

MARINE MAMMAL COMMISSION
4340 East-West Highway, Room 700
Bethesda, MD 20814-4447

17 February 2009

Naval Facilities Engineering Command, Northwest
Attention: Ms. Kimberley Kler – NWTRC EIS/OEIS
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To Whom It May Concern:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the Navy's Draft Environmental Impact Statement/Overseas Environmental Impact Statement (DEIS) evaluating proposed activities in the Northwest Training Range Complex. The complex includes approximately 122,440 nmi² of surface and subsurface ocean operating areas located both inside and outside U.S. territorial waters off Washington, Oregon, and northern California, plus additional restricted land areas and air space. The analyzed activities include aircraft combat maneuvers; missile, bombing and gunnery exercises; use of explosives in ship-sinking exercises; mine warfare; special warfare; explosive ordnance disposal; and the use of ship- and helicopter-based sonars and sonabuys in anti-submarine warfare exercises.

Three alternatives are considered in the DEIS: one purportedly consistent with the levels of activity in prior years (the Navy's "No Action" alternative), another with an anticipated increase in activity (alternative 1), and the last with a further increase in activity (alternative 2). The Navy prefers alternative 2.

RECOMMENDATIONS

The Marine Mammal Commission recommends that the Navy—

- revise its Northwest Training Range Complex DEIS to include a description of past activity levels to verify that the activity level proposed under the no-action alternative is indeed appropriate;
- revise its DEIS by incorporating a set of explicit and clear metrics that the public and decision-makers can use to make more informed judgments about the benefits and costs of various types and levels of activity;
- revise its DEIS to include an alternative involving a reduction in activity to ensure that decision-makers are fully informed and presented with a full range of alternatives;
- revise its DEIS by limiting its scope to those proposed activities that can be described in sufficient detail to provide a reliable basis for assessing benefits and costs;
- subject its reviews of marine mammal density, distribution, behavior, and habitat use to scientific peer review; and
- develop and implement a plan to validate the effectiveness of monitoring and mitigation measures before beginning, or in conjunction with, operations under the final environmental impact statement and anticipated issuance by the National Marine Fisheries Service of an incidental harassment authorization.

RATIONALE

The Commission's rationale for its recommendations is as follows.

Selection of Alternatives

In an environmental analysis, the no-action alternative provides an essential baseline to ensure that the full effects of a proposed action are described to the public and decision-makers. At its most basic level, "No Action" means just that—the action agency does not undertake the proposed action in any form. An action agency also can use the no-action alternative to represent its current level of activity. However, it should only do so if the effects of the current level of activity have been described in a previous analysis (the preferred approach) or are described in the current analysis. In this DEIS, the Navy is using the no-action alternative to indicate its current level of activity. The implication is that the type and level of activity and its environmental effects will not change. However, the type and level of activity in previous years have not been described, and it is therefore not possible for the public or decision-makers to verify that such is indeed the case. Although readers could simply assume that the activities described in the no-action alternative are consistent with those in past years, that assumption seems inconsistent with the generally increasing trend in naval activities in recent years. Furthermore, failure to provide supporting information for such a key element of the DEIS seems inconsistent with the intent of the National Environmental Policy Act. For that reason, the Marine Mammal Commission recommends that the Navy revise its Northwest Training Range Complex DEIS to include a description of past activity levels to verify that the activity level proposed under the no-action alternative is indeed appropriate.

The underlying premise for this analysis (and similar analyses for other Navy ranges) is that certain levels of activity are essential to maintain national security readiness. However, in this and previous DEISs, the Navy does not describe metrics that the public and decision-makers can use to evaluate the various activity levels in terms of their potential benefits to readiness and their potential costs to the environment. Rather, the Navy simply asserts that certain levels of activity are necessary to achieve readiness without substantiating that claim. The Commission believes that the public and decision-makers can make informed decisions only if they have clear measures of benefits and costs over a wide range of activity levels. To that end, the Marine Mammal Commission recommends that the Navy revise its DEIS by incorporating a set of explicit and clear metrics that the Navy, the public, and decision-makers all can use to make more informed judgments about the benefits and costs of various types and levels of activity.

Further, the Navy's DEIS for the Northwest Training Range Complex does not sharply define the issues because it excludes alternatives that involve a reduction in activity. A decision-maker informed solely by this DEIS would only be able to evaluate and choose between maintaining the current level of activity or increasing it. However, a decrease in activity may be required under certain fiscal conditions, reasonable under certain security-related conditions, or necessary under certain environmental conditions. The approach taken in this DEIS constrains the public and decision-makers rather than fully informing them because the Navy has not described the benefits and costs associated with a reduction of activity. Therefore, the Marine Mammal Commission

recommends that the Navy revise its Northwest Training Range Complex DEIS to include an alternative involving a reduction in activity to ensure that decision-makers are fully informed and presented with a full range of alternatives.

Finally, the Navy prefers alternative 2, which involves the highest level of activity but also is dependent upon factors not yet determined or reliably predicted (e.g., congressional direction and funding, internal Department of Defense strategic decisions, future national security concerns). It therefore seems premature, and out of keeping with the intent of the National Environmental Policy Act, to request what amounts to a blank check for speculative increases in future activity. If those future activities cannot be described in detail, then their environmental costs also cannot be described and decision-makers cannot make informed decisions about them. To comply with the National Environmental Policy Act, the Navy should base its alternatives only on those types and levels of activity that can be described in sufficient detail for a meaningful risk-benefit analysis. It can then supplement its analyses and any related permits or authorizations at the point when future circumstances can be described with sufficient detail to inform decision-makers about the potential costs and benefits of alternative actions. History tells us that many of the factors that should be considered in determining the effects of future Navy actions (e.g., budget, threats to security, military technology, environmental conditions) will change over time. Therefore, the Marine Mammal Commission recommends that the Navy revise its DEIS by limiting its scope to those proposed activities that can be described in sufficient detail to provide a reliable basis for assessing benefits and costs.

Scientific Peer Review of Marine Mammal Density and Distribution Estimates

The Navy has done a commendable job of reviewing the existing literature on marine mammal density, distribution, behavior, and habitat use in this and similar documents. The resulting reviews are used to estimate animal density and distribution and therefore are an important element of the risk estimation procedure. However, the manner in which the literature is used to form conclusions about density, distribution, behavior, and habitat use has not been subjected to normal scientific process. In particular, the numbers used in the DEIS to estimate risks are derived mainly from two Navy-contracted reports that have not been subjected to scientific peer review; these reports are Marine Mammal and Sea Turtle Density Estimates for the Pacific Northwest Study Area and Marine Resources Assessment for the Pacific Northwest Operating Area. The Commission has previously recommended that the Navy subject its analytical procedures to scientific peer review, which constitutes one of the fundamental elements of the scientific process. Because the Navy bases its training decisions, in part, on perceived risks to marine mammals, and the Navy's use of existing data to estimate those risks has not been subjected to peer review, the reliability of the Navy's decisions is called into question. To reduce such uncertainty, the Marine Mammal Commission recommends that the Navy subject its reviews of marine mammal density, distribution, behavior, and habitat use to scientific peer review.

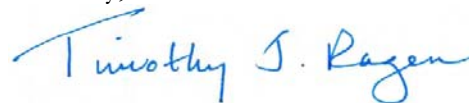
Monitoring and Mitigation

Monitoring and mitigation measures determine, at least in part, the extent to which anticipated risks are detected and managed effectively. The Navy has established an Integrated Comprehensive Monitoring Plan to monitor, mitigate, and assess the effects of its activities over time. If properly implemented, the plan will improve both our understanding of the effects of sound from military activities and our ability to monitor and mitigate such effects. The Marine Mammal Commission strongly supports the development and implementation of this plan.

At present, however, the DEIS for the Northwest Training Range Complex seems inconsistent with that long-term assessment plan because it does not convey realistic estimates of performance for proposed mitigation measures and does not contain a concrete plan to verify and validate the levels of performance of watchstanders or other mitigation measures. The Commission continues to believe that the probability of detecting marine mammals using existing monitoring measures, and the subsequent likelihood of implementing necessary source-level reductions and other mitigation measures, are far lower than implied in the Navy's DEIS. The Commission also believes that the Navy is capable of conducting the tests needed to characterize the effectiveness of monitoring and mitigation measures. The knowledge gained from such tests would justify the relatively small effort and time required. Such assessments of system performance are standard Navy procedure, and the Navy has conducted such tests to evaluate the effectiveness of monitoring and mitigation measures for similar operations (e.g., SURTASS LFA). For these reasons, the Marine Mammal Commission recommends that the Navy develop and implement a plan to evaluate the effectiveness of monitoring and mitigation measures before beginning, or in conjunction with, operations under the final environmental impact statement and anticipated issuance by the National Marine Fisheries Service of an incidental harassment authorization.

Please contact me if you have questions about any of our recommendations or comments.

Sincerely,



Timothy J. Ragen, Ph.D.
Executive Director

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