

Dear Ocean Conservation Research Community and Friends,

The following article is the latest on the California Coastal Commission vs. the US Navy on the Southern California Training Area. The article is a good summary of how the lines are drawn. The last three paragraphs are informative regarding the perspectives and the fact that at \$18 million from the Navy, that they are spending half of all marine mammal bio-acoustics research world-wide. While it is good that the Navy is sponsoring this work, mitigation of their impact is not really their top priority.

Stay Tuned!

Michael

Michael Stocker
Director
Ocean Conservation Research
www.OCR.org

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Navy, Environmentalists Await Sonar Ruling

By Marc Kaufman
Washington Post Staff Writer
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Photo Caption: Hundreds of whales swim near the beach in Hanalei Bay, Hawaii, in summer 2004. There is growing concern among environmentalists and scientists that sonar training conducted by the Navy is harming whales and other sea life. (By Dennis Fujimoto -- Associated Press)

A federal judge in California is scheduled to release a decision this week that will outline what the Navy must do to protect whales and other marine mammals from the loud blasts of its sonar equipment.

U.S. District Judge Florence-Marie Cooper's ruling in the closely watched case, expected by week's end, will not only affect Navy training exercises scheduled for the waters off Southern California over the next year but could also clarify how closely the military must follow environmental laws.

With marine scientists increasingly convinced that sonar can frighten, confuse, and sometimes injure or even kill sea creatures -- especially the acoustically sensitive whales -- and with the United States at war, the issue has become contentious and the stakes high.

"This case is really about whether the Navy has to follow the law," said Joel Reynolds, a lawyer who has argued the case for the Natural Resources Defense Council and has taken the Navy to court on several other sonar-related issues. "Is the military bound by environmental laws, or does national security trump them?"

Reynolds said that the council and other environmental groups, later joined by the California Coastal Commission, support the Navy's need to train sonar operators. The problem, he said, is that the Navy is unwilling to make the operational changes necessary to avoid harming whales during such training.

Vice Adm. Samuel Locklear, commander of the U.S. 3rd Fleet in San Diego, said that the Navy already has 29 procedures in place to avoid harming marine mammals, and that what the council and other groups are seeking would cripple sonar training.

"We have developed a range off the coast of California where our men and women can train in a realistic manner," he said. But if the court follows the advice of the plaintiffs, he said, "we would basically have to close down the majority of the Southern California range. That means we would not be able to practice the art of anti-submarine warfare in a fully integrated way. . . . Our national security is at stake here."

The waters off Southern California are some of the most fertile in the world -- home to many varieties of fish and 35 species of marine mammals, including at least six types of endangered whales. They are also a favorite sonar training and testing area for the Navy, which has major bases nearby and underwater ranges it considers perfect for teaching young sailors how to detect

submarines.

The conflict that Judge Cooper will try to resolve involves balancing both interests.

Mid-frequency active sonar, which sends out blasts of sound as a way to locate objects underwater, has been used by navies worldwide since the end of World War II.

It wasn't until the mid-1990s, however, that marine researchers began to connect sonar with mass strandings of whales, particularly the deep-diving beaked whale. A 2000 stranding in the Bahamas during a U.S. Navy sonar exercise provided the first conclusive evidence that the sounds were driving some whales ashore and to their deaths.

Sonar-related strandings have been confirmed off the Canary Islands and Spain since then, and other incidents have been reported but not entirely confirmed off Hawaii and Washington state. Scientists can confidently establish a sonar-caused stranding only when the animal is discovered soon after death, and those situations are rare.

The California standoff began in late 2006, when the Navy announced it would conduct 14 training operations off Southern California between early 2007 and early 2009. The exercises would involve extensive use of mid-frequency active sonar and typically would last two weeks or more. Under the Navy plan, the sonar would be used throughout thousands of square miles of ocean and would be permitted near Channel Islands National Park off Santa Barbara.

The Navy sent its plans to the state coastal commission for review but excluded any mention of the sonar, saying it would have no impact on the coast. The commission disagreed and proposed a dozen steps for the Navy to take to protect marine mammals. The Navy responded by obtaining from the deputy secretary of defense a formal exemption from the Marine Mammal Protection Act -- the law that most explicitly limits actions potentially harmful to whales and other sea mammals.

The Navy's exemption, however, did not have the intended effect. Environmental groups sued in March, and in late summer the judge issued a temporary restraining order against the Navy, which she said had not complied with other federal environmental laws.

In her decision, Cooper highlighted the Navy's estimate that the exercises would temporarily disrupt or harm 170,000 marine mammals, and would permanently injure more than 400.

Cooper's preliminary injunction was appealed by the Navy, which won the first round. But a second panel of three judges ruled in November that the Navy had not followed required environmental laws, and sent the case back to Cooper with orders to craft a "narrowly tailored" plan by Jan. 4 to meet legal requirements.

The Navy is particularly concerned about the outcome of the case because it wants to build a similar sonar training range off North Carolina. Many environmental groups oppose that plan, as do some key elected officials.

The Navy believes additional active sonar training is essential. Officials base their sense of urgency on a perceived threat coming from smaller diesel submarines that cannot be detected with passive sonar. At least 41 nations have this type of submarine, Locklear said, and others are working on it.

The California dispute centers on where and when the Navy will be able to use its sonar during "integrated training," which Locklear said is where sailors are prepared for war. He said the Navy must have the full underwater range to properly train sonar operators to find hidden subs, but environmentalists and the coastal commission want the range restricted.

For instance, they argue that no sonar should be allowed around Cortes and Tanner banks, two underwater plateaus southwest of San Clemente Island that are home to endangered fin whales and blue whales. In addition, they want a 1 1/4 -mile "safety zone" established with no sonar allowed whenever a marine mammal is located. The Navy has proposed a safety zone of about two-thirds of a mile.

"We really don't understand why the Navy won't accept conditions that it accepted or imposed on itself during other exercises," said council lawyer Reynolds. "The state agency responsible for protecting the California coast established 12 conditions for the exercises, but the Navy took a hard line and basically said no to them all. This tells me the Navy wants to make a point here."

Rear Adm. Lawrence Rice, the Navy's director for environmental readiness, said that given the number of whales and other marine mammals killed by ship strikes, fishing nets and loud sounds from sources including oil and gas exploration, he doesn't understand "why the sonar has become such a big deal."

"Frankly, we're doing a tremendous job as environmental stewards around the world, and I just don't see any significant impact from sonar on whales," he said. The Navy will increase its budget for marine mammal research this year to \$18 million, which Rice said is half the total research money spent in the field worldwide.