

# OCEAN CONSERVATION RESEARCH



*Science and technology serving the sea*

July 10, 2012

Naval Facilities Engineering Command, Southwest  
Attention: HSTT EIS/OEIS Project Manager – EV21.CS  
1220 Pacific Highway, Building 1, Floor 3  
San Diego, CA 92132-5190

Naval Facilities Engineering Command, Atlantic  
Attention: Code EV22 (AFTT EIS Project Mangers)  
6506 Hampton Blvd.  
Norfolk, VA 23508-1278

Re: Combined comments on the Draft Environmental Impact Statement/Overseas  
Environmental Impact Statement for:

Hawaii-Southern California Training and Testing (HSTT)

Atlantic Fleet Training and Testing (AFTT)

Cc: Hon. Barbara Boxer, Chair , Senate Comm. On Environment and Public Works  
Hon. Diane Feinstein, Senate Appropriations Committee, Defense.  
Dr. Jane Lubchenco, Under Sec' of Commerce for Oceans and Atmosphere and  
NOAA Administrator.

To Whom It May Concern:

Please include the following comments into the record for both the HSTT DEIS and the  
AFTT DEIS.

In preparing this critique we have had the opportunity to review the comments from our  
colleagues at the Natural Resources Defense Council (NRDC) to both the HSTT and  
AFTT DEIS's. We find them thorough, thoughtful, comprehensive, and complete. Rather  
than overlap their efforts, let it stand that we fully endorse their work on these reviews.

We always appreciate the opportunity to review and comment on proposed activities of  
the US Navy, although we find that the concurrent issuance and simultaneous closure of  
the public comment period for the Hawaii-Southern California Testing and Training  
(HSTT) and the Atlantic Fleet Training and Testing (AFTT) DEIS places a significant –  
and we believe unreasonable burden on the resources of those of us who have made it our  
work to review, comment, and inform the public about how their tax dollars are spent.

As always we have concerns about the impacts of the proposed activities, and in the case of both of the HSTT and AFTT DEIS we are particularly concerned, given that the estimated take numbers are so extremely high.

In reviewing these documents we found that the numbers were high because the drafters of the documents dug deeply into the literature and presented their estimations based on both more thorough as well as more current peer reviewed literature. This is a breath of fresh air from our previous experiences in reviewing US Navy DEIS documents wherein the peer-reviewed papers substantiating the positions in the documents were either outdated, based on questionable premises, and/or the assumptions made about impacts were short-sighted or woefully inadequate.<sup>1</sup>

We congratulated this new candor in the HSTT- DEIS to our community on its original release,<sup>2</sup> figuring that the Nave N-45 Environmental Preparedness Group was coming to terms with the fact that mitigating for bad public opinion was more costly than “doing the right thing.” This was particularly in light of the recent US Navy Public Relations sobriquet of “A force for good.”

That being said, upon deeper review of the documents our concerns are redoubled, because while there is more overall candor in the document, the assumptions that destroying so much marine life for the expediency of the perceived Navy mission is completely unacceptable.

While it may be arguable in the regulatory setting of the Marine Mammal Protection Act that “Level B” behavioral adaptations to proposed activities would be disruptive but recoverable, there is absolutely no justification for biological damage indicated in a “Level A” harassment. Even short-term “recoverable” assaults such as temporary threshold shift (TTS) are barbaric. Asking the National Marine Fisheries Service or the Marine Mammal Commission to issue “Incidental Harassment Authorizations” or “Take Permits” for “Level A” harassment is the apex of institutional hubris. If someone were to apply to the Department of Health and Human Services for a permit to yell in someone else’s ear, or spill spent ordinance in their salad they would be watched cautiously and put on some “security risk list.” So why is the US Navy encouraged to apply for permission to damage animals? It is patently unethical to damage an animal unless you are going to eat it, or it is going to eat you.

We understand the need for a robust military to defend our shores and guard against unlawful international activities on the high seas. We also understand that we do not want to send our military personnel into harm’s way without assuring their utmost safety. But the US military – particularly the Navy – is the most powerful fighting force on the planet, unparalleled by even the combined forces of the next eight global military powers – many of which are current allies.

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<sup>1</sup> See OCR comments to Gulf of Alaska Testing Range [http://ocr.org/pdfs/navy/2010\\_DEIS%20Gulf\\_of\\_Alaska\\_OCR\\_comments.pdf](http://ocr.org/pdfs/navy/2010_DEIS%20Gulf_of_Alaska_OCR_comments.pdf) and this author’s comments on USWTR [http://ocr.org/pdfs/navy/2006\\_mte\\_uswtr\\_comments\\_seaflo.pdf](http://ocr.org/pdfs/navy/2006_mte_uswtr_comments_seaflo.pdf)

<sup>2</sup> <http://ocean-noise.com/blog/2012/05/a-developing-candor-in-us-navy-public-relations/>

Of course it is always the desire for a military force to be “invincible.” But invincibility should always be framed in the context of the scale of the threats, in the the costs to society, and increasingly in terms of the cost to our global environment. It should also be weighed in terms of the effectiveness and costs of the alternatives. Because in addition to the hefty costs of over-blown military invincibility, the risk is that it easily becomes a rationale for the military action to become the “action of choice,” overshadowing less costly alternatives for conflict resolution such as diplomacy, or social and economic pressures. If there remains the chance that our military personnel will suffer or die in an action, there then remains a high incentive to engage in diplomacy or socio-political actions.

If our military can just “pound our perceived threats into oblivion” it will then fall upon our own citizens to attempt to stop the carnage. This is a very ineffective strategy for democratic engagement because we have repeatedly seen that in the heat of perceived conflict the voices of our citizens fade behind the roar of war. I need not point any further than our reckless engagement with Iraq in 2002 based of false assumptions with the huge collateral costs to our economy and the destabilization of global security as an example.

While we are not military strategists, nor are we privy to the long-term political objectives of our government, we are as citizens qualified to add our philosophical voice to this discussion. This is particularly in light of the fact that we find the assumptions used to justify the continuous expansion of US Navy warfare training ranges throughout US sovereign waters so egregious, short sighted, and reckless as to almost not warrant any further comment, except to say the since the decommissioning of the US Training Range in Vieques, Puerto Rico, that the US Nave has been making the entire US Sovereign waters a “Warfare Training Range.”

The HSTT-DEIS and AFTT-DEIS are further evidence of this relentless expansion and begs philosophical feedback because aside from the scientific candor in estimated take levels, there is an assumption that this is “OK.”

One of the arguments used in the DEIS to justify the high take levels is the comparison implied throughout the entire “Affected Environment” Sections 3 as well as in the executive summaries that commercial fisheries interactions through entanglements and by-catch exact much higher impacts on marine mammals, fish, invertebrates, and turtles than the proposed military actions as to render the military actions insignificant.

This is a hollow argument; while the take numbers may indicate that the military actions are the “lesser of two evils,” it does not justify any of the deliberate carnage of marine life by the Navy.

The determinations of “acceptable” take numbers are predicated on the assumption that given the various population densities of the subject animals, that an “incidental, but not intentional, taking by citizens while engaging in that activity within that region of small numbers of marine mammals of a species or population stock [is allowed] if the

Secretary... finds that the total of such taking during each five-year (or less) period concerned will have a negligible impact on such species or stock.”<sup>3</sup>

This regulatory framework defined in the Marine Mammal Protection Act (MMPA) was modified to accommodate “military readiness activity [with] a determination of “least practicable adverse impact on such species or stock.”<sup>4</sup>

This accommodation is not an exemption or release from the MMPA, rather it is an opportunity to evaluate the proposed actions in the context of “personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.”<sup>5</sup> This clause provides for deeper consideration of the environmental costs of the action with the safety and effectiveness of the desired outcomes in mind.

It is through this that the US Navy’s “Force for Good” could really shine, because the US Navy through its resources and funded studies of ocean physics, chemistry, marine habitat and biology has developed a broad palate to examine the potential impacts of their actions.

This is an opportunity that is not being taken the HSTT and AFTT DEIS’s. While the evaluations reveal a new candor, the proposed alternatives don’t express responsiveness to the estimated impacts. Nor do they reflect anthropogenic impacts that we know about, that are increasingly becoming evident, but are just recently entering into of the literature.

For example: while the synergistic and cumulative impacts of human activities are beginning to make way into the Environmental Impact Statement discussions, so far there is no metric examining the intermediate and long term health effects induced by our ever increasing agonistic activities on marine life. It is quite clear that we are compromising marine habitats through chemical pollution. Animals at the top trophic levels are becoming toxic to the point that a stranded whale or dolphin runs the possibility of being an Environmental Protection Agency-rated “toxic waste site,” and food animals once considered ‘delectable’ are no longer safe for human consumption.

A similar concern lies in the impacts of noise pollution. Even when the impacts are not mortal or “permanent” we are inducing noise-related stress on marine animals<sup>6</sup> that most probably compromises their ability to survive and proliferate.

Much of this is pointed out in the Sections 3 “Affected Environment” and particularly in the Sections 3.4 Marine Mammal sections where the more recent papers on behavioral impacts of noise exposures are sited. It is clear from the more recent work that behavioral impacts occur at much lower levels and at greater distances than what is used as the threshold for MMPA “Level B” exposure.

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<sup>3</sup> Marine Mammal Protection Act, Sec. 101(a)(5)(A)

<sup>4</sup> Ibid. 101(a)(5)(A)(ii)

<sup>5</sup> Ibid.

<sup>6</sup> Rosalind M. Rolland, Susan E. Parks, Kathleen E. Hunt, Manuel Castellote, Peter J. Corkeron, Douglas P. Nowacek, Samuel K. Wasser and Scott D. Kraus (2012) “Evidence that ship noise increases stress in right whales” Proc. R. Soc. B doi:10.1098/rspb.2011.2429

It is clear that we are compromising their habitat, increasing stress levels, displacing them from preferred feeding, social, and breeding areas, and compromising their ability to communicate, navigate, proliferate, and ultimately survive by the short-sighted priorities of our military-industrial and commercial economy.

In this context we should not be doing a comparative analysis on whether fishing, shipping, or Naval warfare training has a greater impact on marine habitat, rather we need to examine how the additional disruptions further compromise an already stressed environment. If more “biological bandwidth” is required to assure our national security and health of our marine food supply, the Navy is in the best place to promote less impactful marine technologies, and enforce regulations that decrease unlawful commercial and industrial impacts on the habitat.

Throughout my 20 year experience of reviewing and critiquing US Navy and other agency Draft Environmental Impact Statements I have taken the allotted public comment period to comb through the proposals, examining the assumptions, deconstructing the models, and evaluating the supporting documentation. Typically I have offered comments on the shortcomings, obfuscations, deceptions, and programmatic deceits set into the agencies’ responses to their NEPA mandated requirements to explore the environmental impacts of their proposed actions.

This case is different, largely due to the comprehensive and thorough examination of the literature in the two DEIS. While I find it annoying that these were let out concurrently I do appreciate the “candor” of the drafts. What I find extremely troubling is that with all of the facts, models, and assumptions presented in the documents that the Navy is not paying heed to what they have concluded: that millions of marine mammals and countless fish and marine invertebrates will be maimed, poisoned, or killed by the proposed actions. They have not considered that over the intermediate to long term the practices of the US Navy proposed in the HSTT and AFTT DEIS’s will contribute significantly to the collapse of marine ecosystems. And they have not conceded that these environmental compromises will have a significantly deeper negative impact on global security.

In our review of the HSTT and AFTT DEIS we find profound evidence that the economic and environmental costs are excessive, particularly in a time when both the US economy and the ocean environment are under deep duress. We advise that in both the Hawaii-Southern California Training and Testing and the Atlantic Fleet Training and Testing areas that the “No Action” alternative be selected.

Sincerely,

Michael Stocker  
Director