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NATIONAL WILDLIFE FEDERATION, NATURAL RESOURCES DEFENSE
COUNCIL, PEOPLE FOR PUGET SOUND, SAVE OUR WILD SALMON, SOUTH
SOUND ORCA ADVOCATES, VAL VEIRS, Ph.D.**

September 28, 2007

Naval Facilities Engineering Command, Northwest
Attn: Ms. Kimberly Kler - NWTRC EIS
1101 Tautog Circle, Suite 203
Silverdale, WA 98315-1101

RE: United States Navy Northwest Training Range Complex Environmental Impact
Statement / Overseas Environmental Impact Statement

Dear Ms. Kler:

On July 31, 2007, the U.S. Navy announced its intent to prepare a Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) for expansion of its Northwest Training Range Complex. 72 Fed. Reg. 41712 (July 31, 2007). The undersigned organizations and individuals appreciate the opportunity to provide scoping comments to help identify issues the Navy should address in this process.¹ These organizations and individuals collectively work to protect and restore the Northwest's marine and terrestrial wildlife, as well as the habitat they depend upon. It is out of concern for these already compromised creatures that we submit these comments.

We must at the outset, however, express our disappointment at the amount of information available to inform these comments. The National Environmental Policy Act's, 42 U.S.C. §§ 4331 *et seq.*, fundamental purposes are to guarantee that: (1) agencies take a "hard look" at the consequences of their actions before the actions occur by ensuring "that the agency, in

¹ Center For Biological Diversity, Dr. David Bain, Earthjustice, Fred Felleman, WAVE Consulting, Friends of the San Juans, National Wildlife Federation, Natural Resources Defense Council, People for Puget Sound, Save Our *Wild* Salmon, South Sound Orca Advocates, and Val Veirs, Ph.D. Mailing and electronic mailing addresses for each organization/individual are included at the end of this letter. Each group requests to be added to the mailing list for this EIS process.

reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts,” Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 349 (1989); and (2) “the relevant information will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision,” id. at 349. NEPA “emphasize[s] the importance of coherent and comprehensive up-front environmental analysis to ensure informed decision making to the end that ‘the agency will not act on incomplete information, only to regret its decision after it is too late to correct.’” Blue Mountains Biodiversity Project v. Blackwood, 161 F.3d 1208, 1216 (9th Cir. 1998).

Unfortunately, the information provided so far by the Navy about the proposed expansion is extremely general and fails to allow the public to provide input as meaningful as could otherwise be achieved. While the Federal Register Notice and the Navy’s web site identify broad categories of actions that could take place, there is little to help the public understand the potential impacts of the proposed expansion. See, e.g., <http://www.nwtrangecomplexeis.com/EIS.aspx> (describing actions as “increas[ing] number of training activities from baseline levels, and force structure changes associated with the introduction of new weapon systems, vessels, and aircraft into the Fleet” and enhancing the range “to include the establishment of an electronic combat emitter along the coast of Washington, increased net explosive weights for underwater demolition, development of air target services, and installation of surface targets.”).

There has been some additional information made available from media reports quoting Navy officials, but this alone is an inadequate mechanism for informing the public of the Navy’s plans. See, e.g., “Navy seeks to expand Northwest Training Range activities” Peninsula Daily News (Sept. 23, 2007) (Navy spokesperson describing expansion as “bring[ing] more air, surface

and underwater vessel traffic, as well as testing of under-water weapons, unmanned aerial and submersible vehicles and high-frequency sonar” and noting that the increase would go from “8,000 activities per year now . . . to around 13,000”). See also “Hearings this week on Navy’s coastal exercises” Aberdeen Daily World (Sept. 10, 2007) (same). Without some detail about what many of these actions entail, and where they may take place, it is difficult for the public to offer a detailed level of input into the process at this stage.

Because of the special character and critical environmental import of the areas affected by these proposed actions, we urge the Navy to include far more detail in the Draft EIS. As a starting place for reference, the Final EIS for the establishment of the Olympic Coast National Marine Sanctuary (released in Nov. 1993), includes dozens of pages describing the Navy’s activities just within the Sanctuary, including detail of the kinds of training and testing actions, the intensity and frequency of those actions, and an evaluation of the necessity of continuing those actions. A copy of several pages of that description (omitting appendices) are attached to this letter for reference. While the information in that thirteen-year-old EIS is itself now stale, the level of detail contained in that discussion sets a minimum floor for the level of detail that is required in this EIS. Over the past thirteen years, we have learned much more about the areas covered by the forthcoming EIS/OEIS. In addition, the Navy has no doubt performed an immense amount of its own research in this area. It is safe to assume that all of this research points toward protecting these inland and coastal waters that have become essential to preservation and recovery of the Northwest’s unfortunately increasing roster of threatened and endangered species. The Navy must include far more detail and analysis of its activities in the forthcoming Draft EIS.

I. RELATIONSHIP BETWEEN NWTRC EIS/OEIS AND EXISTING KEYPORT RANGE EXPANSION PROCESS.

In 2003, the Navy issued a Notice of Intent to Prepare an EIS for its Northwest Range Complex Extension, Naval Undersea Warfare Center, and requested scoping comments on three alternatives to expand three areas in Washington State. 68 Fed. Reg. 53599-53600 (Sept. 11, 2003). Largest among these was a proposal to expand the existing Quinault Underwater Training Range from its existing footprint to cover all of are W-237A (nearly 50 miles into the Pacific Ocean and encompassing a large portion of the Olympic Coast National Marine Sanctuary). The Navy also proposed to expand undersea operations areas near its base at Keyport and in Hood Canal. The Draft EIS for the Keyport Range expansion was to be released sometime in 2007, but has not yet been issued. It appears that Navy intends for these two processes to move forward separately. See NAVSEA NUWC Keyport Range Complex Extension EIS/OEIS Community Newsletter (Sept. 2007) (detailing name change for Keyport Range Expansion Project and noting that the two processes will move forward separately).

These two projects, however, are connected to one another both geographically and operationally. Indeed, both of the action alternatives briefly previewed in the Federal Register for the NWTRC EIS/OEIS involve utilizing, upgrading, or expanding existing ranges, presumably including those covered by the Keyport Range Expansion. See <http://www.nwtrangecomplexeis.com/EIS.aspx> (“Alternative 1 is comprised of the No Action Alternative plus additional operations on upgraded/modernized existing ranges” Alternative 2 is comprised of Alternative 1 plus new ranges”). NEPA prohibits the Navy from segmenting these types of connected actions in different analyses and requires consideration of the impacts of such connected actions together in one EIS that comprehensively considers environmental effects. 40 C.F.R. § 1508.25(a)(1) (ii), (iii); id. § 1502.4(a).

Regardless of whether the Navy considers these actions “connected,” the effects of these two proposals must also be considered together as “cumulative impacts.” 40 C.F.R.

§ 1508.25(c)(3). A cumulative impact is:

[T]he incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

40 C.F.R. § 1508.7. The Courts have found that even where several actions were not “connected” or “similar” enough to warrant consideration in a single EIS, their impacts must still be addressed as cumulative impacts. Earth Island Institute v. U.S. Forest Service, 351 F.3d 1291, 1306 (9th Cir. 2003) (“Even if a single, comprehensive EIS is not required, the agency must still adequately analyze the cumulative effects of the projects within each individual EIS.”). Because NEPA does not allow the Navy to compartmentalize the impacts of the Keyport Range Expansion and expansion of the Northwest Training Range Complex, the relationship between these two proposals is the first issue that the Navy must address in the EIS process.

II. ISSUES AND IMPACTS THAT MUST BE CONSIDERED IN THE EIS

Though we lack sufficient information on the details of the alternatives suggest an exclusive list of environmental impacts that the Navy must consider in the Northwest Training Range Complex EIS, it is clear that what is being proposed represents a significant increase in both the intensity and range of activities that will be conducted in these waters. For example, in both action alternatives, the Navy proposes to add new ships, aircraft and weapons systems testing to the activities currently conducted in the range. See Peninsula Daily News story, supra. The primary difference seems only to be in the intensity and frequency of these additional activities. The inland waters of Puget Sound and the Washington and Oregon coasts are all critical areas for a number of species of wildlife (including threatened and endangered salmon

and steelhead, and endangered Southern Resident Killer Whales), economically and culturally significant Treaty and non-Treaty fisheries and other activities, and represent some of the last stretches of pristine coastline on the West Coast. With that in mind, some of the issues that the Navy must consider when evaluating the impacts of expanding operations include, but are not limited to:

(1) Impacts to sensitive or threatened and endangered wildlife, including, but not limited to ESA-listed and unlisted salmon and steelhead stocks and all marine mammals;

(2) The potential for acoustic devices and methods, (including sonar) transmission to damage, disturb or harass marine mammals, fishes and invertebrates.

- Use of nearly all frequencies of sonar has a host of impacts on marine mammals and other species. As the Navy knows well, this issue has generated considerable scientific and public attention and the Navy must address sonar use and its impacts directly and transparently in the Draft EIS. It appears that the Navy intends to increase both the rate and possibly the types of sonar it utilizes in these areas. We note that within Puget Sound alone, the Navy has not publicly described any formally adopted restrictions on the use of sonar or proposed mitigation or other protective measures to ensure that it does not impact wildlife (including endangered Southern Resident Killer Whales). Until the Navy addresses the impacts from existing sonar use within the Northwest Training Range Complex, it is inappropriate to expand such use. An analysis of these impacts in the Draft EIS should include an evaluation of the adequacy and real-world efficacy of an array of mitigation practices designed to reduce or prevent exposure of marine mammals to hazardous activities. The Navy should also detail plans to continually monitor and evaluate the effectiveness of these practices and establish a protocol for adapting and improving these practices over time. Many of our organizations have ideas and suggestions for preventing and mitigating effects of sonar and other activities and look forward to any opportunity to present them to the Navy.

(3) Compliance with existing regulations restricting activities within the Olympic National Marine Sanctuary;

(4) Potential discharge of pollutants, including but not limited to oil spills, and measures to prevent those release as well as the capacity to clean up and/or restore damaged resources.

- We note here that the Navy is responsible for the largest oil spill in Washington State near Makah Bay in 1972 (2,300,000 gallons). More recently, there have been two incidents in three years where Navy submarine have separated oil barges from their tows off Cape Flattery (USS Nevada on August 2, 2006, USS Topeka in October 2003). Increasing – and even maintaining – the use of the Northwest Training Range Complex means that much of the expanded operations will be

served from ships in Puget Sound, causing more transits off the coast. Currently, the Navy has no oil spill response or salvage assets prepositioned on the coast. The EIS must address the increased potential for oil spills and detail how the Navy plans to prevent and respond to accidents that threaten our inland and coastal waters.

- (5) Seafloor disturbance related to the temporary or permanent placement of cables, listening devices, targets, anchors, or vehicle movements along the seafloor;
- (6) Damage to intertidal, island or upland resources, as well as the impacts on these resources caused by Navy activities outside the immediate area of operations;
- (7) Noise disturbance by aircraft or surface vessels of nesting or migratory birds and marine mammals as well as impacts to visitors to Olympic National Park, the National Marine Sanctuary, and other areas of Puget Sound, Strait of Juan de Fuca, and the Pacific coast;
- (8) Damage to historical resources or other cultural resources;
- (9) Limitation of recreational uses by sportfishermen, kayakers, boaters, and other visitors;
- (10) Interference with tribal and non-tribal commercial fishing operations;
- (11) Interference with activities by tribal members engaged in ceremonial harvesting of resources;
- (12) Impacts resulting from continuation, intensification, or expansion of underwater detonation activities on fish and wildlife;
- (14) Impacts caused by the loss of any vehicle or equipment where recovery is infeasible or would cause more damage than leaving it alone;
- (15) Potential interference with research activities;
- (16) Impacts on commercial shipping due to increased presence of Naval surface vessels, submarines, and aircraft;
- (17) Whether the Navy can accomplish its goals through other alternatives, such as a redistribution/reassignment of training activities to other existing ranges;
- (18) Impacts of firing 20mm depleted uranium rounds in range areas. Are other types of radioactive rounds fired or handled in these range areas?;
- (19) Whether Navy operations currently discharge any amount of plastic and any other chemical substance into the ocean in the training area and the extent to which this practice may increase under any of the alternatives;

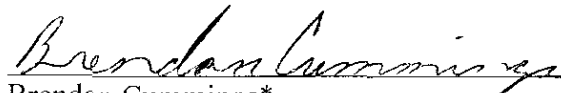
(20) Impacts to air quality;

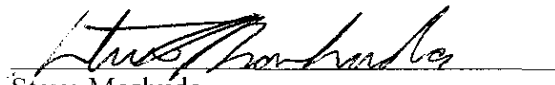
(21) Impacts from any potential on-land support activities (including stormwater and other pollution impacts).

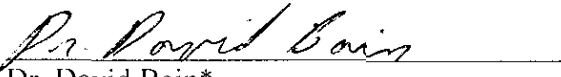
Finally, we encourage the Navy to clearly present a baseline assessment of the entire marine area in which these operations will take place. From this baseline, the Navy can then monitor ecosystem and species changes, measure disturbances and impacts, and propose and implement adaptive management strategies to its ongoing operations.

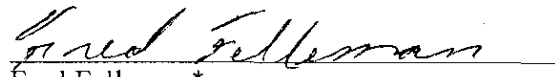
Thank you for your consideration of these scoping comments. Because of the high level of public interest in this process, and NEPA's emphasis on thorough, up-front review of the environmental effects of proposed actions, we look forward to a Draft EIS that provides a high level of detail and rigorous analysis of the proposed alternatives individual and cumulative environmental impacts. Based on these comments, we would appreciate the opportunity to present our concerns to you in person. We will contact you separately to determine when such a meeting may be convenient.

Sincerely,

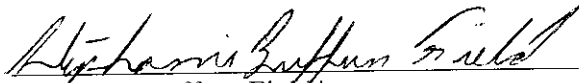

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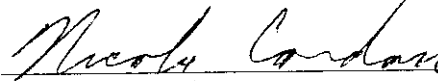

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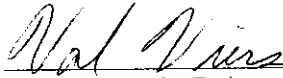
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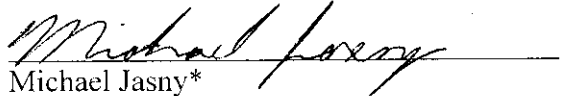
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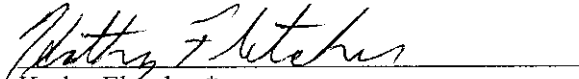
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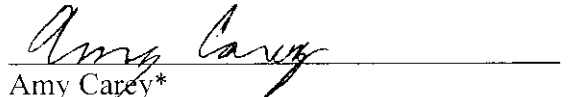
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ATTACHMENT

strait has not been adequately addressed. There have been well publicized instances when barges and vessels have lost power causing, or threatening to cause, damage to coastal resources. Some examples in recent history include the grounding of the Nestucca barge in 1988 off of Grays Harbor involving a spill of over 200,000 gallons of oil, in addition to the Exxon Philadelphia and Exxon San Francisco which lost power off Cape Flattery in 1989.

Although there are contingency plans in place, no response strategies exist to respond to such occurrences off the Washington Coast and in the Strait of Juan de Fuca. No vessels are specifically designated to respond to an emergency in which a vessel or tug and tow loses power in these areas. While there are several major towing and salvage companies in the area, the time of response to an emergency occurring off the outer coast requiring towing would depend on both vessel availability and distance from the scene of the incident. Emergency response could be significantly delayed due to prior assignment of response vessels to other towing, docking, or salvage operations, or the remote location of an incident from available vessels.

The United States Navy has several tugs in the Puget Sound area, however all are yard craft rather than ocean going vessels. Further, none are dedicated, nor readily available for emergency response. In addition, the U.S. Coast Guard has no tugs in the area (COMSUBGRU 9, 1992). The initial USCG response to a drifting vessel or tug and tow are primarily Search and Rescue missions aimed at protecting human life. The Canadian Coast Guard operating from Victoria has five vessels: two are assigned primarily to search and rescue missions, and three are buoy tenders. In an emergency, one of these vessels might be able to render assistance to a small disabled commercial vessel or drifting tug and tow (Cheng, 1992).

The OMS, with the benefit of recommendations from, and in coordination with the regional marine safety committees and the Marine Oversight Board, and in consultation with the province of British Columbia, is mandated by the legislature to establish an Emergency Response System for the Strait of Juan de Fuca. The system will address emergency towing capability for vessels in these waters.

4. Military Activities

Military activities in the area of the Sanctuary consist of subsurface, offshore surface, and aerial operations. Navy submarines homeported in Puget Sound conduct three types of operations within the sanctuary study area: 1) transit between Puget Sound and the undersea operating areas; 2) hull integrity tests and other deep water tests of 1 to 2 weeks duration, which are performed in a rectangular area between 7 to 30 miles off

Cape Johnson; 3) in-water testing of non-explosive torpedoes, 6-8 times per year, lasting from 1 to 4 days, in a rectangular area 5 to 14 miles off Kalaloch; and 4) the barging of defueled nucleau reactor compartments from Puget Sound to the Columbia River.

Ongoing operations near the entrance to the Strait of Juan de Fuca include surveys for hidden obstacles by Navy minesweepers to ensure that in the event of hostilities or other incidents affecting national security, Navy ships would be able to pass safely to sea. The details of these operations are classified, however, they are generally limited to passive surveying and do not involve active sweeping or clearing. The Navy also operates an acoustical net off Washington, with its operations base located at NAS Whidbey Island.

The Seattle Sectional Aeronautical Chart shows two Warning Areas (W-237A and W-237B) which are designated training and operating areas for the Pacific Fleet air and surface forces, two Military Operation Areas (MOA Olympic A and B), and Restricted Area R-6707 (Figure 47).

The two Warning Areas extend from three miles off the coast out to a distance well beyond the sanctuary study area, from approximately 48°09'N latitude due south to approximately 46°55'N latitude. Air operations in W-237A (the southern half of the study area) include air combat maneuvering, air intercept, air refueling, air-to-air gunnery and rocketing, air-to-surface gunnery and missile exercises, anti-submarine warfare training, and other training evolutions, at altitudes from the surface to 50,000 feet above mean sea level. In W-237B area, air operations are basically the same. In W-237A, ordnance is expended under controlled conditions that attempt to minimize threats to the living environment and to ensure the safety of other ships and aircraft that may be operating in the area. Anti-submarine warfare operations require the expenditure of sound receiving and transmitting buoys, called sonobuoys, as well as marine smoke markers from aircraft. Sonobuoys eventually flood and sink to the bottom after use.

Surface operations in W-237 consist primarily of routine transit, single and multiple platform maneuvering, as well as live firings of guns, missiles, torpedoes, and chaff. Any vessel or aircraft requiring exclusive use of W-237 schedules the area with NAS Whidbey Island. For calendar year 1991, W-237 was scheduled for 2,572 hours out of a possible 8,760 hours. During this time frame there were a total of 575 events. According to Boeing and the Federal Aviation Administration, these events were distributed as follows: 156 Navy aircraft, 224 Air Force aircraft, 131 Coast Guard aircraft, 10 Navy ships, 27 coast guard ships, and 27 civilian aircraft.

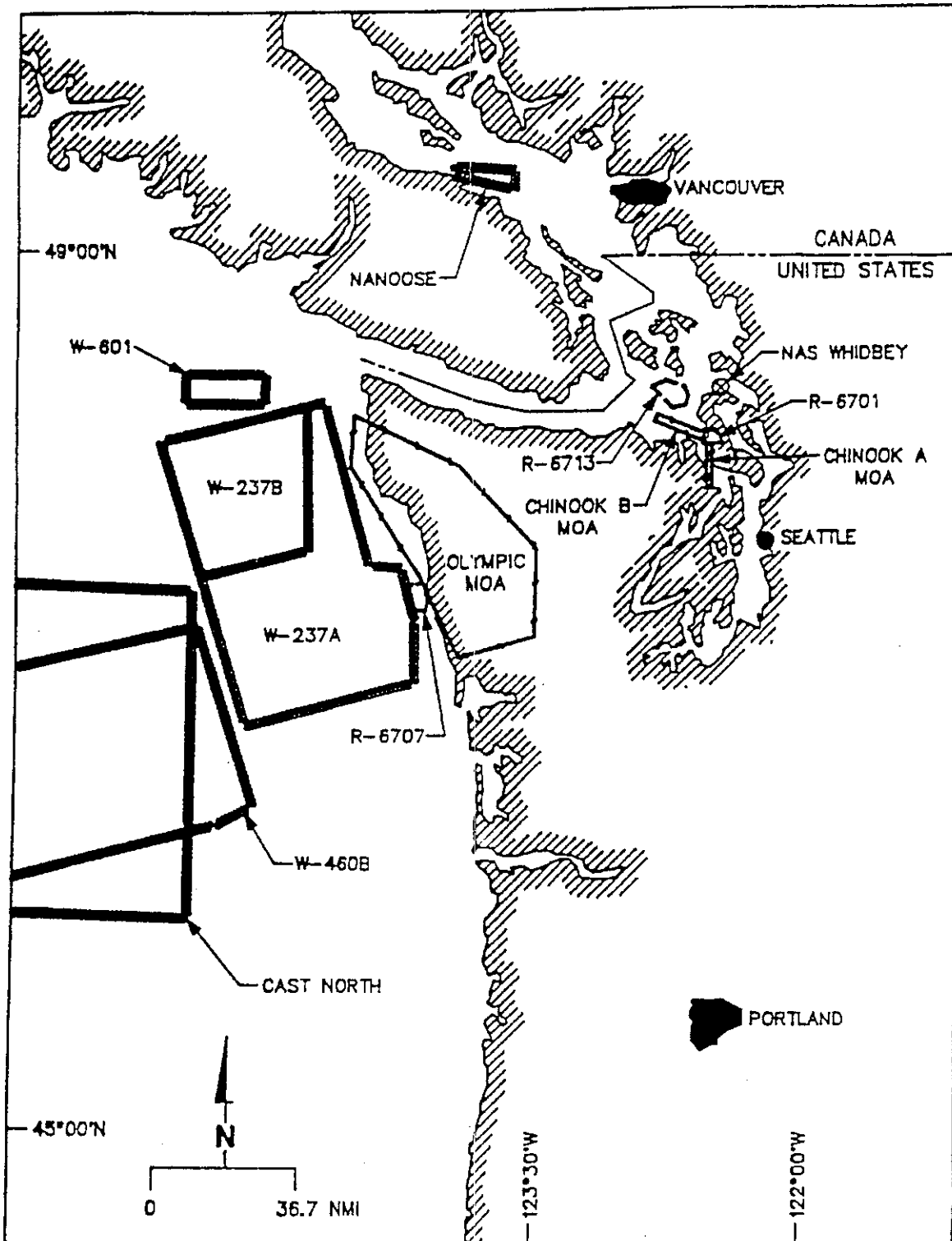


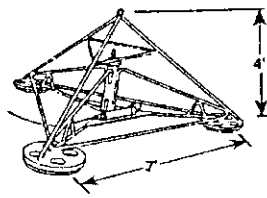
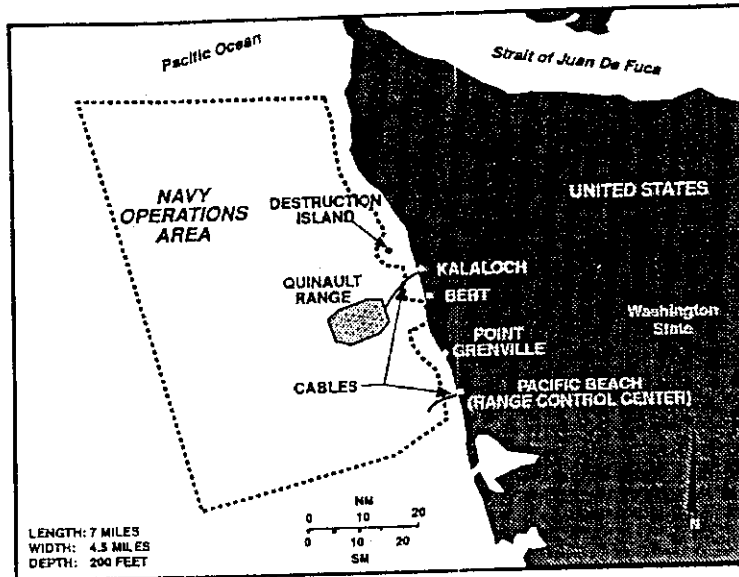
Figure 47. Zones of Military Activity off Washington Coast, (Whidbey Island Complex, West).

The Navy operates and maintains an undersea test range located in Navy Operations Area W-237-B (Figure 48). This range is known as the Quinault Range, and is instrumented to track air craft, surface vessels, submarines, and various undersea vehicles (non-explosive torpedoes, mines, counter-measures, etc...) for both the Navy and private industry. The range is available for operation year round, and test operations are typically conducted 8-15 times per year, each operation lasting from 1-7 days. In all cases, only non-explosive testing is conducted.

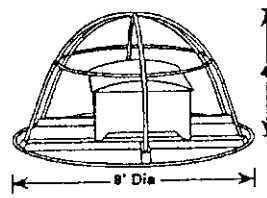
The typical test scenario in the Quinault range involves: 1) oceanographic measurements prior to a test exercise; 2) test vehicle launching; 3) underwater and above water tracking of participating craft and test vehicles during the test; and 4) recovery of all test vehicles from the water surface by vessel or aircraft or from the seabed by vessel and remote controlled recovery vehicle at the conclusion of the test exercise. The above-water tracking instrumentation uses standard Global Positioning System and radio telemetry equipment and covers the range and surrounding area as required to conduct operations. The undersea instrumentation, all located on the ocean floor, consists of tracking sensors connected by coaxial cable to junction boxes. The junction boxes are connected by fiber optic and coaxial cables to the range's shore termination sites at Kalaloch and Pacific Beach.

The range is located approximately 7.5 miles off the Washington coast at Kalaloch within Military Operating Area W-237 and its area is approximately 30 square nautical miles, centered at latitude 47°30'N and longitude 124°37'W. The location and/or size of the undersea tracking area is adjusted from time to time to support specific Navy testing requirements, but it remains within W-237.

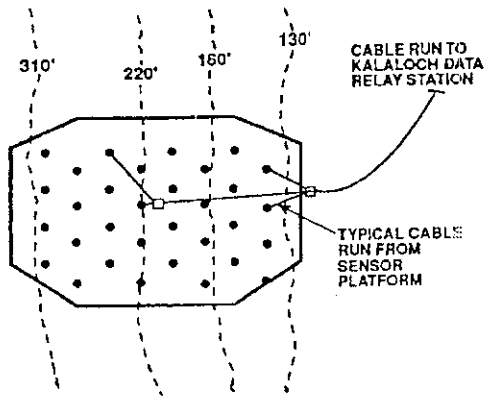
There are a variety of activities that take place within the sanctuary area in support of Quinault Range use and maintenance. Testing operations are supported by a variety of surface and air craft. Vessels transit to the range, position and temporarily moor throughout the test areas, and launch and recover test vehicles as required to meet test objectives. Navy aircraft are periodically used to launch test vehicles and helicopters provide range surveillance and may be used for test vehicle recovery. Helicopter operations include staging at shore sites, typically Forks or Pacific Beach, and transit to and from test areas, at altitudes from the surface to approximately 1,000 feet above mean sea level. Testing of autonomous and acoustic homing vehicles involve sonar searches and sonar target size measurements. Maintenance requires replacement of underwater instrumentation and cabling in the identified range area and along paths to shore termination sites. Maintenance activity involves using temporarily anchored surface vessels to support retrieval and placement of underwater sensors, junction boxes and cable laying



2-D TRACKING
SENSOR PLATFORMS (32)



CABLE JUNCTION
BOX



TRACKING AREA CENTERED AT:
LATITUDE 47° 30' N
LONGITUDE 124° 37' W

LEGEND:
● = 2-D TRACKING SENSOR PLATFORM
□ = JUNCTION BOX

Figure 48. Quinault Range Tracking Area and Bottom-Mounted Instrumentation.

on the seabed.

Navy ranging activities primarily produce the type and level of discharges associated with normal surface vessel traffic. On rare occasions some of these activities are conducted outside W-237 due to unique conditions or requirements such as lost/sunken vessels or equipment, requests for assistance by other groups, and classified operations. For example, the Ex-BUGARA (sunken submarine located off Cape Flattery) is used for Naval undersea test tracking operations.

The Navy regards W-237 to be a key part of the Pacific Fleet offshore training complex in the northeast Pacific, which is essential to unit training, and overall Fleet readiness. For air operations, W-237 is particularly desirable from a cost standpoint because it is close to the coast and therefore requires fewer flying hours and steaming hours to reach. The importance of these areas is expected to increase by the mid-1990's with the addition of a carrier battle group at a new homeport in Everett, Washington. Puget Sound will become home to several additional Navy warships and support vessels, and the relatively few surface operations currently conducted off the Washington coast should increase, although the exact number of the increase is unknown. Operating costs will drive the need to conduct routine battle group training in W-237 and the surrounding operating areas.

The Olympic MOA A and B, which are primarily over land, also extend three miles offshore throughout much of the sanctuary study area. Air operations within the Olympic MOA's include combat tactics, flight training, intercepts, instrument training, tanking, and formation at altitudes from 6,000 to 35,000 feet above mean sea level; but this is not to be below 1,200 feet above the ground. No ordnance is allowed. The MOA is scheduled for approximately 1,300 hours of a possible 8,760 hours per year.

A restricted air space (R-6707) extends from the coast out four miles just south of Queets and north of Taholah (Figure 49). The following described actions conducted in this training area were, until recently, considered vital to national defense. With the downsizing of the Navy, however, this training site is no longer considered as vital to Fleet readiness.

Sealion Rock, a 80' by 30' uninhabited volcanic rock, awash at high tide, was historically the sole target within R-6707. It is located at 47° 27' N latitude and 124° 24' W longitude, approximately 2.7 nautical miles off the coastline. This site was used exclusively as an alternate practice bombing range for Navy A-6 aircraft from NAS Whidbey Island, and from aircraft carriers in the North Pacific during Fleet exercises. Only inert ordnance was dropped, and only in accordance with established flight procedures detailed in an approved Operations Plan.

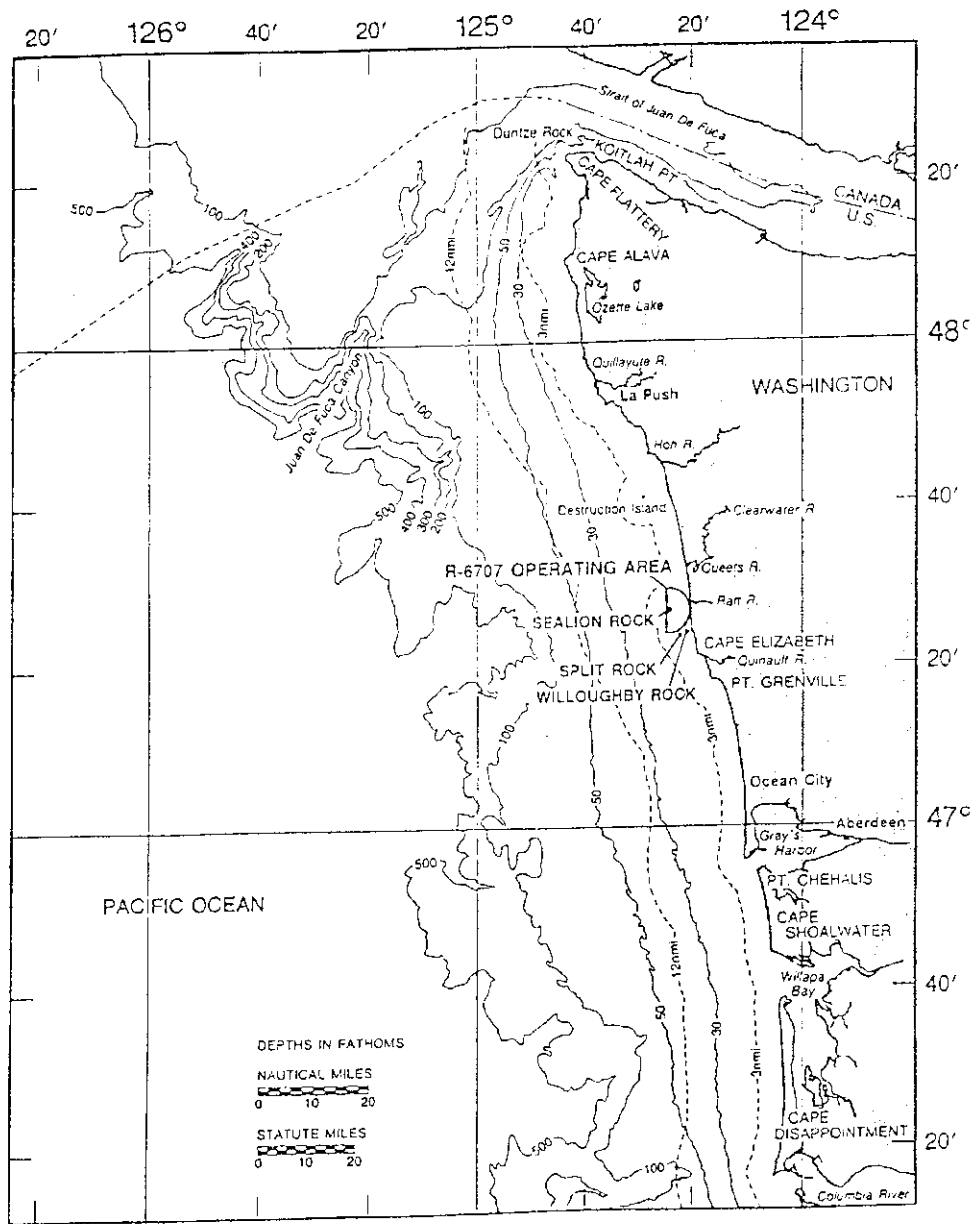


Figure 49. Restricted Airspace R-6707.

Procedures in the flight operations plan dictated a north to south pass from Destruction Island to Sealion Rock. Aircraft were not to descend below 3,000 feet until they were two miles south of Destruction Island. All exit turns were to the west, away from the coast. Prior to practice bombing runs, a clearing pass was undertaken over Sealion Rock to clear the rock of marine mammals. If any marine mammals remained on the rock, an additional clearing pass was required. All clearing passes were below 500 feet.

The primary and alternate routes by which Navy planes arrived at R-6707 is depicted in Figure 50. Prior to entry into the Olympic MOA, aircraft operated on instrument flight rules (IFR) under positive control of the Seattle Center aircraft traffic control at altitudes of between 6,000 and 23,000 feet above ground level. Within the MOA, the aircraft operated on visual flight rules (VFR) at altitudes ranging from surface to 6,000 feet. Aircraft continued to fly as VFR traffic at altitudes ranging from SFC to 6,000 feet into R-6707 (Munsell, 1992).

Statistics on the number of days per month and days per year that A-6 aircraft originating from Whidbey Island and the Pacific Fleet used Sealion Rock from 1986 through 1992 is presented in Figures 51 and 52, respectively. Usage of Sealion Rock has declined from 18 to 5 days per year from 1986 to 1992. Likewise, the number of hours in which A-6 bombers have maneuvered over Sealion Rock has declined from 31.35 hours in 1986 to 9 hours in 1992. The number of aircraft from the Pacific Fleet carriers that actually dropped inert ordnance on Sea Lion Rock is unknown.

Permission to use Sealion Rock and three other coastal islands and rocks located in each of the three National Wildlife Refuges was granted to the Navy by the Secretary of the Interior in May, 1944. The Navy was denied permission to use a fifth rock, Carroll Island, because of nesting activity. The Navy's use of the islands was to cease six months after the end of World War II. In July, 1949, the permission was amended to allow the Navy to use Sealion Rock indefinitely, while permission to use the other three coastal islands and rocks was rescinded.

The Navy funded a study conducted by the Washington Department of Game during 1984-85, to evaluate the impact of inert bombing activities on wildlife in the Sea Lion Rock study area which extended from near Pt. Grenville north to Destruction Island. It was bounded on the east by the shoreline and extended out to the west approximately seven kilometers. The primary study area was located between Pt. Grenville and Tunnel Island.

As a result of the study, existing flight patterns were changed to limit all departures to the west to minimize any flights over adjacent islands and rocks (e.g. the flight pattern

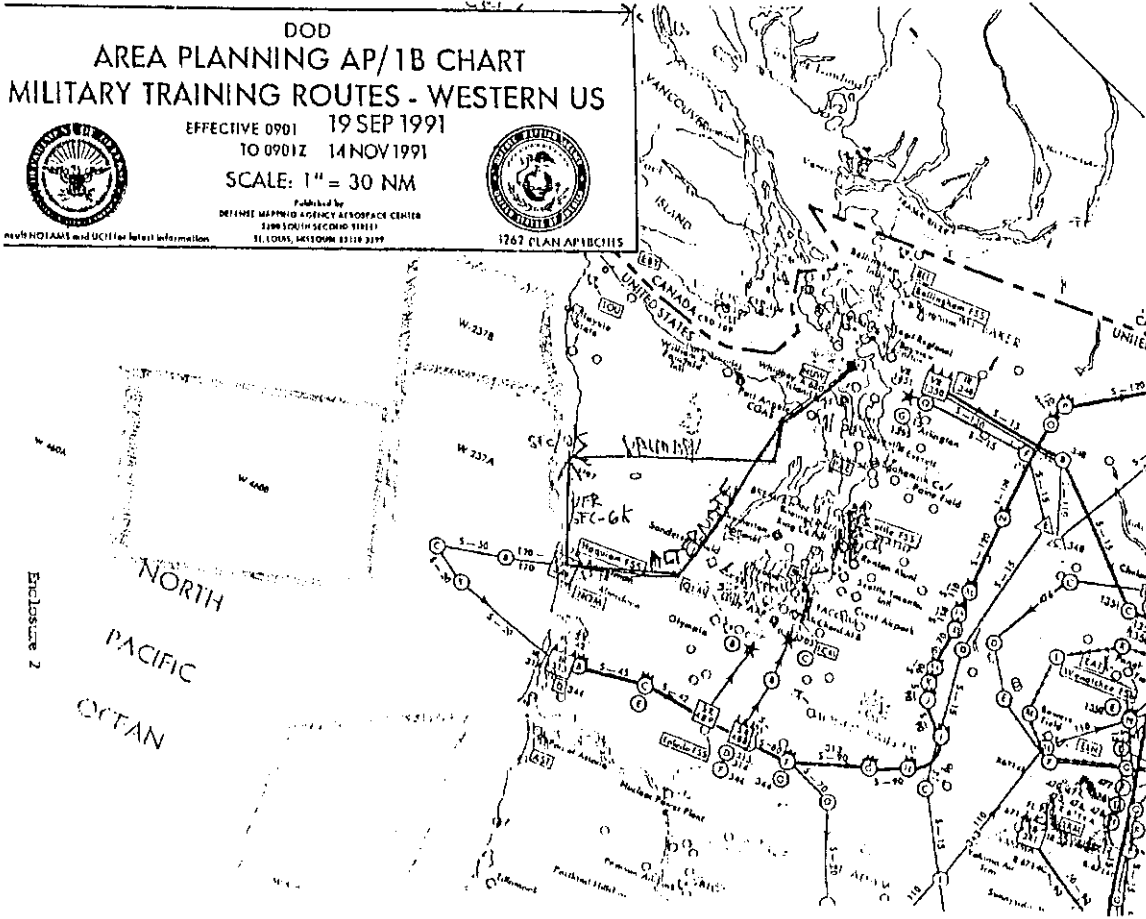
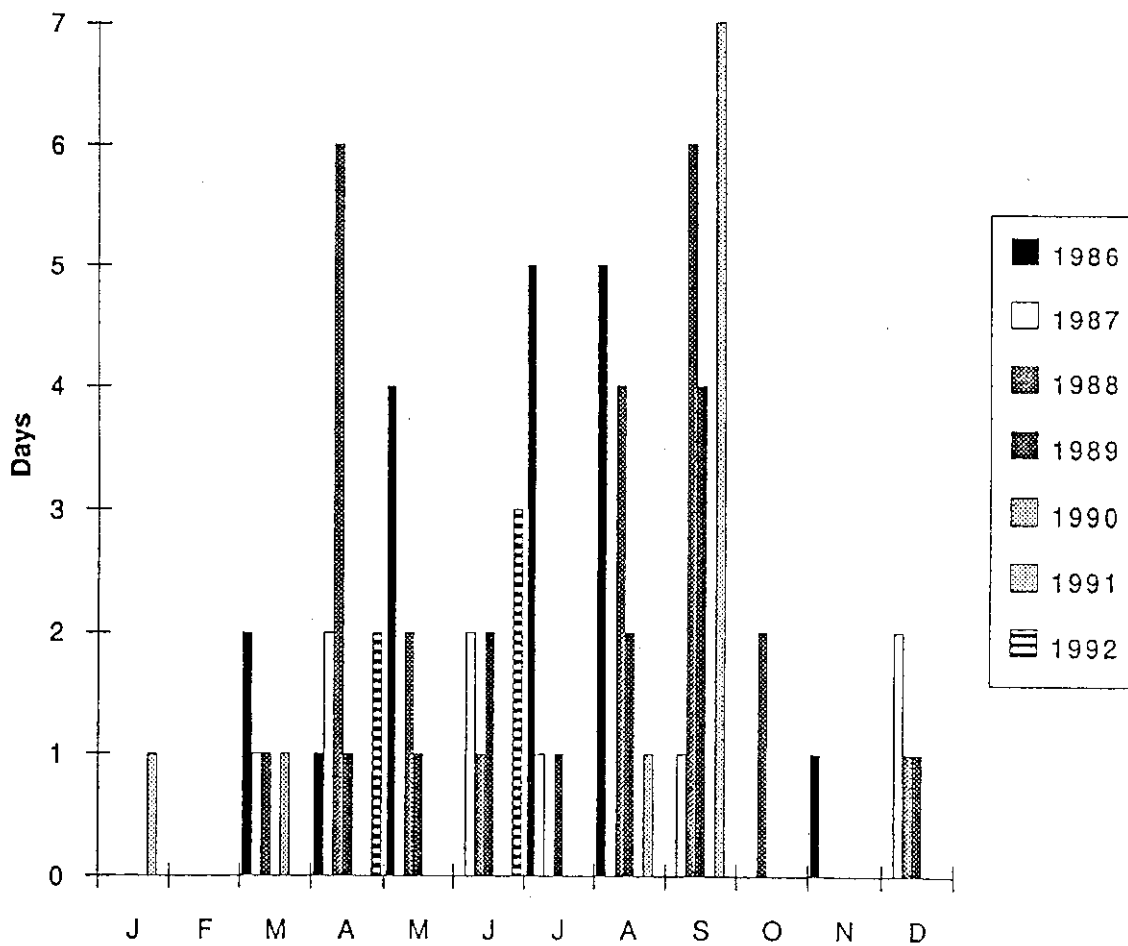


Figure 50. Flight Paths by Aircraft Transiting from Whidbey Island Naval Air Force Base to R-6707 (Whidbey Island Naval Air Station, 1992)

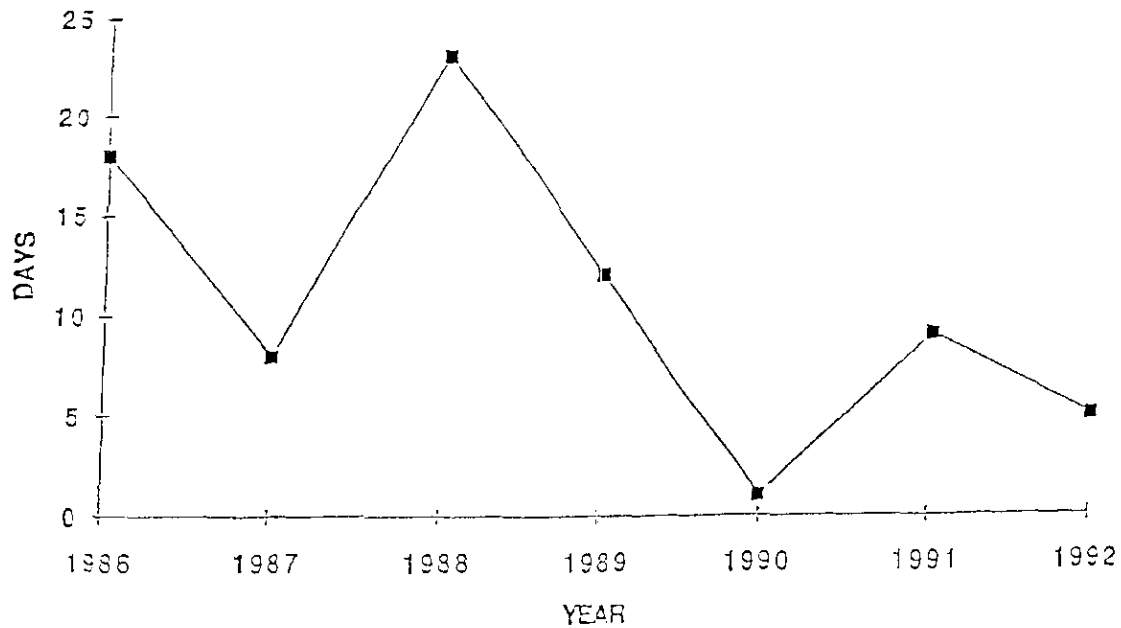
NAVY USE OF SEALION ROCK FROM 1986-1992 (DAYS/MONTH)



Source: Whidbey Island Naval Air Station, 1992

Figure 51. Number of Days/Month Navy has Used Sealion Rock From 1986-1990 (Whidbey Island Naval Air Station, 1992).

NAVY USE OF SEALION ROCK FROM 1986-1992 (DAYS/YEAR)



SOURCE: Data provided by Whidbey Island Naval Air Station, 1992

Figure 52. Number of Days/Year Navy has Used Sealion Rock from 1986-1991 (Whidbey Island Naval Air Station, 1992).

was altered to reduce noise levels reaching wildlife habitats on rocks 3.5 miles away). The study also confirmed that nearby Split Rock and Willoughby Rock wildlife habitat areas, 3.5 miles to the South of Sealion Rock, had been mistaken for the target sometime in the past. The study concluded that "A-6 activities conducted in accordance with the Operations Plan (i.e., all departures are to be to the west) result in minimal, and apparently insignificant, impacts on wildlife."

The study's conclusions and methodology, however, have been widely criticized because: 1) the study was conducted during an El Nino year; 2) the study should have conducted population studies of birds and mammals for a much longer period of time to account for variation in environmental conditions; 3) the study did not include an examination of a "no-use" alternative, and thus comparative analysis was absent; and 4) the researchers were unaware of all military overflights in the area during the study, and therefore total impacts of military overflights were not accounted for (Troutman, 1993). The environmental impact of bombing activities under the revised flight operations plan has not been investigated.

Although the Navy agreed to certain mitigating measures requested by USFWS to reduce the impacts of practice bombing activities (increased pilot education, radar monitoring, consultation with the NMFS for purposes of obtaining "incidental take" authorization under the MMPA and the ESA), it would not agree to a seasonal cessation, i.e., during the breeding season, of its bombing activities.

The regional office of the USFWS and the Marine Mammal Commission requested that the Department of Interior either rescind or modify the Navy's permit to prevent bombing during the breeding season for seabirds. The regional office of the USFWS, pursuant to its responsibilities under the Refuge Administration Act, performed a compatibility determination and found that the Navy's use of Sealion Rock was incompatible with the purposes for which the refuge was established. Notwithstanding the regional USFWS office's determination of incompatibility and the Navy's refusal to cease bombing practice during the breeding season, the Director of the USFWS did not rescind the Navy's permit because of national defense considerations.

On October 22, 1992, several environmental groups (Defenders of Wildlife, Natural Resources Defense Council, Inc., National Audubon Society, American Oceans Campaign, the Wilderness Society and Washington Environmental Council) filed suit in the U.S. District Court for the Western District of Washington against the Department of Interior, USFWS and the Navy to enjoin the Navy's practice bombing activities over Sealion Rock. Thereafter, the Navy announced that it would no longer use Sea Lion Rock for aerial target practice. On August 18, 1993 the Secretary of the

Interior rescinded the permit issued in July, 1949 authorizing Navy access to Sea Lion Rock for practice bombing activities. As a result of the Secretary of Interior's action, the Navy can no longer use Sea Lion Rock for practice bombing exercises.

The Navy regards Pacific Fleet operations off the northern coast of Washington as essential to Fleet readiness. Navy environmental protection policy precludes discharge of fuel oil, medical wastes, plastics, and other pollutants into the water, and prescribes immediate containment and clean up procedures in the event of accidental discharge. Fuel dumping by aircraft is also precluded except as necessary for safety of flight, and then only above 6000 feet.

5. Ocean Waste Disposal

Regulation of dumping of materials, including dredged material, into ocean waters falls under sections 102 and 103 of the MPRSA. These sections of the law are jointly administered by the EPA and COE. Responsibility for designation of sites and permitting of disposal other than dredged material has been delegated to EPA Region 10. The COE, in consultation with Region 10, is the permitting authority for dredged material.

Management of ocean dredged material disposal sites, including necessary monitoring, is a shared responsibility between the appropriate Corps district (Portland or Seattle) and EPA Region 10. Dredged material proposed for ocean disposal must comply with criteria in 40 CFR 220-228. In February 1991, the COE and EPA released Evaluation of Dredged Material Proposed for Ocean Disposal: Testing Manual (the Green Book) which provides a framework for testing of dredged material. Many of the techniques described in the Green Book have been standard practices in Region 10 for several years. Based on past and current testings of dredged material disposed in open water and monitoring at open water sites, no significant adverse environmental effects have resulted from past or ongoing disposal (Findley, 1991).

The regulation of point source discharges in Washington through EPA NPDES permits is the responsibility of the WDOE. NPDES permits for tribes, however, are granted directly from EPA. WDOE classifies the waters of the state into different categories. Washington's coastal waters are classified class AA which is the highest water quality rating. The waters in the estuaries of Grays Harbor and Willapa Bay are classified class A, a slightly lower water quality rating.

Because of the undeveloped nature of land adjacent to the sanctuary study area, it is a relatively unspoiled area. Pollution from traditional sources (e.g., wastewater treatment plants, industry and urban runoff) is very low. Drainage areas