¹ Sustainable whale watching at Península Valdés,

Argentina: An assessment by owners and captains of local whale watch companies

4 Mariano Sironi¹, Roxana Schteinbarg¹, Piedad Losano² and Carole Carlson³

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6 ¹Instituto de Conservación de Ballenas, Buenos Aires, Argentina

7 ²Secretaría de Turismo, Rawson, Chubut, Argentina

- 8 ³International Fund for Animal Welfare, Yarmouth Port, Massachusetts, USA
- 9

10 ABSTRACT

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12 The number of tourists going on whale-watch boats to see southern right whales on their nurersy ground at 13 Península Valdés, Argentina has increased dramatically over the past 14 years. Between 1991 and 2004 the 14 number of tourists increased almost 450% from 17,446 to 96,436. The first whale-watch regulations for Valdés 15 were created in 1984 by adapting laws from other countries. At present, several aspects of the regulations are not 16 applicable. This paper reports the discussions by whale-watch company owners, captains, government officials 17 and researchers during a workshop held at Valdés in September 2004, in which owners and operators expressed 18 their concerns and opinions based on their daily experiences. The potential for infractions is high because regulations are outdated and enforcement is virtually non-existent. Problem areas identified in the workshop 19 20 include minimum distance to the whales, category of whales that can be approached, and number of boats 21 allowed per group of whales. The demand for more boat trips during the peak of the tourist season is high and 22 the potential impact on the whales is increasing. No studies to date have determined the carrying capacity of 23 whale watching in the area. A Voluntary Code of Conduct was proposed as a method of regulating whale 24 watching until more applicable laws are established. Government officials, local whale-watch captains, tour 25 guides and researchers should all be involved in the development of new regulations if they are to reflect the 26 present reality of whale watching at Península Valdés, and to minimize the impact of this commercial activity on 27 the animals.

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KEY WORDS: BREEDING GROUNDS; CONSERVATION; REGULATIONS; SOUTH AMERICA;
 SOUTHERN RIGHT WHALE; SUSTAINABILITY; WHALE WATCHING

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32 INTRODUCTION

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Whale watching is an expanding industry worldwide with important socioeconomic values. These values include recreational, scientific, educational, cultural, heritage, social, aesthetic, spiritual, psychological, ecological services, remote viewing/vicarious experiences and financial values (Hoyt, 2001). In 2001, whale-watch operations existed in 492 communities around the world, and included almost all of the 83 species of cetaceans (Hoyt, 2001). Such diversity of locations and target species requires that laws regulating whale watching be adapted to the local needs and be scaled to minimize impact on the animals.

40 Península Valdés in Argentina is the nursery ground for one of the largest remaining populations of southern right whales (Payne, 1986; Cooke et al., 2001; IWC, 2001). This population has been studied since 41 42 1970 (Payne 1986). Southern right whales migrate over 2,000 km from their feeding grounds to this nursery 43 ground (Payne 1986, Best et al. 1993), where adults engage in mating behavior and pregnant females give birth 44 and rear their calves during their first three months of life (Payne 1986, Payne et al. 1991). On the nursery 45 ground, the whales are distributed close to shore in shallow waters, where they can be seen predictably from 46 June to December. For this reason, Península Valdés has become one of the best places in the world to watch the 47 southern right whale at close range (Rivarola et al., 2001). Consequently, the demand for whale-watching tours 48 has grown rapidly since the early 1990s and the activity has become the main tourist attraction in coastal 49 Patagonia (Rivarola et al., 2001).

Several authors have described short-term changes in the behavior and swimming speed of right whales that were approached by boats at Península Valdés (Garciarena, 1988; Alvarez Colombo *et al.*, 1990; Arias *et al.*, 1992; Campagna *et al.*, 1995; Rivarola *et al.*, 2001). According to Rivarola *et al.* (2001), management policies do not address these potentially adverse changes in whale behavior. Although there have been attempts to improve management, the laws regulating whale watching at Península Valdés are outdated and several aspects of the regulations are not applicable.

During the past decade, a number of workshops have been organized around the world to provide recommendations to improve management of whale watching. Among other contributions, these workshops have provided "a framework to guide the process of defining new rules and modifying existing rules for whale watching" (IFAW Tethys Research Institute and Europe Conservation, 1995) and have discussed "future management development and implementation frameworks to ensure both the minimisation of negative impacts and optimal sustainable tourism" (Anon., 2005).

62 At Península Valdés, a workshop was held in September 2004 to analyze the positive and negative 63 aspects of the local whale-watch industry, evaluate problems with current regulations and their implementation, 64 and provide recommendations that would contribute to the sustainability of the activity. This document provides 65 current information on whale watching at Península Valdés including: statistics on the number of tourists going 66 on whale-watch tours at Península Valdés from 1991-2004; a summary of the strong and weak points that were 67 identified in the activity at the local level; a description of issues that whale-watch company owners and captains 68 want addressed by new regulations; a preliminary list of variables that should be included in a proposed Code of 69 Conduct, and the current Code of Ethics adopted by whale watch companies at Península Valdés in 2004.

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71 BACKGROUND INFORMATION

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73 The right whale population at Península Valdés

Hunting in the southern hemisphere reduced the right whale populations from an estimated 55,000-70,000 animals before commercial whaling to 7,500 individuals (IWC, 2001). The the number of female right whales breeding at Península Valdés was estimated to be 92 individuals in 1971, 328 in 1990 (Cooke et al., 2001), 547 in 1997 (IWC, 1998), and 697 in 2000 (Cooke and Rowntree, 2003). The population is growing at a rate of 6.9% per year (Cooke et al., 2001).

During the austral winter and spring southern right whales use the relatively protected waters off Valdés as a nursery ground (Payne, 1986). The first whales begin to appear in April – May with the peak numbers of animals being seen in late September and early October. The last whales leave the area for the feeding grounds in December (Payne, 1986). Female right whales typically calve once every three years, and stay on nursery grounds such as Valdés with their calves for two to three months post-partum (Payne, 1986, Best and Rüther, 1992, Cooke *et al.*, 2001).

85 The spatial distribution of right whales around Península Valdés has changed over the last three decades (Rowntree et al., 2001). The Eastern Outer Coast of the peninsula was an important nursery area for 86 87 right whales in the 1970's (Rowntree et al., 2001). At the time, this area held the highest proportion of females 88 with calves (Payne, 1986). In the 1980's right whales abandoned the Outer Coast and gradually moved to Golfo 89 Nuevo and Golfo San José (to the South and North of the peninsula, respectively). By the 1990's Golfo Nuevo 90 had the highest proportion of females with calves and few whales were seen along the Eastern Outer Coast 91 (Rowntree et al., 2001), a pattern that has continued to the present. Interestingly, the center of the growing 92 concentration of mother-calf pairs in Golfo Nuevo is located along its northern shore less than 10 km from 93 Puerto Pirámide, the hub of the whale-watch industry in Valdés.

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95 Legal status of right whales and their habitat in Argentina

Southern right whales were declared a "National Natural Monument" by the Argentine Congress in 1988 (Law
 23094). However, the Provincial governments have not ratified this law, and therefore, it does not apply to whales
 in waters under Provincial jurisdiction. This includes Golfos Nuevo and San José in the Province of Chubut.

Golfo San José was declared a Provincial Marine Park by Provincial Law 1238 in 1975. The aim of the law was to protect one of the main calving areas of this southern right whale population. The law was later modified in 1979 by Decree 1713, which made Golfo San José a Multiple Use Natural Area. In 2000, Provincial Law 4617 created the Provincial System of Protected Natural Areas in Chubut, and Provincial Decree 1814 designated the *Organismo Provincial de Turismo* as the application authority of Law 4617. In 2001, the

- Península Valdés Protected Natural Area was created by Law 4722 and a Management Plan was approved.
 Península Valdés was declared a World Heritage Site by the United Nations in 1999.
- 106

107 Past and present of whale watching at Península Valdés

108 Whale watching at Península Valdés began as a commercial activity in the early 1970's. However, the first

- 109 records of the number of tourists that went on whale-watch tours begin in 1987. In that year, 5,214 passengers 110 bought boat tickets. The Province of Chubut has made official reports of whale-watch activities since the early
- 111 1990's. In 1991, 17,446 people participated in boat-based whale watching. Since then, the number of whale
- watchers increased annually at a mean of 5,200 passengers (annual cumulative rate of 14%). In 2004, 96,436
- 113 passengers went on whale-watch tours at Península Valdés (Fig. 1).



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Figure 1: Number of passengers who went on whale-watch tours at Península Valdés from 1991 to 2004 and
 linear trend. Source: *Prefectura Naval Argentina - Puerto Madryn* and *Secretaría Turismo Chubut*

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118 The official whale-watch season at Península Valdés extends from June to December. Six private 119 whale-watch companies are allowed by the provincial government to operate in Puerto Pirámide. They pay a \$5 120 Argentine pesos "whale fee" (approximately U\$D1.75) per passenger to the government, although there are 121 exceptions to this. Each company can own several boats, but they are not allowed to have more than one boat in 122 the water at any one time. An exception to this rule occurs during the long weekend around October 12, when 123 the demand for whale-watch tours is highest and the six companies are each allowed to operate two boats 124 simultaneously. The maximum allowed capacity for the boats is 70 passengers. The six companies vary greatly 125 in the way they operate. Some companies carry more passengers than others and consequently, the number of 126 trips per company during the whale season is different.

127 The whale-watch season coincides with the right whale nursery season. The demand for whale-watch 128 tours is not uniform throughout the season (Fig. 2), with nearly 55% of the total demand occuring in warmer 129 weather at the end of the nursery season in October and November (53,488 tourists in 2004). The majority of the 130 tourists are Argentines. For example, in 2004, 62% of the tourists were Argentines while the remaining 38% 131 were foreign visitors, mainly from Europe, the Mercosur nations (Brazil, Uruguay and Paraguay) and the USA.



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Figure 2: Number of passengers per month who went on whale-watch tours at Península Valdés from 2002 to
 2004. Source: Prefectura Naval Argentina - Puerto Madryn and Secretaría Turismo Chubut

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The number of boat trips (rather than the number of tourists) is perhaps a better indicator of the impact the activity can have on the whales. Table 1 shows the number of boat trips for the period 2001-2004. The rate of increase in the number of trips for the period 2003-2004 was lower than rate of increase in the number of tourists for the same period. The number of tourists (Fig. 1) increased at a higher rate than the number of trips (Table 1) between 2003 and 2004. Although the sample period is short, this indicates that the use of boat capacity was more efficient in 2004, which could reduce the impact per tourist on the animals. Boat trips in October and November represented 50% of the total for the season.

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MONTH	2001	2002	2003	2004
Jun	113	85	83	86
Jul	360	264	336	323
Aug	366	288	393	383
Sep	473	435	465	574
Oct	745	647	768	885
Nov	570	519	719	759
Dec	243	282	286	310
TOTAL	2,870	2,520	3,050	3,320

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Table 1: Number of whale-watch boat trips per month at Península Valdés for the period 2001-2004. Source:
 Prefectura Naval Argentina - Puerto Madryn and *Secretaría Turismo Chubut*

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148 Current whale-watch regulations in Chubut Province

149 Whale watching at Península Valdés is under the regulation of the Province of Chubut. The regulations are 150 summarized below from Carlson's (2004) review of whale-watch guidelines and regulations around the world.

Provincial Law 2381/84 (modified by Provincial Law 2618/85): Forbids approach and/or harassment, sail, swim and diving with any marine mammal species and their calves, inshore and offshore, in provincial waters during the whole year. The Law was modified by Provincial Law 2618/85 and now states "within provincial waters during the entire year without a provincial Department permit". The regulations for permitted operations include: (1) a minimum distance of 100m between whale watchers and whale while engines are on; not less than 50 m with engines off; (2) stopping the engines near the animal; (3) only one boat per individual whale; (4) avoid harassing or chasing the animals; (5) avoid sudden changes in boat speed; (6) do not drive the boat in circles around the animals; (7) avoid flying lower than 150m over whales; (8) do not approach mothers
with calves; (9) avoid any activity that would alter the behavior of the whales; (10) avoid entering the water in
the vicinity of whales.

Provincial Regulation Decree 916/86 (modified by Provincial Decree 1127/91): (1) Designates the authorities in charge to enforce Law 2381. (2) Creates the provincial Whale Watching Tour Operators Register and establishes the minimum requirements for their inscription. (3) Allows no more than two boats per permitted operator. (4) Creates the Provincial Field Naturalist register and establishes a minimum requirement for their inscription. (5) Regulates the tour operator's qualifications for carrying out whale-watch activities. (6) Designates Provincial Wardens as supervisors of all whale-watch activities. The Provincial Decree 1127/91 establishes the number of licenses for Golfo Nuevo and the length of time each license is valid.

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169 WORKSHOP DISCUSSIONS AND RECOMMENDATIONS

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An evaluation of whale watching at Península Valdés was conducted during a two-day workshop held in Puerto Pirámide in September 2004 (Instituto de Conservación de Ballenas, 2004). Owners and captains of the six whale-watch companies voiced their opinions and suggested changes to the current laws based on their daily experiences. Government officials also attended the workshop and expressed their commitment to work jointly to update regulations and to improve management of whale watching by enforcing the regulations more effectively.

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178 Benefits of whale watching at Península Valdés

- Attendees to the September 2004 workshop identified the following benefits of whale watching at PenínsulaValdés:
- Attracts national and foreign tourists to the Province of Chubut.
- Whale watching supports the local economy by generating jobs and revenue for private companies, the
 Provincial Government (through a "whale fee" and the entrance fee to the Peninsula) and the National
 Government (through taxes).
- Provides a unique opportunity for people to see right whales from boats and from shore. Right whales can be seen predictably off Valdés during at least seven months of the year (June to December) close to shore (a few meters in some areas). Whale sightings are virtually guaranteed on every trip and travel time to the animals is very short (a few minutes in most trips) compared to other sites in the world. This reduces costs of whale watching and improves customer satisfaction.
- The excellent conditions for whale watching at Península Valdés help to promote the area in the media
 and wildlife documentaries as an exceptional site to observe the rare southern right whale.
- Whale watching contributes to the conservation of whales because it is an economically viable
 alternative to whaling and has high educational potential.
- Offers a platform to conduct research that can provide relevant data to improve our knowledge of whale
 biology and behavior.
- 196

197 Inadequacies of current regulations and recommendations for improvements

198 Participants at the workshop identified inadequacies in the current regulations that are incompatible with the 199 conditions for whale watching at Valdés. We provide comments made by whale-watch operators, government 200 officials, researchers and conservationists regarding how management should be changed.

One of the biggest conflicts with the existing laws regulating whale watching at Valdés relates to the age class of whales that can be approached during the tours. The law forbids boats from approaching mothers with calves. In actuality, mother/calf pairs are approached regularly because they are the most abundant whales on the nursery ground (about 2/3 of total), stay relatively close to shore, and tourists want to see right whale mothers with their infants. Rivarola *et al.* (2001) showed that mothers and calves were the selected target in 49% of the trips they observed in 1993. The captains pointed out that as mothers and calves are the last animals to leave the area, the whale-watch pressure on these animals increases toward the end of the season. In fact, virtually all trips observed by Rivarola *et al.* (2001) in November were targeted at the few mothers and calves
 that still remained in the area.

210 Two other aspects of the current law that need regulating include: the minimum distance to the animals 211 and number of boats per group of whales. Participants agreed that in most cases they follow the 100m minimum 212 distance rule while engines are on. However, whales are approached in such a way that, once the engines are off, 213 the boats drift toward the animals, which is facilitated by the typical strong Patagonian winds. Because this close 214 approach offers a better view to the tourists on board and companies compete to attract tourists, this practice has 215 become very common but is incompatible with the law and may increase the impact on whale behavior. Also, 216 the "one boat per group of whales" rule is not always followed. In some cases, up to six boats have been 217 observed around the same animals (Rivarola et al., 2001). It was recommended that once the laws are updated, 218 these variables should be monitored and enforced with corresponding fines where applicable.

219 Current whale-watch laws in Chubut were modified from regulations and guidelines in other countries. 220 Government officials acknowledged that new regulations need to be created specifically for whale watching at 221 Península Valdés. A first step to do this is to clearly define what can and cannot be done when approaching right whales in this nursery ground to minimize adverse effects. To date, no systematic impact study has been 222 223 conducted at Península Valdés to evaluate the effects of whale watching on relevant biological variables such as 224 whale survival and breeding success (IFAW Tethys Research Institute and Europe Conservation, 1995), although 225 Rivarola et al. (2001) summarized potentially adverse short-term responses of whales to the presence of boats. 226 The responses include whales moving away from boats that encircle or follow them or approach them directly 227 (Rivarola et al., 2001), and solitary individuals and groups other than mother/calf pairs swimming faster within 228 the whale watching area in Golfo Nuevo than in the protected Golfo San José (Garciarena, 1988; Alvarez 229 Colombo et al., 1990; Arias et al., 1992; Campagna et al., 1995).

230 Studies to evaluate the effects of whale watching on survival rates could take many years to complete in 231 a long-lived and slowly reproducing species like the right whale. A clear cause-effect link may be impossible to 232 show because of other counfounding variables. Government authorities at the workshop stated that the studies 233 should have been done two decades ago. However, they will seek support to conduct such an investigation, they 234 will create new laws according the findings of the studies, and train park rangers to enforce them. The carrying 235 capacity of whale watching in the area is unknown. At present, authorities are working on a management plan to 236 restrict the access to Península Valdés to a maximum of 200,000 visitors a year with 80,000 to 100,000 tourists 237 going on whale-watch trips.

238 Current regulations establish that only one boat per company can operate at any one time, and a 239 minimum time of 1h 15min should elapse between successive boat trips. However, participants said that 240 exceptions to these rules are requested by companies during periods of high demand (long weekends, the arrival 241 of large cruise ships, mornings when the concentration of tourists is higher). In these cases, the Precautionary 242 Principle (Foster et al., 2000) is not applied, potential impacts are ignored, commercial pressure receives 243 priority, and as a consequence, tourist demand is driving whale watching at Península Valdés (Rivarola et al., 244 2001). These exceptions generate conflicts among whale-watch companies and between companies and the 245 government. It was recommended that all parties involved (captains, company owners, authorities, researchers) 246 should be integrated in the process of decision making to minimize these conflicts, and that conservation issues 247 should prevail over commercial interests.

248 Tourists that arrive to Península Valdés receive little information on right whale biology and 249 conservation needs. There is no interpretation center in Puerto Pirámide where visitors could learn about the 250 whales and local marine environment before boarding. People arrive with unrealistic expectations to watch 251 whales perform the most dramatic behaviors at close range during their short visit in the whales' habitat. All 252 participants agreed that it is important to change this attitude with better educational strategies for the general 253 public. Captains recommended that they should receive information and training so they can improve the 254 educational experience they give to visitors during the whale-watch trips. Authorities said they will work to 255 compile the available information so that they can provide a standardized training to captains and naturalists on 256 board.

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258 A draft of a Voluntary Code of Conduct and the current Code of Ethics

Participants agreed that the process to update the law based on impact studies could take a long time. They proposed creating a Voluntary Code of Conduct that would be in effect for the short term until the Government agencies change the regulations. Because the Code of Conduct is not a law, it cannot be enforced. Therefore, its success depends on its voluntary acceptance by all the local companies. Once accepted, the whale-watch operators themselves will follow its guideline to supervise the activity for their common benefit. The Whale Watching Guide Association (under formation) volunteered to lead the process to create the Voluntary Code ofConduct.

266 It was not possible to reach an agreement during the workshop on all the points that should be included 267 in the Code and its final form. The process to create the Code is currently under way. A preliminary list of points 268 that should be in the Voluntary Code of Conduct include: (1) no more than one boat per group of whales; (2) no 269 drifting toward the animals with engines off closer than (...) m for mother-calf pairs and (...) m for other age 270 classes; (3) always approach whales from their side or back and never from in front; (4) do not chase whales 271 when they begin to swim away from the boats; (5) do not approach a breaching whale closer than 100 m; (6) restrict the maximum time with each individual or group of whales to 15 min; (7) leave the whales only when 272 273 their location relative to the boat is certain; (8) do not exceed 10 knots when returing from a trip. It was agreed 274 that the Code should be realistic and include a set of rules that all captains could follow, while maintaining a 275 minimum impact on the whales. The Code of Conduct will be printed and distributed to visitors at the entrance 276 to the Península Valdés Natural Area so they will understand the captains decisions and can be part of enforcing 277 the Code.

The Whale Watching Advisory Commission includes owners of the six whale-watch companies and government representatives. This Commission proposed that a Code of Ethics be created that would be part of the contracts between the companies and the government. The Code of Ethics was approved on 1 September 2004. It contains 13 common sense articles that regulate the conduct of whale-watch operators during whalewatch trips, meetings and in their relationship among themselves and with the government.

283 Following are the 13 articles of the Code of Ethics: (1) participants at the Advisory Commission 284 meetings should follow the rules of courtesy and good manners; (2) do not use the loudspeaker during whale 285 watch trips in such a way that it affects the experience of passengers in other boats; (3) good manners and an 286 appropriate language should be used during the trips; (4) seamen etiquette should be followed at all times; (5) 287 never maneuver boats in a risky way: (6) do not interfere with the whale watch trips of other operators: (7) do 288 not cause excessive wake by driving at high speeds in the vicinity of other boats, especially when passengers are 289 embarking or disembarking; (8) do not place the boat between a whale and another boat; (9) drive at slow speed 290 in the vicinity of other boats when close to a whale; (10) reduce speed when approaching or leaving a whale that 291 is 350m away or closer; (11) do not use electronic devises (sonar, radar, etc) that could affect the behavior of 292 whales or other operator's activities; (12) do not sell more tickets than are allowed by the contracts relative to 293 maximum boat capacity, and comply with the 1h 15min minimum time rule between successive boat trips; (13) 294 report the name of the captain and the number of passengers to the Coast Guard by radio contact at the beginning 295 of each trip.

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297 Final remarks

298 Appropriate, common sense codes of conduct are an integral component of management systems. When whale 299 watch operations are complemented by effective enforcement, surveillance and the opportunity for scientific and 300 education programs, they help bring the message of cetacean and marine conservation to the public while 301 promoting cetacean safety and maximum socioeconomic benefits from whale watching activities. Participants at 302 the workshop recommended that the process of modifying the current regulations should be inclusive and 303 integrate the knowledge and experience of whale watch captains and operators, government officials and 304 researchers. Potential impact of whale watching on the normal behavior of the animals should be minimized to 305 ensure the long-term sustainability of whale watching at Península Valdés.

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First Name	Last Name	Organization
Mariano	Coscarella	Director of Conservation - Organismo Provincial de Turismo de Chubut
Hector	Casin	Technical Dept - Organismo Provincial de Turismo de Chubut
Natalia	Leske	Technical Dept - Organismo Provincial de Turismo de Chubut
Sergio	Casin	Technical Dept - Organismo Provincial de Turismo de Chubut
Susana	García	Technical Dept - Organismo Provincial de Turismo de Chubut
Рере	Monteoliva	Technical Dept - Organismo Provincial de Turismo de Chubut
Jorge	Depascuali	Park Ranger at Península Valdés
Diego	Conchillo	Park Ranger at Península Valdés
Rosana	Conchillo	Park Ranger at Península Valdés

307 List of participants at the Workshop

Sebastián	Romero	Bottazzi Whale Watching	
Tito	Bottazzi	Bottazzi Whale Watching	
Diego	Moreno	Hydrosport Whale Watching	
Karina	Katella	Hydrosport Whale Watching	
Rafael	Benegas	Hydrosport Whale Watching	
Sofía	Benegas	Hydrosport Whale Watching	
Jorge R.	Schmid	Punta Ballena Whale Watching	
Angel Daniel	Rossitto	Punta Ballena Whale Watching	
Sergio	Fernandez	Punta Ballena Whale Watching	
Oscar	Molina	Whales Argentina Whale Watching	
Pinino	Orri	Whales Argentina Whale Watching	
Pablo	Martin	Whales Argentina Whale Watching	
Carole	Carlson	International Fund for Animal Welfare	
Mariano	Sironi	Instituto de Conservacion de Ballenas	
Luciano	Valenzuela	Instituto de Conservacion de Ballenas	
Diego	Taboada	Instituto de Conservacion de Ballenas	
Roxana	Schteinbarg	Instituto de Conservacion de Ballenas	
Carolina	Ragazzo	Instituto de Conservacion de Ballenas	
Alejandra	Varisco	Instituto de Conservacion de Ballenas	
Vicky	Rowntree	Whale Conservation Institute / Ocean Alliance	
John	Atkinson	Whale Conservation Institute / Ocean Alliance	
Luciana	Pozzi	Fundación Patagonia Natural	
Alejandro	Carribero	Ecocentro	
Daniel	Pérez	EcoCentro	
Rodolfo	Werner	EcoCentro	
Fabián	Roman	Plan 21	
Alexis	Fioramonti	Eubaleana Producciones	
Angel Daniel	Velez	Imagen Natural	
Juan	Curti	Motel ACA	
Claudio	Barbieri	Cota Cero Diving	
Sebastián	Leal	Cota Cero Diving	
Daniel	Casielles	Patagonia Scuba	
Daniel	Sanchez	Pronatura	
Carlos	Lambertucci	Sur Marino	
Annie	Farris	Wash Alaska Hawaii	
Oscar	Comes	Enpeninsulavaldes.com	
Silvia	Resnik	Huellas y Costas Tours	

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