudde says. "The galley boy had to prepare the dolphin. I wasn't going to do it."

*THE CORKLINE OF THE NET, STRETCHING OUT HUNDREDS of yards behind the boat, demarcates a long blue bay in the wider blue of the ocean. The net looks like a piece of art by Christo. It might be Running Fence, if that work instead of stopping at the shore had looped on out to sea. In the middle distance of the set is a white turbulence of dolphins. A fisherman in a yellow hard hat runs forward and hurls a seal bomb into the water off the stern. He is trying to drive the dolphins toward the escape panel at the rear of the net. The dolphin bombing produces no noticeable effect. (It will fail, indeed, and in this set at least two hundred dolphins will die.)*

"We had a guy blow up his hand with a seal bomb," LaBudde recalls. "I was making dinner and I heard a bomb go off outside on deck. Fifteen seconds later this guy walks in, lays his hand in the sink. The skin on his fingers was split all the way down to the bone, and his whole palm was lacerated. It was lunch meat. It looked like he'd stuck it in a blender. So I played medic for an hour. The navigator and I wrapped it up with gauze. We couldn't do a thing with it. I took it upon myself to go in the medicine cabinet and give him enough Valium to knock him

out. 'Sam, is it okay?' he asked me. I said, 'I think it just *looks* bad. Everything is still there. You should be okay. You should be able to use it.' Utter lies. "

If seal bombs have an effect like that in air, LaBudde wonders, what effect do they have in a medium as dense as water? Water amplifies concussion. What are the implications of that fact of physics for the sonar and sensibilities of dolphins?

"They throw these seal bombs right on top of dolphins," LaBudde says. "Marine biologists have indicated that this could literally shatter eardrums."

The marine biologists who indicated this cannot have meant it literally, as a matter of fact. Ears as such -- ears of the sort designed for terrestrial mammals -- are next to useless under water, distorting sound and offering no clues as to the direction of origin. In dolphins the outer ear is vestigial, reduced to a pinhole. Dolphins hear primarily through their jawbones, which are hollow and filled with a sound-conducting oil, and through an oil-filled sac inside the melon. Nonetheless, LaBudde is right to be concerned. Dolphins have a nearly fabulous, princess-and-the-pea sensitivity to sound. The seal bomb, landing on the point of a dolphin's "hearing" jaw, clearly succeeds in scrambling its faculties for a time in the tuna set. How long afterward do its jaws go on ringing?



Blind dolphins have been known to survive in the wild, guided by exquisite acoustic images of their prey and warned by echoes of the dangers around them. A deaf dolphin, however, is a dead dolphin.

### **Perils of the Observation Post**

ON TUNA SEINERS SEAL BOMBS ARE HANDY NOT just for herding dolphins but also for herding NMFS observers. "It was a very difficult situation," an observer named Kenneth Marten testified in a sworn affidavit of his service at sea. "The fishermen resented the presence of a government observer and engaged in every possible form of harassment and coercion.... I was prevented, on many occasions, from counting the actual number of animals killed. The fishermen would throw seal bombs at me so that I would retreat from the observation post."

That Kenneth Marten should be driven from his post, his ears ringing, by seal bombs is a circumstance reverberant with irony.

Marten has a doctorate in bio-acoustics. The fishermen were hitting the scientist where he lived.

"At that time sets on eastern spinners were prohibited," Marten went on, "but the captain of this vessel ignored the prohibition and set on any dolphins he could find. In fact, he set almost exclusively on eastern spinners, frequently at night. There were large kill levels, but many times I was

threatened and assaulted to the point where I could not collect data sufficient to document these kills."

Thomas Jefferson, who was an official NMFS observer on a U.S. boat at the same time that Sam LaBudde was observing unofficially on his Panamanian seiner, told a similar tale: "In one instance a spinner dolphin with an apparent broken back was observed scooting over the corkline back into the net. When the net was hauled in, that animal came up dead. The captain asked that it not be counted in the kill figures, because it was released and came back into the net of its own accord."

Fudging his data sheets this way was not the Jeffersonian ideal, and he told the captain he could not do it. "From the onset of this trip," Jefferson testified, "it was made clear to me that if I reported lower kill figures than actually occurred I would be treated by the captain and crew in a much better manner. There were a variety of offers made to me to report lower kill figures, all of which constituted in my mind a form of bribery. The pressure put on observers in this capacity is almost indescribable. During sets that lasted into the evening hours, the captain would attempt to coerce or pressure me to get below, for most of the kills occurred at night. "

Many other NMFS observers tell stories of this sort: threats, bribes, stray seal bombs, and various subtler pressures. Records

disappear; data sheets and lab work-ups are thrown overboard. The observers' difficulty has its roots, of course, in several thousand years of nautical tradition -- the tradition of Thigh and Ahab and Captain Queeg. At sea the observer is not a citizen in a democracy but a subject in a limited monarchy. He is a kind of court jester whose jokes are all bad and whom the king never wanted aboard in the first place.

Case Number SW870133MMA, a "notice of violation and assessment of administrative penalty," issued by the Department of Commerce to Captain Antonio F. Da Silva, of San Diego, suggests what life can be like for NMFS observers on U.S. tuna boats.

Count 1: On February 10, 1987, ANTONIO F. DA SILVA ordered the NMFS Observer to the pilothouse of the M/V AQUARIUS where he used excessively profane and abusive language toward the Observer concerning the species composition recorded by him in Marine Mammal Set Log #5.

In all but one of the thirteen counts that follow, all pertaining to different days, Captain Da Silva is cited for the same violation -- an excessively profane and abusive dressing down of the observer. The repetition has a cumulative effect on the

reader; for the observer it must have had one too. The captain's wrath was aroused by various deeds of the observer. In Count 2 Captain Da Silva was excessively profane and abusive over the observer's description in Set Log #16 of a dead porpoise floating outside the net. In Count 3 he was excessively profane and abusive over the observer's description and drawings of a net canopy. In Count 4 he was excessively profane and abusive over the porpoise mortality counts in Set Logs #22 and #23. In Count 5 he was excessively profane and abusive about the observer's daily request for the vessel's latitude and longitude, and he shoved the observer in his stateroom. In Count 6 he was excessively profane and abusive about the observer's galley duties. In Count 8 he shoved the observer out of the doorway to the rig room of the *Aquarius*.

Captain Da Silva confined much of his observer abuse to the pilothouse, it can be said in his favor. It was not so with Thomas Jefferson's captain. "During the evening hours when dinner was being served," Jefferson testified, "the captain often came down to the galley to give me a verbal thrashing. It was his way of protesting my logged deaths of dolphins, and of keeping the pressure on me in the hopes that I would soften up on my observed mortality figures."

Antonio Da Silva was a repeat offender. The year before the citations of Case Number SW870133MMA, he had been

cited for eight violations on another voyage - not abuse of the observer that time but abuse of dolphins ("failure to remove all live marine mammals prior to brailing," for example). Perhaps his previous record contributed to the severity of his penalty in the later case. Da Silva was fined \$7,000. Rarely, however, do observers see this kind of justice. Kenneth Marten did not. At the end of the voyage on which Marten was harassed, coerced, and seal bombed, the federal marshal who debriefed him told him that the bombings should be prosecuted as criminal assault but would not be, because experience had shown that crew members would never give corroborating testimony.

In March of 1987 the Commerce Department's inspector general investigated the NMFS Tuna Porpoise Management Branch in San Diego. "Since passage of the MMPA in 1972," he reported,

"enforcement appears to have been lenient. Prosecution has been selective, settlements have been characterized by protracted negotiations to accommodate the tuna industry, and settlements have been for amounts much less than those originally sought. For example, in one case a settlement was reduced from \$305,024 (proposed at the hearing) to \$60,341.... In eleven recent cases of reported violations, no notices of violation were issued to the

offenders. From a separate set of case analyses, we noted that from 1981 to 1985, \$107,000 was assessed but only \$51,000 was collected. We were told by NMFS staff with long-standing and intimate knowledge of tuna fishing operations that fines have been so low compared to incomes that skippers have knowingly violated the regulations and accepted the fines."

In other seas the NMFS does better by enforcement and is more protective of its observers. "When I was an observer on a *foreign* boat, I could call in the Coast Guard if things got weird," Sam LaBudde says. "All my messages were sent in code. All my data was confidential. I sent in a weekly coded report. If something weird happened, I could tell them and they'd come do a boarding." These prerogatives of an observer on a Japanese trawler in the Bering Sea do not apply on U.S. seiners in the ETP. "The captain had total access to all of my records and could, at any time, ask to see any and all data sheets," Kenneth Marten testified. "On one of the many occasions that the captain set illegally on eastern spinners, hundreds were killed. When the set was completed the captain inspected my log book. He saw the figures and went totally berserk, saying that if the numbers were reported the way I had written them, I would thereafter have to sleep in the net

pile. I knew that if I 'fell off' I would never be found, and had to consider this as a threat against my life."

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