



NATURAL RESOURCES DEFENSE COUNCIL

By Regular Mail

October 27, 2008

Naval Facilities Engineering Command Atlantic
Attention: Code EV22SA
6506 Hampton Boulevard
Norfolk, VA 23508
Fax: (757) 322-4894

Re: Navy Cherry Point Range Complex Draft Environmental Impact Statement/ Overseas Environmental Impact Statement

Dear Sir or Madam:

On behalf of the Natural Resources Defense Council (“NRDC”), The Humane Society of the United States, International Fund for Animal Welfare, Defenders of Wildlife, North Carolina Wildlife Federation, Whale and Dolphin Conservation Society, Cetacean Society International, League for Coastal Protection, Pender Watch & Conservancy, North Carolinians for Responsible Use of Sonar, Pamlico Tar River Foundation, Ocean Futures Society, and Jean-Michel Cousteau, and on behalf of our millions of members and activists, thousands of whom reside in North Carolina, I am writing to submit comments on the Navy’s Draft Environmental Impact Statement/ Overseas Environmental Impact Statement for the Cherry Point Range Complex (“DEIS”). See 73 Fed. Reg. 52969 (Sept. 12, 2008). Please include these comments and the enclosure into the administrative record.¹

We believe that the DEIS fails to meet the environmental review standards prescribed by the National Environmental Policy Act (“NEPA”), 42 U.S.C. 4321 *et seq.* NEPA requires the Navy to employ rigorous standards of environmental review, including a full explanation of potential impacts, a comprehensive analysis of all reasonable alternatives, a fair and objective accounting of cumulative impacts, and a thorough description of measures to mitigate harm. Unfortunately, the DEIS incorporates by reference the Atlantic Fleet Active Sonar Training Draft Environmental Impact

¹ NRDC is aware that comments may be submitted separately by government agencies, individual scientists, environmental organizations, and the public. All of these comments are hereby incorporated by reference. The comments that follow do not constitute a waiver of any factual or legal issue raised by any of these organizations or individuals and not specifically discussed herein.

Statement/ Overseas Environmental Impact Statement (“AFAST DEIS”). DEIS at 3-375. As discussed in detail in our comments responding to the AFAST DEIS (see enclosed NRDC comment letter dated March 31, 2008), the Navy’s environmental review falls well short of the rigorous standards prescribed by NEPA.

First, the Navy does not properly analyze environmental impacts. The Navy’s analysis substantially understates the potential effects of sonar on marine wildlife and concludes that no animals would suffer serious injury or die during the many thousands of hours of sonar training. The Navy reaches this astounding conclusion by excluding relevant information adverse to its interests, using approaches and methods that are unacceptable to the scientific community and ignoring entire categories of impacts. As discussed in detail in our enclosed comment letter, the Navy’s assessment of acoustic impacts – and the thresholds established for physical injury, hearing loss, and significant behavioral harassment – are highly problematic. For example, the Navy uses a faulty risk function to determine “Level B” harassment under the Marine Mammal Protection Act (“MMPA”), 16 U.S.C. § 1361 et seq., that places great weight on flawed SPAWAR data, misuses data from the Haro Strait event, and excludes other relevant data. Even more glaringly, the Navy’s analysis entirely fails to account for cumulative impacts from the years of anticipated activity. The Navy’s usual platitude that all of its impacts are short-term in nature and thus would not combine to produce cumulative effects not only has no scientific validity but also grossly misapprehends the definition of cumulative impacts under NEPA. 40 C.F.R. § 1508.7.

Nor is the Navy’s analysis of alternatives or mitigation any more credible. The Navy fails to consider a variety of other options, alternatives, and common sense mitigation measures – some employed by other navies – that would reduce the impacts. What the Navy presents instead is an alternatives analysis and mitigation strategy so narrowly defined that it disregards the environment all together.

For the following reasons, and as described more fully in our enclosed comment letter, we urge the Navy to revise its analysis consistent with federal law and to produce a mitigation plan that truly maximizes environmental protection. We also urge the Navy to make available to the public the data and modeling upon which its analysis is based.

Sincerely,



Taryn Kiekow
Staff Attorney

Encl.: NRDC comments on the AFAST DEIS