

October 29, 2010

The Honorable U.S. Congressman Mike Thompson  
United States House of Representatives  
231 Cannon Office Building  
Washington, D.C. 20515

RE: NOAA Sonar Mitigation Measures – Permit for U.S. Navy to “TAKE” Marine Mammals  
NOAA Letter Dated January 19, 2010 – Regarding Sonar Mitigation Measures

Dear Congressman Thompson:

On January 19, 2010, NOAA sent a letter to Ms. Nancy Sutley, Chair, Council on Environmental Quality that states that a comprehensive review of mitigation measures was conducted and completed by the NMFS (NOAA).

- 1) We are formally requesting a copy of this comprehensive review and any regulations or rules produced by the NMFS, with regard to the “taking” of marine mammals by the U.S. Navy.
- 2) We are formally requesting a copy of the NMFS Environmental Assessment referred to in the NOAA letter.
- 3) We are formally requesting a copy of the current mitigation measures that are in place for the ongoing 5-Year Warfare Training taking place in Southern California and Hawaii.

This NOAA letter also states: “...In the Environmental Assessments, NMFS (National Marine Fisheries Service-NOAA), also identified the relevant uncertainties regarding the impacts of the proposed training on marine mammals. Two are worth highlighting. One involves lack of knowledge about the mechanism whereby some species of marine mammals...are adversely affected by mid-frequency sonar. The other concerns the difficulties of limiting the impact of active sonar where the mitigation efforts depend on visual sighting of whales...” **These issues need to be resolved prior to the issuance of any more permits to the Navy for the “taking” of marine mammals.**

It should be noted that the NMFS is using biased Navy data from “after action reports” rather than having unbiased and professional marine biologists present during and after these military actions to determine impacts from the use of sonar, bomb blasts, use of toxic chemicals and other warfare exercises that will impact marine mammals and other sea life. It is unacceptable to accept the premise that sonar is the only impact that will be felt by marine mammals and other sea life during Navy warfare exercises. It is also unacceptable that the only mitigation measures planned are for sonar use. The Navy is unlikely to report negatives because they would have to alter their methods if any adverse information showed up...and they don't want to alter their activities in any manner at this time.

The determination that sonar caused certain impacts on marine mammals cannot be separated from the impacts caused by other warfare weapon testing such as bomb blasts or use of toxic chemicals.

(When the U.S. Navy uses only their own statistics on mitigation measures with regard to marine mammal impacts, without oversight (on-the-sea) independent monitoring of their activities, you have

the fox guarding the chicken coop and reporting on the number of chickens left after each military exercise...not a good idea if you want any of the chickens to survive.)

There is definitely a conflict of interest because the Navy and NOAA (NMFS) are cooperating agencies. We need oversight from independent non-cooperating agencies not dependent on Navy funding, who will uphold U.S. laws which protect endangered and threatened species and other environmental laws. We are speaking about the Navy being allowed to “take” 11.7 million or more marine mammals over the course of multiple 5-Year warfare testing in the Atlantic, Pacific and the Gulf of Mexico. This does not include protections for any other marine life, habitats, national marine sanctuaries, marine reserves, and other biologically sensitive areas. And there are no protections or mitigation measures for toxic chemical usage, bomb blasts, missile exercises and other classified types of warfare testing.

This letter also notes that the Navy and the U.S. Department of Interior Minerals Management Service (the MMM - a corrupt agency with close industry ties), will be doing aerial surveys of marine mammals. It is alleged that the MMM’s cozy relationship with industry will translate to a cozy relationship with the Navy threatening more marine mammals. Without independent agencies doing surveys involving independent marine and other biologists this exercise will not produce the best of results.

The MMM is not qualified to provide this type of work considering they have been working hand-and-glove with business interests for years and will protect the Navy interests over the environment and the safety of marine mammals. This is not a satisfactory solution or an entity that can be trusted at this time. The Navy should not be part of any surveys as they have a vested interest in the outcome. And they should not be conducted by an agency, like MMM, that has no background or expertise in this type of work.

The NOAA letter also states that the NMFS will conduct workshops on the individual and cumulative impacts of sonar and other noise that now are part of our ocean environment. This letter goes on to state: “...There are no baselines with which to measure the cumulative sound impacts...” Also the Navy has now started to replace older sonar methods with new ones which will also be tested during Navy warfare exercises. We have no studies or any research on the impact of these new methods on marine mammals or other sea life. No “take” permits should be issued by NOAA to the Navy until we know more about this new potential threat to marine mammals.

**The U.S. Navy and the NMFS (NOAA), are alleged to be conducting workshops on these issues along with mitigation and monitoring measures as cooperating agencies. The NOAA letter states: “...Protecting important marine habitat is generally recognized to be the most effective mitigation measure currently available...” This leads to the question: Why isn’t the Navy being required to protect national marine sanctuaries, marine reserves, breeding and feeding grounds, and biologically sensitive areas from direct warfare activities?**

The U.S. Navy and the NMFS, according to this letter, agreed to “...conduct a pre-workshop in 2010, to allow the public an opportunity to provide input and prepare for the 2011 workshop...” When was the workshop held in 2010, why wasn’t the public invited to attend, and what were the results of this workshop? Will this workshop be held later this year? If so, where, when, and is the public invited to attend?

The NOAA letter also states: “...the NMFS has required that the Navy convene a workshop to review and modify, as appropriate, the monitoring measures included in the regulations. This workshop is schedule for 2011...” Why would NOAA (NMFS), be preparing to issues permits to the Navy for the

“taking” of marine mammals in November 2010, prior to this workshop and any public comments on the 2010 pre-workshop? The NOAA letter goes on to state: “...All of the planned workshops should lead to substantial new information related to improved mitigation strategies for military activities...”

The Navy NWTRC FEIS and the ROD do not spell out this new monitoring and mitigation program which was apparently initiated earlier this year...thus, the public has not been informed of any mitigation measures which are taking place...it should be noted that monitoring only by the Navy leads one to believe that it is not in their self-interest to accurately reporting their findings...and there should be immediate independent oversight in with regard to the ongoing Hawaiian and Southern California warfare range testing.

**There are several important issues which need to be addressed before any permits are issued for either the Mariana Island 5-Year Warfare Range or the NWTRC:**

- 1) The issue seems to be only sonar related with no mitigation measures planned for birds, fish, and other marine life.
- 2) What about the damage to the ocean and habitats from toxic chemicals, bomb blasts, missile exercises, and other classified warfare testing? None of these issues are discussed by anyone and they should be raised.
- 3) No protections for breeding habitats, national marine sanctuaries, marine reserves and other sensitive areas are planned by either NOAA or the U.S. Navy. This needs to be changed and we need built-in protection for these areas and for areas that are prime food sources for all sea life.
- 4) The U.S. EPA, California EPA, and the U.S. Department of Fish & Game have also been excluded from these workshops and they should be included along with various university biologists and others working in the marine biology fields.

This is to advise your office that the NRDC (National Resource Defense Council), does not represent the public interest...just the interest of its supporters and members. Therefore, a public hearing only inviting this environmental group, is not acceptable as giving the public a voice.

We are formally requesting that there be at least a 60-90 extension of the public comment process with all documents and studies to date being made public. NOAA (NMFS) should not issue any Navy permits for the taking of marine mammals until all surveys, studies, and research is completed, and the public is invited to be part of the workshops to be held in 2011, since the public was not notified of any workshop dates or locations in 2010.

We look forward to hearing from you in the near future on these critical issues and receiving the above information requested.

Respectfully,

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