



By Electronic Mail and Facsimile

October 7, 2010

Dr. Jane Lubchenco, Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Avenue, N.W., Room 5128
Washington, DC 20230

Re: MMPA Permit for the Navy's Northwest Training Range Complex

Dear Dr. Lubchenco:

On behalf of the Natural Resources Defense Council ("NRDC"), Animal Welfare Institute, Cetacean Society International, Defenders of Wildlife, Earthjustice, Friends of the Earth, Friends of the San Juans, The Humane Society of the United States, New York Whale and Dolphin Action League, Ocean Conservation Research, Ocean Mammal Institute, Ocean Protection Coalition, Olympic Environmental Council, Orca Network, Oregon Shores Conservation Coalition, People for Puget Sound, Turtle Island Restoration Network, Whale and Dolphin Conservation Society, The Whale Museum, and Wild Fish Conservancy, and our millions of members and activists, many thousands of whom reside in Washington, Oregon, and California; and on behalf of David Bain, Theo Colborn, Nicola Grobe, Garet Lahvis, Glen Milner, Paul Norup, Susan Nutter, Pat Porter, and Carol Van Strum, we are writing to urge you to ensure that the National Marine Fisheries Service's ("NMFS") Final Rule authorizing the take of marine mammals in the Navy's Northwest Training Range Complex ("NWTRC") prohibits training and testing activities in the Olympic Coast National Marine Sanctuary ("Olympic Coast NMS"). See Proposed Rule, 74 Fed. Reg. 33828 (July 13, 2009).

The Navy issued its NWTRC Final Environmental Impact Statement ("FEIS") on September 10, 2010, and anticipates issuing its Record of Decision this month.¹ With the Record of Decision pending, we are writing on the assumption that NMFS, likewise, is close to issuing its Final Rule on NWTRC training activities. In that light, we wanted to take this opportunity to highlight our organizations' and NOAA's shared interest in protecting the Olympic Coast NMS.

The NWTRC Offshore Area is 122,400 nm² (74 Fed. Reg. 33829) and completely encompasses the 2,408 nm² Olympic Coast NMS, a region of extraordinary biological diversity. Twenty-nine species of marine mammals occur in the Olympic Coast NMS,

¹ The Navy's NEPA schedule can be found at <http://www.nwtrangecomplexeis.com/getInvolved.aspx>.

including eight threatened or endangered species of whales, pinnipeds, and otters. The sanctuary provides important regular foraging habitat for humpback and killer whales, including the critically endangered Southern Resident killer whale, whose sensitivity to mid-frequency sonar was documented during a 2003 incident in the Strait of Juan de Fuca. Gray whales use the sanctuary during biannual migrations between calving and feeding areas, and a small, possibly distinct, group of gray whales known as “summer residents” use the area for feeding every summer. The Oregon/Washington harbor porpoise stock, an acutely sensitive species that is expected to bear the brunt of the Navy’s activities (accounting for the majority of all expected marine mammal takes on the range) has primary habitat within the coastal waters encompassed by the Sanctuary.

Sea otters and pinnipeds such as Steller and California sea lions, harbor seals, and elephant seals use near-shore areas within the sanctuary, haul out on land at a number of locations along the coast, and use deeper waters for foraging. In addition to marine mammals, the sanctuary includes habitat for abundant fish and invertebrate species, including many commercially important fish and shellfish and important prey fish for marine mammals. All of these species rely on the continued health of the Olympic Coast NMS and its resources.

In this regard, a 2008 NOAA report specifically identified both military activities and underwater noise pollution as two of several emerging threats to the Olympic Coast NMS.² The report recognized that noise pollution has the potential to compromise habitat quality for the marine mammals, fish, and other wildlife that inhabit the sanctuary. In particular, it found that “an increase in Navy activity or areas of operation, if not properly controlled, could have potential to disturb the seabed, introduce pollutants associated with test systems, and produce sound energy that could negatively alter the acoustic environment within the sanctuary.”³

NRDC shared its concerns with NMFS about the Olympic Coast NMS and other biologically important areas off the northwest coast in submitting comments on NMFS’ proposed rule and the Navy’s EIS. **Remarkably, the Navy has not established any exclusion areas—or even special management areas requiring greater mitigation or procedural checks—anywhere within its 122,000 nm² range. Nor does its EIS provide any specific analysis, beyond generic statements of need, for why certain important areas like the Sanctuary cannot be subject to additional mitigation.**

As you know, avoiding biologically important habitat is the most effective available means of reducing the impacts of mid-frequency sonar training, and many other sources of intense ocean noise, on marine animals. We urge you to ensure that NMFS’ Final Rule provides additional protection for the Olympic Coast NMS.

² NOAA, [Olympic Coast National Marine Sanctuary, Condition Report 2008](http://sanctuaries.noaa.gov/science/condition/ocnms/download.html) (September 2008), available at <http://sanctuaries.noaa.gov/science/condition/ocnms/download.html>.

³ *Id.* at 31.

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Thank you for considering this request. We welcome the opportunity to discuss this important matter with you at any time.

Sincerely,

A handwritten signature in blue ink, appearing to read "Zak Smith". The signature is written in a cursive style with a large initial "Z".

Zak Smith
Staff Attorney