
Appendix L.1 Public Scoping Comments

**Environmental Impact Statement/
Overseas Environmental Impact Statement
Hawaii-California Training and Testing**

TABLE OF CONTENTS

L.1	PUBLIC SCOPING COMMENTS	L.1-1
L.1.1	PROJECT WEBSITE COMMENTS	L.1-2
L.1.2	EMAILED COMMENTS.....	L.1-67
L.1.3	POSTAL MAILED COMMENTS.....	L.1-95

List of Figures

There are no figures in this appendix.

List of Tables

There are no tables in this appendix.

L.1 Public Scoping Comments

The public scoping period began December 15, 2023, and ran through January 29, 2024. Thirty-six comments were received during the public scoping period. Comments were submitted via the project website's electronic comment form (22), email (9), and by postal mail (5).

1 L.1.1 Project Website Comments

Date/Time: 12-18-2023

Organization: Flatiron West

Name: Stacy Sinclair

City/State: Los Angeles/CA

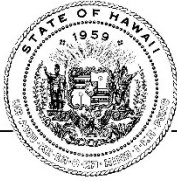
Comment: Along the California coastline there are very sensitive ecosystem services, including the methane seeps off Pt. Magu. Some of the activities mentioned could impact these fragile systems. Please keep me informed of the mitigation measures under development to protect these areas both for the ecosystems in the area and the cascading impact, should the seeps be disrupted.

Attachments:

1

2

Date/Time: 12-21-2023
Organization: Hawaii Coastal Zone Management Program
Name: Debra Mendes
City/State: Honolulu/HI
Comment: Please see the attached.
Attachments: [!FC2302 HSTT EIS-NOI czm-fcrqd_12.20.23.pdf](#)



**STATE OF HAWAII
OFFICE OF PLANNING
& SUSTAINABLE DEVELOPMENT**

235 South Beretania Street, 6th Floor, Honolulu, Hawai'i 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawai'i 96804

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

MARY ALICE EVANS
INTERIM DIRECTOR

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <https://planning.hawaii.gov/>

Coastal Zone
Management
Program

DTS202312191034ME

December 20, 2023

Environmental Review
Program

Land Use Commission

Land Use Division

Special Plans Branch

State Transit-Oriented
Development

Statewide Geographic
Information System

Statewide
Sustainability Branch

Naval Facilities Engineering Systems Command Pacific
Attention: HCTT EIS/OEIS Project Manager
258 Makalapa Drive, Suite 100
Pearl Harbor, HI 96860-3134

Dear Project Manager:

Subject: Hawaii Coastal Zone Management (CZM) Program Federal
Consistency Review Required for U.S. Navy Hawaii-California
Training and Testing (HCTT) Activities

According to Vol. 88 Federal Register 86885 (December 15, 2023), the Department of the Navy has published a Notice of Intent to Prepare an Environmental Impact Statement/Overseas Environmental Impact Statement for Hawaii-California Training and Testing Activities. The Office of Planning and Sustainable Development, CZM Program, is notifying you that we believe HCTT activities will have reasonably foreseeable coastal effects, and therefore, a Coastal Zone Management Act (CZMA) federal consistency determination is required to be submitted for review.

Environmental issues that need to be addressed in the HCTT EIS/OEIS include biological resources (including marine mammals and threatened and endangered species); sediments and water quality; air quality; noise, cultural resources; socioeconomic resources, and public health and safety. All these issues will be evaluated during the CZMA federal consistency review.

If you have any questions, please contact Debra Mendes of our CZM Program at (808) 587-2840 or Debra.L.Mendes@hawaii.gov.

Mahalo,

Mary Alice Evans

Mary Alice Evans
Interim Director

c: Ms. Dawn N.S. Chang, Department of Land and Natural Resources

Date/Time: 12-22-2023

Organization: yak tityu tityu yak tihini Northern Chumash Tribe San Luis
Obispo County and Region

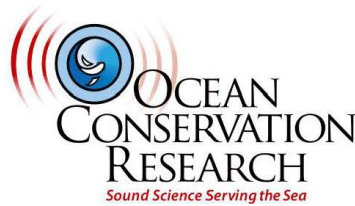
Name: Mona Olivas Tucker

City/State: San Luis Obispo County/CA

Comment: Regarding your letter dated December 7, 2023: We would like to know the specific processes that will be used to assess and protect marine life during the testing. We would like your assurance the the processes won't kill, injure, disorient or have long lasting impacts on marine life and marine habitat. Thank you.

Attachments:

Date/Time: 01-5-2024
Organization: Ocean Conservation research
Name: Michael Stocker
City/State: Lagunitas/CA
Comment: Comments with citations attached.
Attachments:



Naval Facilities Engineering Systems Command, Pacific,
Attention: HCTT EIS/OEIS Project Manager,
258 Makalapa Drive, Suite 100,
Pearl Harbor,
HI 96860-3134.

December 28, 2023

Dear HCTT EIS/OEIS Project Manager,

We appreciate the opportunity to express our concerns about the Hawaii-California Testing and Training Range review. The bulk of our work is focused on marine bioacoustics, and given that the preponderance of environmental compromise and impacts associated with warfare testing and training involves noise - from explosions to sonar, and underwater acoustical communications, we could have a lot of work on our hands expressing our concerns. But I am going to assume that the forthcoming DEIS will be built on the 2012 and 2018 Hawaii-Southern California Training and Testing Environmental Impact Statement/Overseas Environmental Impact Statements (HSTT EIS/OEIS), and informed by the NRDC *et al.* v. Pritzker settlement¹ and the resulting research that followed.

My expanded acoustical concerns are the new technologies in development that will likely be included in the Navy Testing and Training operations going forward. I have been tracking some of these technologies, such as JANUS protocol – accepted by NATO in 2017,² and DARPA’s POSYDON underwater GPS system.³ Undoubtedly other systems will be deployed that have not yet been reviewed in the literature, including military underwater acoustical communication systems that would not be revealed for security reasons.

These would include experimental communication systems that would fall under the rubric of the “Underwater Internet of Things,” used for any remote operation and monitoring of submersibles, surveillance equipment, stationary equipment state polling and control, and perhaps torpedo guidance.

Given the intersections between required data density, spatial resolution, useful range, and frequency-dependent acoustical absorption of seawater,⁴ the frequencies of these various

¹ NRDC *et al.* v. Pritzker. Case No. 3:12-cv-05380-EDL

² https://www.nato.int/cps/en/natohq/news_143247.htm

³ <https://www.darpa.mil/program/positioning-system-for-deep-ocean-navigation>

⁴ Ainslie M.A, McColm J.G. (1998) A simplified formula for viscous and chemical absorption in seawater.

[PO Box 559, Lagunitas, CA 94938](mailto:PO.Box.559@lagunitas.ca) • [415.464.7220](tel:415.464.7220) • www.ocr.org

technologies would likely fall between 10kHz and 50kHz. This bandwidth unfortunately overlaps the communication and biosonar range of odontocetes. In the HCTT operations area, this would include dolphins (including orcas), porpoises, melon-headed whales, pilot whales, and beaked whales. It would also include seals, including the critically endangered Hawaiian Monk Seal, and sea lions.

So regardless of transmission levels of these various signals, they will run a high probability of masking or interfering with biologically important sounds for these protected marine mammals. Additionally, given the requirement of unambiguous state-announcement of these digital signals, they are characteristically modulated “square waves,” and are thus streams of highly impulsive, high kurtosis signals found to be more damaging to hearing, and causing more “behavioral discomfort”⁵ than equal energy low kurtosis signals.⁶

Furthermore, these signals are typically continuous in nature, thus from a regulatory perspective, they would fall under the 120dB “continuous noise exposure threshold” of the National Marine Fisheries Service (NMFS) acoustical exposure guidelines.⁷

And finally, in previous Environmental Impact Statements, these various communication technologies have been often considered independently from an entire operating system when assessing impact estimates for Incidental Harassment Authorizations (IHA),⁸ or for Incidental Take Permits.⁹ But as these systems operate simultaneously, and even in concert, the entire operational soundscape needs to be considered when evaluating the possible biological impacts, and authorizing their implementation.

There is an expanding use of ultrasonic anti-fouling gear on commercial ship hulls.¹⁰ This is a rapidly growing technology world-wide that has largely escaped regulatory oversight. I am not yet aware if this technology is being used on US Naval vessels. But it is a strong point of concern. These systems operate in the 20kHz – 30kHz range – again overlapping the biosonar and communication range of protected marine mammals. If these systems are

Journal of the Acoustical Society of America 103(3):1671-1672.

⁵ Kastelein, R.A., W.C. Verboom, M. Muijsers, N.V. Jennings, S. van der Heul. (2005) The influence of acoustic emissions for underwater data transmission on the behavior of harbour porpoises (*Phocoena phocoena*) in a floating pen Marine Environmental Research 59 p.287–307

⁶ Hamernik, R. P., Qiu, W., and Davis, B. 2003b . “The effects of the amplitude distribution of equal energy exposures on noise-induced hearing loss: The kurtosis metric,” J. Acoust. Soc. Am. 114, 386–395.

⁷ National Marine Fisheries Service. Revisions to: Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing Underwater Thresholds for Onset of Permanent and Temporary Threshold Shifts; National Oceanic and Atmospheric Administration: Silver Spring, MD, USA, 2018; p. 167

⁸ <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>

⁹ <https://www.fisheries.noaa.gov/permit/permits-incidental-taking-endangered-and-threatened-species>

¹⁰ Martin, S.B., MacGillivray, A.O., Wood, J.D., Trounce, K.B., Tollit, D.J., Angadi, K. (2023). Sound Emissions from Ultrasonic Antifouling Equipment. In: Popper, A.N., Sisneros, J., Hawkins, A.D., Thomsen, F. (eds) The Effects of Noise on Aquatic Life. Springer, Cham. https://doi.org/10.1007/978-3-031-10417-6_102-1

being deployed on the hulls of any US Naval vessels in the HCTT range, their noise contribution needs to be evaluated and included in any Draft Environmental Impact Statement.

It has been common practice in Environmental Impact Statements, as well as applications for Incidental Harassment Authorizations and Incidental Take Permits to evaluate noise profiles of each technology in the context of regulatory thresholds, rather than the contribution of the particular noise to the entire soundscape of concern. But the digital technologies used in the “Underwater Internet of Things” work in concert – an underwater GPS or local positioning matrix anchors the location of the equipment controlling, being controlled, or reporting. So in fact a digital warfare soundscape is a complex cacophony of really unpleasant (high kurtosis) noises.

Determining the behavioral impacts of this hostile soundscape may need more than onboard Marine Mammal Observers. Given the rapid introduction of some of these new technologies when there is still no regulatory metric on sound quality impact of behavioral disruption, it might be wise to fund concurrent behavioral and metabolic observations of select marine mammals in the operations areas to determine how the proposed activities impact or disrupt normal behaviors.

This might include some baseline behavioral studies on coastal and pelagic odontocetes prior to the Testing and Training exercises to determine if there are noticeable behavioral changes in foraging routines, or measured cortisol levels in feces or exhalate prior to, during, and after the exercises.

Warfare Testing and Training is, by definition, hostile and messy, and the last thing any field commander wants to contend with is scientists and marine mammalogists in the field during operations. But there have been so many advances in remote sensing through drones – both in terms of aerial behavioral observations and serum sampling¹¹ which could be coordinated, and reveal a lot of important data on marine mammal responses to the exercises.

Respectfully,



Michael Stocker
Director

¹¹ <https://whale.org/snotbot/>

Date/Time: 01-05-2024

Organization: Hawaii Department of Health (HDOH) Hazard Evaluation and
Emergency Response (HEER) Office

Name: Ms. Gracelda M. Simmons

City/State: Pearl City/HI

Comment: Good morning, Please see attached HDOH Comment Letter dated January 5, 2024 (ref. 205606 AH) regarding the Notice of Intent to Prepare an Environmental Impact Statement/Overseas Environmental Impact Statement for Hawaii-California Training and Testing dated December 7, 2023. Thank you, Allison Hutto Remedial Project Manager HDOH HEER Office 808-586-4249 / allison.hutto@doh.hawaii.gov

Attachments: [205606 AH HCTT Study Area Final - signed.pdf](#)

JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KUAʻĀINA O KA MOKUʻĀINA O HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. BOX 3378
HONOLULU, HI 96801-3378

KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HO'OLELE

In reply, please refer to:
File:
205606 AH

January 5, 2024

HCTT EIS/OEIS Project Manager
Naval Facilities Engineering Systems Command Pacific
285 Makalapa Drive, Suite 100
Pearl Harbor, HI 96860-3134

Facility/Site: Hawaii/California Training and Testing (HCTT) Study Area

Subject: Comments on Notice of Intent to Prepare an Environmental Impact Statement/Overseas Environmental Impact Statement for Hawaii-California Training and Testing; dated December 7, 2023

Dear HCTT EIS/OEIS Project Manager,

The Hawaii Department of Health (HDOH) Hazard Evaluation and Emergency Response (HEER) Office has reviewed the above-referenced document and the Virtual Open House Presentation available on-line at <https://www.nepa.navy.mil/hctteis/> and has the following comments:

1. In addition to National Environmental Policy Act (NEPA) requirements, the Navy must comply with the State of Hawaii Environmental Policy Act (HEPA) requirements managed under the Environmental Review Program (ERP). Please adhere to all HEPA and ERP requirements per Hawaii Administrative Rule (HAR) Chapter 11-200 which are administered by the Hawaii Office of Planning and Sustainable Development (<https://planning.hawaii.gov/erp/>).
2. There are CERCLA, hazardous substance, and military munitions response sites under water and on land in the areas identified (including Joint Base Pearl Harbor-Hickam, Oahu and Pacific Missile Range Facility, Kauai). The Navy should be aware of these sites and ensure that they are not disturbed. If disturbance of contaminated media and/or release(s) or spills of hazardous substances, including oil or other petroleum products, occur during the exercises, ensure proper notification and response actions are taken, including notification to the HDOH and other appropriate state and federal agencies. For information on HDOH HEER Office sites and regulations please visit our website, <https://health.hawaii.gov/heer/>.

The HDOH notification procedures can be found in detail at <https://health.hawaii.gov/heer/reporting/how-to-report-a-release-spill/#:~:text=The%20owner%20or%20operator%20of,equal%20to%20or%20exceeds%20the>

January 5, 2024

Page 2 of 2

3. In addition to the National Oceanic and Atmospheric Administration (NOAA) Marine Fisheries Service, the Navy should be in consultation with the Hawaii Department of Land and Natural Resources Division of Aquatic Resources (DAR, <https://dlnr.hawaii.gov/dar/>), U.S. Fish and Wildlife Service, and any other agencies regulating coasts, waterways, ports, etc.

If you have any questions or should you need a hardcopy of this letter, please contact me at 808-586-4249 or by email at allison.hutto@doh.hawaii.gov.

Sincerely,

Gracelda Simmons

Gracelda M. Simmons, Environmental Mgt Program Manager
Hazard Evaluation and Emergency Response Office
Hawaii Department of Health

Date/Time: 01-07-2024

Organization: -

Name: Kristen Petroff

City/State: Honolulu/HI

Comment: Topic: The Environment. The environment is fragile on these islands and the Military has shown nothing but disregard to the land, animals, soil and water. I do not need to provide documentation, read the news. Yes, you need to train, but we are asking you to find somewhere else that is not considered sacred land. What were you thinking? First, you need to clean up your mistakes, leaving NO trace that you were here. Restore the land to it's natural beauty. Second: ho'ihi - Respect this island. Third: Give this island time to recover from your previous mistakes. Everything you do to train: Mines, shelling, etc., destroys this land which many of you are not a part of. Neither am I. I am a guest on this island and I treat it with respect. You, the military, have NOT treated this island with respect, therefore you should move your training elsewhere. Mahalo.

Attachments:

Date/Time: 01-09-2024

Organization: -

Name: Terry Lilley

City/State: Haleiwa/HI

Comment: I am a career marine biologist in Pupukea Oahu North Shore and Hanalei Kauai. I have over 1000 scuba dives showing the effects of the Navy operations on our coral reefs and marine life here in Hawaii and several documentary movies about the subject that have aired on TV, National Geographic and social media. I can prove that the discharge of an electrical current from Navy submarines kills our coral reefs. The electrical discharge grounds out into the reef causing the calcium carbonate bond in the coral to break down then the coral becomes diseased and dies. The electrical discharge from Navy ships, microwave towers and submarines is killing our coral reefs and the Navy has completely left out this problem from the EIS! The Navy needs to do a detailed study about its effects on our coral reefs due to electrical discharge into the sea. I can supply professional movies showing the process and I am also willing to testify in federal court using my many hours underwater. Please feel free to contact me to discuss this issue further at underwater2web@gmail.com.

Attachments:

Date/Time: 01-09-2024

Organization: Bureau of Land Management - California

Name: Leisyka Parrott

City/State: Coastal California/CA

Comment: The proposed activities lie within the California Coastal National Monument Corridor which is the geographic area in which the rocks and islands that make up the monument are located. This is the area, (delineated by Presidential Proclamation No. 7264 that established the CCNM on January 11, 2000), that extends 12 nautical miles off of the 1,100 mile shoreline of the State of California and encompasses more than 14,600 square nautical miles. The proposed activities may have measurable negative impacts on migratory bird populations, marine mammal populations and nearshore intertidal species that utilize the CCNM. The Navy is a Steward of the CCNM as referenced the attached MOU signed in 2007. Please include the CCNM as an interested party and/or cooperating agency. Sincerely, Leisyka Parrott
California Coastal National Monument Manager U.S. Department of the Interior, Bureau of Land Management
Mailing address: 1695 Heindon Road, Arcata, CA 95521
Mobile: 707-513-3891 Email: lparrott@blm.gov

Attachments: [ccnm_mou_steward_final_dates_US_Navy_CA939-08-02_11.05.2007.pdf](#)

BLM MOU No. CA-939-08-02

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
UNITED STATES NAVY
AND THE
BUREAU OF LAND MANAGEMENT
REGARDING THE
CALIFORNIA COASTAL NATIONAL MONUMENT**

I. PARTIES AND PURPOSE

The United States Navy, within the United States Department of Defense (DOD), and the Bureau of Land Management (BLM), within the United States Department of the Interior, enter into this Memorandum of Understanding (MOU) to establish an interim agreement whereby the Navy will serve as a Steward for the following areas of the California Coastal National Monument (CCNM): (1) the portions of the CCNM off the shoreline of San Clemente Island, (2) the portions of the CCNM off the shoreline of San Nicolas Island, (3) Begg Rock near San Nicolas Island, and (4) the portions of the CCNM off the western side of Naval Base Point Loma in San Diego, California.

II. INTRODUCTION

- A. BLM and the California Coastal National Monument.** By Presidential Proclamation on January 11, 2000, all unappropriated or unreserved lands and interest in lands owned or controlled by the United States in the form of islands, rocks, and pinnacles above mean high tide within 12 nautical miles of the shoreline of the State of California were designated as the CCNM. The CCNM was nationally recognized in the Presidential Proclamation as a biological and geological treasure, rich in biodiversity, and providing essential habitat for many species of scientific interest. The CCNM designation mandates the protection of historic and scientific objects, particularly wildlife species which normally inhabit the CCNM area, and limits management discretion that the Federal managers otherwise have. The Secretary of the Interior manages the CCNM through the BLM and under the BLM's existing authorities, subject to the overriding purpose of protecting the resources described in the Presidential Proclamation. The BLM is directed by Congress to administer the public lands so that all various land and resource uses and values are managed in combinations that will best meet the needs of the American people.
- B. Core-Managing Partners.** BLM, the California Department of Fish and Game (CDFG), and the California Department of Parks and Recreation (CDPR) serve as the "core-managing partners" of the CCNM. Through an interim MOU signed in the spring of 2000, BLM extended its partnership with CDFG and added CDPR, the State agency that administers 25% of the California coast. Collectively, BLM, CDFG, and CDPR are responsible for the management of the CCNM.

- C. Stewardship.** With a national monument as extensive and connected to so many varied jurisdictions as the CCNM, the opportunities for partnerships are not only enormous, but also necessary. Although the Presidential Proclamation makes it very clear that the CCNM will remain under federal ownership and directs the Secretary of the Interior to manage the CCNM through the BLM, the BLM needs to continue existing partnerships and establish new ones with governmental agencies and others in order to effectively administer the CCNM. Consistent with appropriate authorities, stewardship agreements are being developed with select entities with management interests along the coast. CCNM "Stewards"¹ work in partnership with BLM to share information that assists the BLM in its management of a specific portion of the CCNM (See CCNM Stewardship Program Fact Sheet, Attachment A).
- D. San Clemente Island, San Nicolas Island, Begg Rock, and Naval Base Point Loma.** The Navy administers San Clemente Island (under jurisdiction of Naval Base Coronado) and manages the island as part of the San Clemente Island Range Complex, a major land, air, and sea training range complex. San Nicolas Island is also Navy administered (under jurisdiction of Naval Base Ventura County) and serves as the cornerstone for the Point Mugu Sea Range, primarily as an instrumentation site. Begg Rock is located approximately seven miles west northwest of San Nicolas Island. The western side of Naval Base Point Loma contains a variety of research and development facilities. The Navy has established integrated natural resources management plans for the three installations adjacent to the CCNM, and maintains an environmental staff to oversee the implementation and management of its plans and associated initiatives. Until jurisdiction of the rocks and exposed reefs associated with both islands and Naval Base Point Loma can be transferred to DOD, the Navy is agreeing to serve as a CCNM Steward for the BLM's management of the portion of the CCNM adjacent to San Clemente Island, San Nicolas Island, and Naval Base Point Loma, and Begg Rock. (See Map of Navy Stewardship Area of the CCNM, Attachment B).

III. AUTHORITIES

- A. BLM Authority;** The Federal Land Policy and Management Act of 1976, Section 307(b) provides that the Secretary of the Interior may undertake programs of resource management through cooperative agreements.
- B. Navy Authority:** Executive Order 13352 of August 26, 2004, Facilitation of Cooperative Conservation, requires the Secretaries of Defense and Interior to carry out activities of their respective agencies that relate to the environment and natural resources in a manner that facilitates cooperative conservation. Nothing in this MOU shall be construed or interpreted as preempting any otherwise applicable Federal, State, or local law or regulation relating to the management of natural and cultural resources on or off military installations.

IV. PRINCIPLES OF STEWARDSHIP AGREEMENT

A. The Navy Agrees To:

¹ A "Steward" is defined as the local CCNM point of contact for the assigned portion of the CCNM.

1. Serve as a CCNM Steward and work closely with the Core-Managing Partners of CCNM and other CCNM partners, as appropriate, in accordance with the paragraphs below.
2. Designate a contact person to serve as the U.S. Navy liaison with the CCNM.
3. Cooperate with the BLM on defining the monitoring and research needs for the CCNM and developing a strategy for implementing the protection, monitoring, and research needs consistent with the Navy's integrated natural resource management plans.
4. Provide information on existing and future Navy missions, subject to national security concerns, which could impact the CCNM, in order to assist the BLM in developing guidance on managing the CCNM.
5. Implement Navy activities to avoid or minimize negative impacts to the CCNM as practicable and consistent with the Navy mission.
6. Provide the BLM reasonable access, if needed, to the CCNM from San Clemente and San Nicolas Islands, Begg Rock, and Naval Base Point Loma, in a manner that is compatible with the Navy's activities, actions, schedules, and security.
7. Report to BLM on an annual basis on known impacts to the CCNM, and activities and/or actions related to the CCNM undertaken by the Navy.

B. The BLM Agrees To:

1. Respect any valid existing Navy rights² to the use of or access to the CCNM and surrounding coastal waters.
2. Provide the Navy with guidance regarding the role of a CCNM Steward (See Attachment A).
3. Keep the Navy informed and updated on matters related to the CCNM.
4. Honor Navy policies and procedures related to protecting the safety and security of San Clemente Island, San Nicolas Island, and Naval Base Point Loma, and the role they play in national defense.
5. Honor all agreements and policies of the Navy that are more protective of the CCNM than those of the BLM.

C. The Navy and the BLM Mutually Agree:

1. To seek opportunities to share information to enable BLM to carry out its protection,

² A "valid existing right" is defined as a legally binding property right of a person or entity at a particular point in time.

monitoring, research, and/or public education initiatives associated with the CCNM and unique coastal habitats and resource values to the extent Navy resources are available.

2. To work together to ensure consistency and coordination in the protection and management of the CCNM.

V. OTHER PROVISIONS

A. Limits of Authority and Funding

1. Nothing in this MOU shall be construed as limiting or affecting in any way the respective authorities or legal responsibilities of the Parties.
2. Nothing in this MOU binds the Parties to perform beyond their respective authority of each.
3. Nothing in this MOU requires any Party to assume or expend any sum in advance of appropriations available nor does this agreement obligate the Parties to spend funds on any particular project or purpose, even if funds are available.
4. The mission requirements, funding, personnel, and other priorities of either Party may affect the ability of either Party to fully implement all the items and opportunities identified in this MOU.
5. This MOU is neither a fiscal nor a funds obligation document. Specific activities that involve the transfer of money, services, or property between the Parties shall require execution of separate agreement or contract.
6. Nothing in this MOU restricts the Parties from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.
7. BLM retains the sole decision-making authority for public lands and resources it administers.
8. Activities conducted under this MOU will be in compliance with the nondiscrimination provisions as contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (PL 100-259) and other nondiscrimination statutes, namely Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and in accordance with the regulations of 7 CFR 15, Subparts A and B, which provide that no person in the United States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal assistance.

- B. Amendment of Agreement.** Amendments or supplements to this MOU may be proposed by either Party and shall become effective upon written approval of both Parties.

- C. **Dispute Resolution.** The Parties shall attempt to resolve controversies through alternative dispute resolution methods that are mutually acceptable to both Parties. Methods may include, but are not limited to, direct negotiation, facilitation or mediation, and non-binding arbitration.
- D. **Termination of Agreement.** Either Party may terminate its participation in this MOU at any time through written notification to the other Party at least 90 days prior to termination.
- E. **Effective Date of Agreement.** This MOU shall become effective upon signature by both Parties. This MOU may be executed in one or more counterparts, each of which will be considered an original document.

VI. APPROVALS

The Parties hereto have executed this agreement as of the last date shown below.

/s/ Leendart R. Hering

11/5/07

Rear Admiral Leendert R. Hering, Sr.
United States Navy
Commander, Navy Region Southwest

Date

/s/ Mike Pool

11/5/07

Mike Pool
State Director
Bureau of Land Management

Date

2 ATTACHMENTS:

Attachment A – CCNM Stewardship Program Fact Sheet
Attachment B - Map of Navy's Stewardship Area of the CCNM

Attachment A**CALIFORNIA COASTAL NATIONAL MONUMENT
STEWARDSHIP PROGRAM
*Fact Sheet*****PURPOSE:**

To establish a series of California Coastal National Monument (CCNM) "Stewards" to work with the U.S. Department of the Interior's Bureau of Land Management (BLM), California Department of Fish and Game (CDFG), California Department of Parks and Recreation (CDPR), and other CCNM partners in the long-term protection and management of the CCNM and its various resources and resource values.

GOALS & OBJECTIVES:

- Increase protection and monitoring of the CCNM.
- Involve adjacent landowners and resource managers of properties with various coastal and marine protection programs, initiatives, or interests associated with specific portions of the CCNM in the long-term management of the CCNM.
- Increase the knowledge and understanding of the various resources and resource values of the CCNM.
- Enhance the cooperative and collaborative management of the fragile ecosystems of California's coastline.

BACKGROUND & ORGANIZATION:

- The CCNM was established by Presidential Proclamation on January 11, 2000, and the BLM, under the Secretary of the Interior, was directed to provide long-term management of the monument.
- Through a memorandum of understanding (MOU) signed in the summer of 2000, CDFG and CDPR were brought in as managing partners to assist the BLM, who retains the ultimate legal responsibility for the CCNM, in "preserving the [CCNM's] objects of historic and scientific interest, ... mapping and understanding resources within the Monument, [and]... working with the public to explain the values of the Monument."
- In order to effectively deal with the wide array of partnership opportunities associated with the CCNM, three basic partnership categories have been developed:
 - Core-Managing Partner - Each of the three "core" agencies- BLM, CDFG, and CDPR- - responsible for collaborating in the overall management of the entire CCNM.
 - Collaborative Partner - An organization, governmental or private, that is interested in collaborating with the core managing partners in any of a variety of programs, actions, and management elements associated with the long-term management of the CCNM.
 - Steward - A select entity with ownership and/or management responsibility for a portion of the coast that adjoins part of the CCNM and that is interested in serving as the local CCNM BLM point of contact for the adjacent portion of CCNM.

- Each Steward will work with the BLM and other CCNM partners as appropriate, in a cooperative and collaborative management effort to ensure the long-term protection of their specific portion of the CCNM, a portion that is offshore of the Steward's onshore property.

METHODS:

BLM will invite various governmental, tribal, or private organizations that own or administer coastal lands and manage programs that provide for the protection and long-term management of a specific portion of the California coast adjacent to parts of the CCNM to be a CCNM Steward for that specific portion of the CCNM.

- A stewardship agreement will be developed with each approved Steward. Each agreement will identify the assigned portion of the CCNM for which the Steward will share information with the BLM to assist the BLM in its long-term management responsibilities, and outline the expected role and responsibilities in working with the BLM and its various CCNM partners.
- The Steward will serve as the local CCNM representative for the assigned portion of the CCNM by:
 - Designating a contact person to serve as the CCNM liaison.
 - Providing a local contact point for items and actions related to the CCNM.
 - Alerting BLM to known and potential problems.
 - Identifying specific management needs, including protection, monitoring, and research.
 - Reporting to BLM on at least an annual basis on any activity or action related to the CCNM.
- BLM will provide each Steward with guidance and direction regarding the role of a CCNM Steward and keep each Steward updated on the evolving protection and management needs and requirements related to the CCNM.

INTENDED OUTCOMES & BENEFITS:

- Increased monitoring and protection of the CCNM.
- Greater involvement of partners in the long-term management of the CCNM.
- Increased awareness and knowledge of the specific resources and resource values of the CCNM.
- Regular reports on the condition of the CCNM resources and on the activities in and around the CCNM.
- Identification of actions needed to enhance the long-term management of the CCNM.
- More effective use of limited funding and capabilities.

A Partnership in Protecting Unique California Coastal Resources

Date/Time: 01-12-2024

Organization: -

Name: Karie Wakat

City/State: Kailua Kona/HI

Comment: What you are proposing will kill our coral reefs and ocean wildlife, such as whales and dolphins. Take this activity elsewhere.

Attachments:

Date/Time: 01-22-2024

Organization: State Dept. of Hawaiian Home Lands

Name: Ku'upuamaeole Kiyuna

City/State: Honolulu/HI

Comment: Aloha, Attached are DHHL comments for the above-cited OEIS project. Thank you for the opportunity to provide comments.

Attachments: [PO-24-010 Navy OEIS Trng-Testing \(part 1\) - signed.pdf](#)

JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ka Koa 'ōma o ka Moili 'ōma 'o
Hawaii'i*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hope Kō 'ōma o ka Moili 'ōma
'o Hawaii'i*



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Āina Ho'opulapula Hawai'i
P. O. BOX 1879
HONOLULU, HAWAII 96805

KALI WATSON
CHAIRMAN, HHC
Ka Luna Ho'ākele

KATIE L. DUCATT
DEPUTY TO THE CHAIRMAN
Ka Hope Luna Ho'ākele

January 18, 2024

DHHL ref: PO-24-010

Sent via email: www.nepa.navy.mil/hctteis

Naval Facilities Engineering Systems Command Pacific
Attn: HCTT EIS/OEIS Project Manager
258 Makalapa Drive, Suite 100
Pearl Harbor, HI 96860-3134

Aloha:

The Department of Hawaiian Home Lands (DHHL) is in receipt of your letter dated December 7, 2023 providing notice of intent to prepare an environmental impact statement/overseas environmental impact statement (EIS/OEIS) for the Hawaii-California Training and Testing (HCTT).

The proposed action will continue military training and testing activities, modernize and sustain ranges in the Study Area, add new special use airspace in Southern California, expand Southern California underwater training range, and install and maintain mine training areas off Hawai'i and Southern California.

At this time, the Navy is seeking information from DHHL regarding the scope of the EIS/OEIS pursuant to 40 CFR §1501.9, §1506.6, and §1501.2, and the project's potential to affect historic properties pursuant to Section 106 of the NHPA. Please see below for DHHL's comments:

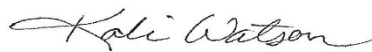
1. Papahānaumokuākea Marine National Monument (PMNM) is one of the largest marine conservation areas in the world and the single largest in the United States. Important to Native Hawaiians, PMNM is an ancestral landscape wherein traditional cultural practices continue to take place and cultural resources exist. The Temporary Operation Area (TOA) encompasses the majority of PMNM and the Operating Boundary Area (OPAREA) includes the entirety of the main Hawaiian Islands and a portion of PMNM. Although not DHHL lands, PMNM is of critical importance to beneficiaries due to its role in Native Hawaiian culture, history, and on-going cultural practices. No information on PMNM has yet been provided on the project website nor in the virtual open house. DHHL recommends that the Navy include PMNM as a resource to be evaluated and analyzed to determine the direct, indirect, and cumulative impacts the proposed action may have on PMNM. Additionally, DHHL recommends that the activity-based mitigation zones that the Navy proposes to employ regarding marine species protection be extended to PMNM to safeguard the marine species and cultural and environmental resources therein.

HCTT EIS/OEIS Project Manager
January 18, 2024
Page 2 |

2. The OPAREA encompasses the entirety of the main Hawaiian Islands and its surrounding waters. Native Hawaiians have a rich history in natural and cultural marine resource management and stewardship of marine ecosystems, inclusive of deep-sea areas beyond coastal waters and shorelines. Traditional deep-sea practices that continue to be perpetuated by Native Hawaiians include but are not limited to fishing, long-distance paddling, performing burial ceremonies, and depositing piko (umbilical cord). These traditional and customary rights are acknowledged and protected under the Hawai'i Constitution. DHHL lands extend to coastal communities on Kaua'i, O'ahu, Moloka'i, Maui, and Hawai'i Island. DHHL recommends that the Navy consult with Native Hawaiians and homestead communities to better understand traditional and customary practices that take place at sea and how best to mitigate project effects on those constitutionally protected rights of Native Hawaiians.
3. No historical or archaeological overview of the area has yet been provided. Included in the waters within PMNM are submerged maritime heritage resources including but not limited to aircrafts, shipwrecks, and archaeological sites. As previously discussed, the waters surrounding the main Hawaiian Islands are also home to burials and other cultural practices important to Native Hawaiians. DHHL recommends that the Navy consider conducting an archaeological literature review of the area to better understand any possible impacts on historic properties. Should the State Historic Preservation Division provide comments, please share those with DHHL as well.

Mahalo for the opportunity to provide comments. We look forward to continued participation. Please feel free to contact DHHL should you have any questions.

Aloha,



Kali Watson, Chairman
Hawaiian Homes Commission

Date/Time: 01-22-2024
Organization: -
Name: Nina & David Monasevitch
City/State: Lihue/HI
Comment: See attached.
Attachments: [EIS comments 2024.docx](#)

Nina & David Monasevitch
4457 Laukini Rd.
Lihue, HI 96766
December 11, 2017

Naval Facilities Engineering Command Pacific
HSTT EIS/OEIS
Project Manager
258 Makalapa Drive, Suite 100
Pearl Harbor, HI 96860-3134

RE: Hawaii-Southern California Training and Testing EIS/OEIS 2024

To Project Manager,

The EIS is insufficient for the following reasons:

Missing comprehensive research on cetacean mass stranding deaths due to the following factors: panic, bubble formation and/or decompression sickness from Naval sonar:

- 1) Sonar caused panic reactions leading to strandings followed by death
- 2) Sonar caused decompression sickness (the bends) followed by death
- 3) The bends caused by sonar even in the absence of panic

Missing details on training activities, particularly RIMPAC activities—what are other countries are doing here in our waters during RIMPAC? Each RIMPAC should require it's own EIS including exactly what all other countries are doing.

Lack of process for truly independent observers.

Lack of information on Navy taking responsibility for cleaning up debris already left behind from previous activities including unexploded ordinance, cables etc.

Lumping of species and areas between Hawaii and California is highly unscientific. There are several marine mammal species that are endemic to Hawaii and only live in Hawaii.

Insufficient details on how high seas migratory species are impacted.

Insufficient monitoring techniques. Many species are deep divers and very elusive and cannot be seen from the surface.

Lack of transparency/species specificity on threshold monitoring.

Take limits are arbitrarily high.

Lack of discussion on alternatives to active sonar. In this day and age there must be other ways to detect submarines that are less destructive to marine mammals and all marine life. You have affirmative duty to protect under the MMPA, a failure to minimize impact to "the least practical adverse impact." MMPA- Section 1371(a)(5)(A)(i)(II)(aa).

In relation to the above mentioned marine mammal deaths caused by panic reactions, decompression sickness and the bends caused sonar, in June 2012 I requested you include the following scientific literature in the EIS. As far as I can see they have not been included. I am again stating the findings in the following papers MUST be included in the EIS:

D.S. Houser, R. Howard and S. Ridgway, 'Can Diving-Induced Tissue Nitrogen Supersaturation Increase the Chance of Acoustically Driven Bubble Growth in Marine Mammals?' 213 Journal of Theoretical Biology 183, 190 (2001).

L.A. Crum, M.R. Bailey, J. Guan, P.R. Hilmo, S.G. Kargl, T.J. Matula, and O.A. Sapozhnikov, 'Monitoring Bubble Growth in Supersaturated Blood and Tissue ex vivo and the Relevance to Marine Mammal Bioeffects.' 6(3) Acoustics Research Letters Online 214 (2005).

J. R. Potter, 'A Possible Mechanism for Acoustic Triggering of Decompression Sickness Symptoms in Deep-Diving Marine Mammals' Paper presented at the IEEE International Symposium on Underwater Technology 2004, Taipei Taiwan, April 2004.

Also include the following research in the EIS analysis;

PARSONS, E. C. M.; SARAH J. DOLMAN; ANDREW J. WRIGHT; NAOMI A. ROSE and W. C. G. BURNS. MARINE POLLUTION BULLETIN 56(7):1248-1257. 2008. Navy sonar and cetaceans: Just how much does the gun need to smoke

before we act?

TYACK, PETER L. JOURNAL OF MAMMALOGY 89(32):549-558. 2008.
Implications for marine mammals of large-scale changes in the marine
acoustic environment.

WRIGHT, A. J.; N. AGUILAR SOTO; A. BALDWIN; M. BATESON; C. BEALE; C.
CLARK; T. DEAK; E. EDWARDS; A. FERNANDEZ; A. GODINHO; L. HATCH; A.
KAKUSCHKE; D. LUSSEAU; D. MARTINEAU; L. ROMERO; L. WEILGART; B.
WINTLE; G. NOTARBARTOLO DI SCIARA and V. MARTIN.
INTERNATIONAL JOURNAL OF COMPARATIVE PSYCHOLOGY 20(2-3):274-
316. 2007. Do marine mammals experience stress related to anthropogenic
noise?

Faerber, M .M., R. W. Baird. 2010. Does a lack of observed beaked
whale strandings in military exercise areas mean no impacts have
occurred? A comparison of stranding and detection probabilities in the
Canary and main Hawaiian Islands. Marine Mammal Science DOI:
10.1111/j.1748-7692.2010.00370.x

The EIS needs to include comprehensive research on the short and long term
effects of sonar to all marine mammals, even if sonar activity does not cause
stranding or death, or any other “obvious” signs of effects.

Given the above lack of sufficient science and precautions, we support the No
Action Alternative.

A few realities about the state of our oceans—they are literally in crisis:

All cetacean species are well below pre-whaling numbers, many are endangered
and threatened. Ninety percent of all large fish species are gone. There are now
only one percent of sharks left worldwide. Green sea turtle (the principle grazers
of the reefs) numbers are a fraction of their previous numbers. Coral reefs are
critically endangered and one of the most threatened ecosystems on the planet.

What are the consequences of business as usual? We are looking at slime as the
future ocean. For documentation on this see research by Dr. Jeremy Jackson at
Scripps Institute of Oceanography, UCLA

As America's only island state, Hawaii is uniquely vulnerable to the consequences of ocean degradation and biological loss of species.

Given that Hawaii is an isolated state with stewardship responsibility over the largest marine areas in the nation, the U.S. Navy should be a leader in protection of this marine ecosystem. You have the budget, let's see some stewardship. In addition to the health and survival of protected and endangered species, Hawaii's food supply, recreational activities, and economy are all dependent upon a healthy ocean.

The use of active sonar to protect the aircraft carriers of the US Navy makes the assumption that there are countries with submarine technology we are at war or are potentially at war with.

We are not at war with Russia or China. Unless we are mistaken, the USA hasn't been attacked by a submarine since the Nazi Regime used U- Boats as part of their arsenal in their attempt to take over the world by force.

The reality is that there is no foreign submarine threat to American forces patrolling the oceans of the world.

The United States hasn't been attacked since 1941. The result- Hiroshima and Nagasaki.

The world has watched the USA destroy country after country for over 70 years. No one wants to attack the USA. No country wants to be provoked into attacking the US either.

Therefore, the wanton use of active sonar for US asset protection at the peril of marine life is a ruse.

There is a mass extinction happening now. The citizens and soldiers of United States have a responsibility to do every thing in their power to protect the remaining life on this planet great and small.

Find alternative technology. Abandon that which kills marine life. Learn to do more with less money like the rest of us have had to do since the lion's share of our taxes has been going to the military.

Sincerely,

Nina Monasevitch

David Monasevitch

Date/Time: 01-23-2024

Organization: self

Name: Robin Tierney

City/State: Daytona Beach/FL

Comment: Please do not engage in activities that harms whales and other sea life. They are thinking feeling beings just trying to live and they are good for the earth. Thank you.

Attachments:

Date/Time: 01-23-2024

Organization: Shoreline Preservation Coalition (a Hawaii non-profit Group)

Name: Richard D Sterman

City/State: Haleiwa/HI

Comment: Aloha... I'm one of four Directors of a Hawaii non-profit group called "Shoreline Preservation Coalition", dealing with preserving our shorelines and - of course - the reefs that protect our shorelines. Of late - there seems to be a problem with our Coral Reefs dying. If they don't make a come-back, our houses will be falling into the ocean by the dozens! One has already fallen in! Right in front of these homes (Sunset Beach Area of the North Shore of Oahu) is a Coral Reef that has died. A respected Marine Biologist from our island has made a claim that it is the NAVY discharging large amounts of electricity and other forms of electro-magnetic discharges as part of their testing of their technology and maybe even electro-magnetic weapon testings that have caused the reefs to die. It has already been proven (off the coast of Hanalei on the North Shore of Kauai) that these emissions were killing THEIR reefs and the NAVY has stopped their testing off THAT coast - and miraculously, the reefs started to come back to life! WE WANT THAT for our own coastlines! If there's even a 'chance' that your 'testing' is 'killing' our reefs (not to mention our other sea-life) then we need the Environmental Assessment to include a study of the possible deterioration of Calcium Carbonate in these reefs due to your activities off our coast! NOTICE: If it is proven that NAVY activities is killing our reefs and the deterioration of our reefs is causing our accelerated Sand-Erosion and our homes and properties fall partially or fully into the ocean and onto our beaches ... then - you are put on notice that we WILL sue the EPA, U.S. Government and whoever else allowed these activities to be done without full consideration of the environmental impacts on not only our Sea-Life, but also our Coral-Reefs! THANK YOU from our group, made up of Beachfront Owners on the island of Oahu with the law firm of Starn O'Toole Marcus & Fisher.

Attachments:

Date/Time: 01-23-2024

Organization: Property owner

Name: Tim Reed

City/State: Honolulu/HI

Comment: I have spoken to the marine biologist in depth and lived on the North shore of Oahu over the last 50 years. The reefs are dying and the erosion is a major concern. If the elimination or accommodation to move the testing further out to sea has proven positive on Kauai the absolutely the same adjustments need to be made for the North Shore of Oahu.

Attachments:

Date/Time: 01-23-2024

Organization: HAWAII RESIDENT 60 YRS

Name: Martin Hoffman

City/State: Honolulu/HI

Comment: I am strongly against the testing off the coast of OAHU & Kauai the reefs are suffering and the shoreline is having asst issues and i believe these tests and release of electromagnetic energy into the ocean is a very bad problem for the environment , whales are effected im sure? Grey whales are in decline and were not sure of all the negative effects b this may babe one of many negative results. Please discontinue these test in Hawaii state waters
Martin Hoffman 59-311 Ke-Nui Rd. Haleiwa HI 96712.
949-547-8713 cell.

Attachments:

Date/Time: 01-24-2024

Organization: -

Name: Terri Armao

City/State: Arlington/VA

Comment: I oppose any and all training exercises/at-sea military readiness activities in whale migration, feeding, and calving areas within the Hawaii-California Training and Testing (HCTT) Study Area. Your operations have been shown to stun, kill and or deafen whales and dolphins. Move your activities out of any sensitive areas. I also oppose any plans current or future by the Navy to modernize and sustain its ranges inane areas that harm marine mammals in any manner whether temporary or permanently.

Attachments:

Date/Time: 01-24-2024

Organization: Packs Consulting

Name: Earl

City/State: Waialua/HI

Comment: Our North Shore coral reefs face a critical threat, with decay endangering homes. In Helms Bay near Dillingham Airfield, reef deterioration is linked to such erosion. A local Marine Biologist attributes the issue to discharges of electricity and other forms of electromagnetic energy, possibly from testing new technologies and electromagnetic weapons. Evidence from protests off Hanalei's coast led the NAVY to halt testing, resulting in reef recovery. We advocate for a similar resolution to revive our own coastline, preventing further erosion and home risks.

Attachments:

Date/Time: 01-29-2024

Organization: Sacred Places Institute for Indigenous People (SPI)

Name: Tina Calderon

City/State: Marina Del Rey/CA

Comment: To whom it may concern; As a Culture Bearer of Chumash and Tongva decent, and as the Director of Ocean Protectors Program for SPI, I have deep concerns about the safety of all ocean life, including key plant species such as coral reefs and kelp as well as sea animals. I also want to be assured that the local Tribes have been consulted and heard, most especially the Kanaka Maoli of Hawaii, the 'Iipai-Tiipai Kumeyaay of San Diego County, the Payomkawichum of the southern California coast as well as the Ventureno Chumash and North Coast Chumash. Thank you for the opportunity to submit my concerns as public comment. 'Aweeshkone xaa ~ Thank you, Tina Calderon

Attachments:

Date/Time: 01-29-2024
Organization: -
Name: L. Osterer
City/State: Koloa/HI
Comment: See attached.
Attachments: [OEIS 2024.docx](#)

After reading the NEPA virtual open house presentation, I'd like you to consider the following:

Both prior EIS for Point Magu in 2002 and 2022 did not include the use of sonar or in-water explosives. Southern California and Hawaii are most similarly in need of whale protection from acoustical damage. However, lumping of species and areas between Hawaii and California is of concern since there are several marine mammal species that are endemic to Hawaii and migratory patterns vary.

Surface observation is insufficient to detect whales in these areas. It seems the areas were chosen historically for the convenience of nearby navy bases. Whereas, to avoid marine mammal harm and prevent further environmental effects, it would be preferable by far to utilize areas away from both mammal and human populations. 71% of the earth is ocean. Come on, why can't the navy use a place that is less inhabited and safer for all! This should be a number one priority for mitigation of environmental effects.

The military has been immune to normal EIS considerations with unlimited TAKES (killings) for their activities. No other organization would be given such liberties. It's time to be treated the same to maintain humane practices to preserve all species, to minimize damage, as would be required for any research. Comprehensive research is available and should be included on cetacean mass stranding deaths due to the following factors: panic, bubble formation and/or decompression sickness from Naval sonar:

1. Sonar caused panic reactions leading to strandings followed by death.
2. Sonar caused decompression sickness (the bends) followed by death.

These recurring maneuvers, appropriately named RIMPAC WAR GAMES, are not so much for training as show. These ships are out to sea on maneuvers and training constantly. They don't need an excuse to play and compare with 23 other countries.

Countries which have been and are potential adversaries are included in these practices. One has to question the benefits of sharing close observation of our most advanced equipment, weapons, and strategies, all in the guise of proving "friendly alliances." It's more like a show, a parade of strength, as China does in celebrations. Plus, popularizing these "war games" in the news puts these populated areas more at risk for spying and terroristic attacks.

Each RIMPAC should require its own EIS including all training activities of all countries participating.

Independent observers should be included in the training activities and clean up.

Clean-up activities should be described, required for mitigation and documented, including sunken vessels, unexploded ordinances, and cables. These factors were not necessarily handled sufficiently in prior RIMPAC events.

There is insufficient data on migratory patterns which must be updated.

There are insufficient monitoring techniques, which need to be developed to detect deep diving species.

Further mitigation needs to be addressed with alternatives to active sonar. Sonar detection of submarines has proven insufficient in cases where ships run silently to avoid detection. Other technologies may be more useful.

Under MMPA- Section 1371(a)(5)(A)(i)(II)(aa), participants have a duty to protect and minimize impact. Kindly refer to the 2008 article, "Navy sonar and cetaceans: Just how much does the gun need to smoke before we act?" PARSONS, E. C. M.; SARAH J. DOLMAN; ANDREW J. WRIGHT; NAOMI A. ROSE and W. C. G. BURNS. MARINE POLLUTION BULLETIN 56(7):1248-1257. 2008

The following literature should be included in the EIS as minimal evidence of your intention to protect marine mammals:

"Implications for marine mammals of large-scale changes in the marine acoustic environment." TYACK, PETER L. JOURNAL OF MAMMALOGY 89(32):549-558. 2008.

"Does a lack of observed beaked whale strandings in military exercise areas mean no impacts have occurred? A comparison of stranding and detection probabilities in the Canary and main Hawaiian Islands." Faerber, M .M., R. W. Baird. 2010. Marine Mammal Science DOI: 10.1111/j.1748-7692.2010.00370.x

The EIS needs to be preceded by comprehensive research on the short and long-term effects of sonar to all marine mammals, especially since many may go undetected when their dead bodies sink to the ocean floor.

Given the above lack of sufficient science and precautions, an alternative of "No Action" should be considered.

Please understand, the oceans are literally in crisis. Whaling decimated the cetacean species, and none has recovered to prior levels. Many are endangered and threatened. Ninety percent of all large fish species are gone. Only one percent of sharks are left, mainly due to shark fin takes. The remaining green sea turtles need protection after mass hunting. And all of our coral reefs are critically endangered due to climate warming. These facts make RIMPAC more devastating if left unchecked.

Will Hawaii beaches be covered with slime? Will algae block out the sunlight for phytoplankton? Dr. Jeremy Jackson research at Scripps Institute of Oceanography, UCLA has documented that Hawaii is uniquely vulnerable to the consequences of ocean degradation and biological loss of species. Mass extinctions are underway. The U.S. Navy could be a leader in protection of our marine ecosystem. Think of our military budget shared with environment protection so we have something left to protect.

In addition to the health and survival of protected and endangered species, Hawaii's food supply, recreational activities, and economy are all dependent upon a healthy ocean.

In summary, with the advent of hypersonic missiles and nuclear-powered submarines, these RIMPAC practices are incidental and have not been shown to be a deterrent to war. Wars are adding to the destruction of habitable areas and genocide. It's time to put military funding into alternative technology that does not kill marine life and dismiss the mindset that practicing war with other nations provides security.

Thank you for your consideration, from a concerned Hawaii resident.

Date/Time: 01-29-2024
Organization: Office of Hawaiian Affairs
Name: Kamakana Ferreira
City/State: Honolulu/HI
Comment: See attached PDF.
Attachments: [01.22.24 OHA Comment_NEPA Public Scoping for Navy Training OEIS.pdf](#)

PHONE (808) 594-1888



FAX (808) 594-1938

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HWY., SUITE 200
HONOLULU, HAWAII 96817

January 22, 2024

Naval Facilities Engineering Systems Command Pacific
ATTN: HCTT EIS/OEIS Project Manager
258 Makalapa Drive, Suite 100
Pearl Harbor, HI 96860-3134

Re: Notice of Intent to Prepare an EIS/Overseas EIS (NEPA)
Hawai'i-California Training and Testing Study Area

Aloha:

The Office of Hawaiian Affairs (OHA) is in receipt of your Notice of Intent (NOI) December 7, 2024, letter seeking comments on the scope of the Department of the Navy (DON) Hawai'i-California Training and Testing (HCTT) Environmental Impact Statement (EIS)/Overseas EIS (OEIS) to assess potential environmental effects associated with the proposed action to conduct at-sea military readiness activities within the HCTT study area. The United States (U.S.) DON will be preparing this EIS/OEIS in accordance with the National Environmental Protection Act (NEPA). The NOI states that the current proposed activities are similar in scope to what was assessed in the 2018 HCTT EIS/OEIS. Thus, the new EIS/OEIS is characterized as a "follow on" NEPA analysis to support renewal of current Federal regulatory permits and authorizations that expire in December of 2025.

Proposed activities include training and research (i.e., sonar, explosives, and other underwater sounds), development, testing, and evaluation within the Hawaii Operating Area, the California Operating Area, and the Pacific Ocean transit corridor connecting the two. The DON further proposes to modernize and sustain its ranges in a manner to support these readiness activities. This will include new special use airspace in Southern California, an expansion of an underwater training range near San Clemente Island, and installation and maintenance of mine training areas off Hawai'i and Southern California.

The OHA is the constitutionally established body responsible for protecting and promoting the rights of Native Hawaiians.¹ OHA has substantive obligations to protect the cultural and natural resources of Hawai'i for its beneficiaries.² Accordingly, OHA is

¹ Haw. Const. Art. XII Sec. 5.

² See HRS § 10.

NAVFAC Pacific
NEPA Public Scoping – HCTT EIS/OESIS
January 22, 2024
Page 2 of 7

required to (1) serve as principal public agency in the State of Hawai'i responsible for the performance, development and coordination of programs and activities relating to native Hawaiians and Hawaiians; (2) assess the policies and practices of other agencies impacting native Hawaiians and Hawaiians; and (3) conduct advocacy efforts for native Hawaiians and Hawaiians.³

OHA provides the following comments pertaining updated studies, marine sanctuaries, incidental take, cumulative impacts, and consultation planning:

Updated Studies

In review of the 2018 EIS/OEIS, OHA observes that most of the studies pertaining to marine mammal populations and migratory patterns relied on studies that took place between 2011 to 2015. Section 3.7 details that the information was used to determine seasonal mitigation areas that were developed in coordination with the National Marine Fisheries Service. The section further mentions that "Navy funded efforts" as being underway to further improve understanding and ability to predict how stressors ultimately effect marine mammal populations. OHA is further aware that the DON applied to increase the incidental take of large whales from 3 to 5 per year in 2021.

OHA would expect that the most up-to-date studies will be used in the forthcoming draft EIS/OEIS, with a clear discussion on how the DON's understanding of populations and migrations have changed (or not) since publication of the 2018 EIS/OEIS. With a projected publication of a draft EIS/OEIS in 2024, some of the studies referenced in the 2018 EIS/OEIS would be a decade old or more. The draft EIS/OEIS should further provide updates on the mentioned "Navy funded efforts" in the 2018 EIS/OEIS and share how such information has changed (or not) the DON's understanding and ability to predict how stressors effect marine mammal populations. While OHA specifically calls out examples pertaining to marine mammal population studies, our comment should be applicable to any study referenced as part of the assessment of impacts to all environmental components. In other words, the DON should always be using the most up to date information as possible and consistently provide discussion on how conditions and subsequent mitigation measures have changed (or not) or will change (or not).

Marine Sanctuaries

In the Culture Resources discussion, Section 3.10, of the 2018 EIS/OEIS, OHA observes that Papahānaumokuākea is actually discussed as a World Heritage Site within the context of National Historic Preservation Act Section (NHPA) 106 compliance. The monument was described as being within the Temporary Operating Area of the Hawai'i Range Complex and that it could be susceptible to sonic booms or utilized for emergency situations. However, an emphasis was placed on the fact that no actual physical activities

³ HRS § 10-3.

NAVFAC Pacific
NEPA Public Scoping – HCTT EIS/OESIS
January 22, 2024
Page 3 of 7

would occur in the monument area (unless there was an emergency), and that any possible impacts to cultural voyaging or wayfinding would be temporary. OHA believes the DON should reasonably disclose what qualifies as an emergency and what actions could occur in Papahānaumokuākea or any marine sanctuary as part of the NEPA process.

OHA does appreciate inclusion of the Papahānaumokuākea monument within the discussion of NHPA Section 106 compliance given the area's cultural importance and presence of numerous historic properties. However, we do question why other marine sanctuaries with similar characteristics within both the Hawai'i operating area (HOA) and California operating area (COA) were omitted. For example, both the South Molokai Reef and the Hawaiian Islands Humpback Whale National Marine Sanctuary are within the HOA. Notably, the South Molokai Reef has been described as a national treasure and is currently home to a number of historic fishponds. Further, it is believed to be sacred to Hina, the Hawaiian akua of the Moon. In regards to the COA, the Channel Islands National Marine Sanctuary exists off the coast of Southern California, which also hosts a number of cultural resources that are important to the Chumash tribe.⁴ If not already done so, the Chumash, Pomo, Ohlone, Makah, and any other Pacific Coast tribes should be invited to consult as part of NEPA and NHPA processes. These sanctuaries should be included as part of the NEPA analysis and NHPA discussion as they are comprised of historic and cultural resources.

OHA further advises that these sanctuaries be evaluated as traditional cultural properties (TCP). Per the National Park Service's National Register Bulletin No. 38, a TCP is defined as:

"A property that is eligible for inclusion in the National Register of Historic Places because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community."

In specific regards to Papahānaumokuākea, it is a sacred place to Native Hawaiians that supports a diversity of life, including hundreds of native species and the largest extent of coral reefs in the archipelago.⁵ The ancient belief system of Hawai'i still exists and acknowledges the island of Mokumanamana³ as the potent portal that presides at the boundary between pō and ao. This boundary is the northern limit of the sun's journey on the horizon, the Tropic of Cancer, reverently referred to as Ke Alanui Polohiwa a Kāne, the dark glistening path of Kāne, whose kinolau as Kānehoalani details the sun and its movements on the horizon. Nihoa and Mokumanamana collectively contain more than 140 archaeological sites that evince the unique agricultural, religious, and settlement efforts

⁴ The Channel Islands National Marine Sanctuary has a Chumash community working group informing its sanctuary advisory council.

⁵ See Mai Ka Po Mai, A Native Hawaiian Guidance Document for the Management of Papahānaumokuākea Marine National Monument, prepared by OHA in 2021.

NAVFAC Pacific
 NEPA Public Scoping – HCTT EIS/OESIS
 January 22, 2024
 Page 4 of 7

of Native Hawaiians in this region. There is no question that Papahānaumokuākea would qualify as a TCP.

Similarly, its OHA's understanding that the other sanctuaries within the HOA and COA are utilized by cultural practitioners and contain numerous historic and cultural resources; thus, we do not see why these sanctuaries would not at least be considered as eligible for the National Register of Historic Places as TCPs as well.

Incidental Take

As mentioned above in our first comment, the DON had to increase their take of large whales due to incidences in 2021 in which two separate Navy vessels struck whales off the coast of Southern California in June and July. Separately, a foreign vessel struck two fin whales off the coast earlier in May 2021. Originally, the National Oceanic and Atmospheric Administration (NOAA) issued a take of 3 large whales per year, but had to increase this authorization to 2 additional whales per year for DON activities spanning 2018 to 2025.

To Hawaiians, whales are the largest ocean manifestation of the Hawaiian akua (god), Kanaloa – akua of the ocean realm, voyaging, ocean animals, and fresh underground water.⁶ Some of his other forms or kinolau are known to include the nihiu (white shark), he'e (octopus), hihimanu (sting ray), honu (turtle), and nai'a (dolphin). Kanaloa is one of the four major akua kāne (male gods) – Kāne, Kanaloa, Kū, and Lono. He is arguably the most common deity across Oceania with various names (e.g., Tangaroa, Takaroa, Tagaloa, Ta'aroa). Kanaloa was the creator of the world and superior god in many parts of Polynesia (e.g., Marquesas, New Zealand) except Hawai'i.⁷ While not viewed as prominent throughout all of Hawai'i, it is believed that Kanaloa's importance was more pronounced on Lanai, Molokai, Maui, and Kaho'olawe. Coincidentally, these islands are also the same islands in which whales were found in significant numbers during the mid to late 19th century.⁸

Further alarming to OHA is the current incidental take authorization issued by NOAA that allows a cumulative take in the thousands of marine mammal species. According to a complaint filed by Earth Justice in December 2013,⁹ "National Marine

⁶ See Libo, Susan A. 2010. *A Local Perspective of Hawaii's Whaling Economy: Whale Traditions and Government Regulation of the Kingdom's Native Seamen and Whale Fishery*. Bishop Museum, Honolulu, Hawaii.

⁷ See McKinzie, edit. N.D. *N a Mo'i o Kaho'olawe: The Administrators of Kaho'olawe*. Kaho'olawe Island Conveyance Commission, Consultant Report No. 15.

⁸ See Herman, Louis. 1979. Humpback Whales in Hawaiian Waters: A Study in Historical Ecology. *Pacific Science*, Vol 33, No 1. University Press of Hawaii.

⁹ Sese Conservation Council for Hawai'i, a non-profit corporation Animal Welfare Institute, a non-profit corporation; Center for Biological Diversity, a non-profit corporation; and Ocean Mammal Institute, a non-profit corporation, v. National Marine Fisheries Service; United States Department of Commerce; Penny Prtizker, Secretary of Commerce.

NAVFAC Pacific
NEPA Public Scoping – HCTT EIS/OESIS
January 22, 2024
Page 5 of 7

Fisheries determined that, over the next five years, the Navy's use of sonar, other active acoustic sources and explosives for training and testing in the [Hawai'i-Southern California Training and Testing] HSTT Study Area will likely result in the deaths of up to 140 marine mammals, cause permanent injury to more than 2,000 additional marine mammals, and inflict additional harm to marine mammals nearly 9.6 million times by disrupting vital behaviors such as migration, nursing, breeding, feeding, and sheltering." The take of Kanaloa is overwhelming.

OHA expects the matter pertaining to the DON's request for an increase in incidental take to be fully discussed within the EIS/OEIS as well as resolution on any filed complaints related to incidental take. The most up to date studies should be used to provide the most accurate incidental take request going forward. All efforts should be made to minimize take as much as possible, with a clear indication in the EIS/OEIS of how this is demonstrated. While administratively another incidental take could be requested if projected numbers are off again, this is not a preferable outcome nor a means to instill trust in the DON's research and modeling. As the kinolau of one of our akua, the DON must take more care to honor their commitments to not take more than is needed from Kanaloa.

Cumulative Impacts

OHA recommends that the DON's consideration of the cumulative impacts at a minimum must consider activities that are of an extraction nature (i.e., deep-sea mining) and that would further frustrate any kind of recovery and protection such as the following: the longliner fishing fleets (foreign and domestic) that harbor in Honolulu; the Aquarium Trade as it is extractive and effects near shore ocean life; and, Rim of the Pacific Exercise (RIMPAC) and other related exercises that occur by any of the other armed forces operating in Hawaiian waters and or on land that impact our fresh water and ocean systems. By cumulative, OHA specifically means the cumulative impact on any and all lifeforms, sacred places and spaces, and the health and wellbeing of all natural and cultural resources that will be affected by the DON's proposed training activities and modernization efforts.

In review of the 2018 EIS/OEIS, Table 4.2-1, activities like the aquarium trade, foreseeable future deep-sea mining activities¹⁰, and annual RIMPAC activities do not appear to be acknowledged as a source of possible cumulative impacts. While commercial fishing is discussed, a greater level of specificity should be included to directly address longliner fishing, both from foreign and domestic parties.

The 2018 EIS/OEIS further mentions that the "quality" of information on past, present and reasonably foreseeable actions varies and that quantifications were done where possible. In the absence of quantitative data, a "qualitative assessment" was made by "professional judgement and experience." The document appears to concede that given the large-scale study area, that "analysis of the incremental contribution of cumulative

¹⁰ Canadian based "The Metals Company" planned operations in the Clarion-Clipperton Zone and Honolulu Harbor.

NAVFAC Pacific
NEPA Public Scoping – HCTT EIS/OESIS
January 22, 2024
Page 6 of 7

stress that the proposed action may have on a given resources is largely qualitative and speculative.” OHA finds this situation unfortunate as essentially DON training activities are continuing without solid quantitative analysis and potentially without appropriate mitigations. Minimally, the DON should indicate in the document, especially in regards to cumulative impacts, where quantitative data is used versus qualitative. If findings and information are speculative, then the DON must call out where such speculation exists. The DON should then indicate ways in which quantitative and non-speculative data can be obtained through additional research or a means of appropriate monitoring actions.

Further, it should be made clear to the reader how follow up research data and monitoring mechanisms can or could trigger amendments to existing mitigation measures. OHA would expect this to include a statement on what Federal processes and respective timelines would be triggered to incorporate new data and proposed mitigation measures.

Consultation Planning

The DON may want to craft an actual NEPA public participation plan as an optional tool pursuant to 32 CFR 775.11 as a means to set protocols (i.e., meeting minutes/notes, comment periods, speaking time allocations, engagement with Indigenous Peoples). All prior consulting parties that participated in the 2018 EIS/OEIS should serve as the starting point for current outreach efforts. As the 2018 EIS/OEIS was a very long document (in excess of 2000 pages), a longer comment period should be allotted for the current EIS/OEIS. 40 CFR 1506(d) requires a minimum comment period of 45 days, but subsection (e) goes on to state that the minimum comment period may be shortened or extended. The DON should consider a 60-day comment period in this case.

In regards to public meetings and consultation events, OHA recommends that minimally 30-day's notice be provided. As a means to assist the DON, OHA could be provided with advance notice of any such meetings so that we can plan to disseminate information via our monthly newspaper, *Ka Wai Ola*, and online social media outlets. This may assist with outreach to the Native Hawaiian community. Any public engagement meetings or consultations should allow speakers to speak on topics for at least 5 to 10 minutes given the voluminous amount of information that the EIS/OEIS will cover. Previously, OHA received concerns about speakers allegedly being only allotted 3 minutes of time during consultations for the 2018 EIS/OEIS.

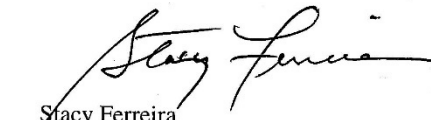
OHA further notes that in November 2022, a memorandum was issued by the Executive Office of the President, Council on Environmental Quality, providing guidance to Federal departments and agencies on Indigenous Knowledges. Notably, this includes guidance on inclusion of such knowledge in the NEPA and NHPA processes, encouragement of early and sustained engagement, maintaining trust, and even developing an “Indigenous Knowledge Plan”. Indeed, a public participation plan could include a robust Indigenous Knowledge component that specifically incorporates guidance from the CEQ November 2022 memo.

NAVFAC Pacific
NEPA Public Scoping – HCTT EIS/OESIS
January 22, 2024
Page 7 of 7

Closing Remarks

OHA looks forward to seeing our comments taken into consideration as the HCTT EIS/OEIS is being prepared. Mahalo for the opportunity to comment. Should you have any questions, please contact OHA's Lead Compliance Specialist, Kamakana C. Ferreira at (808) 594-0227 or by email at kamakanaf@oha.org.

'O wau iho nō me ka 'oia 'i'o,



Stacy Ferreira
Ka Pouhana, Chief Executive Officer

SF:kf

CC: Carmen Hulu Lindsey, OHA Board of Trustees Chairperson

Date/Time: 01-29-2024
Organization: Earthjustice
Name: David Henkin
City/State: Honolulu/HI
Comment: See attached pdf.
Attachments:



EARTHJUSTICE

January 29, 2024

Naval Facilities Engineering Systems Command, Pacific
Attention: HCTT EIS/OEIS Project Manager
258 Makalapa Drive, Suite 100
Pearl Harbor, HI 96860-3134

Submitted via <http://www.nepa.navy.mil/hctteis>

Re: Scoping Comments on Hawaii-California Testing and Training Environmental Impact Statement/Overseas Environmental Impact Statement, 88 Fed. Reg. 86,885 (Dec. 15, 2023)

To Whom It May Concern,

On behalf of the Center for Biological Diversity and Conservation Council for Hawai'i, we are responding to the U.S. Navy's request for comments on the scope of the Hawaii-California Training and Testing (HCTT) Environmental Impact Statement (EIS)/Overseas EIS (OEIS). *See* 88 Fed. Reg. 86,885 (Dec. 15, 2023). As detailed below, to comply with the National Environmental Policy Act (NEPA), the Navy must consider important new scientific information and examine alternatives that safeguard marine wildlife and habitat.

The proposed activities include an expansion of training and testing activities off California and Hawai'i, including active sonar and explosives. The Navy's proposal seeks to ramp up training and testing to include new special use airspace in Southern California, an expansion of water-based activities off California, and installation of mine training areas of Hawai'i and California. These expanded areas and activities threaten to expose more marine mammals and other protected species to risks from high-intensity noise, explosions, and vessel strikes.

The Navy must consider alternatives that focus on reducing harm to marine mammals and other protected species. Past experience demonstrates that the Navy can accomplish its mission while minimizing, if not eliminating entirely, destructive testing and training activities in biologically important areas. We urge the Navy to fully evaluate mitigation and alternatives that ensure the conservation and recovery of whales, sea turtles, corals, and other vulnerable marine species.

We want to bring several new scientific studies to the Navy's attention that warrant consideration. These concern the impacts of military activities on wildlife, new science on biologically important areas, and the status of wildlife that the proposed activities may adversely affect.

Scoping Comments on HCTT EIS/OEIS
January 29, 2024
Page 2

1. The Navy Must Prepare a Robust Environmental Impact Statement under NEPA

NEPA is our “basic national charter for protection of the environment.”¹ Congress enacted NEPA to “promote efforts which will prevent or eliminate damage to the environment.”² To that end, NEPA requires federal agencies to take a “hard look” at the environmental consequences of their actions before taking action.³ In this way, NEPA ensures that federal agencies “will have available, and will carefully consider, detailed information concerning significant environmental impacts” and that such information “will be made available to the larger [public] audience that may play a role in both the decisionmaking process and the implementation of the decision.”⁴

To this end, NEPA requires federal agencies to prepare a detailed environmental impact statement for any “major federal action significantly affecting the quality of the human environment.”⁵ An EIS must examine both the direct impacts of an agency action, as well as potential cumulative impacts.⁶ Direct impacts are those “caused by the action and occur at the same time and place,” while indirect impacts are those “caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable” and include growth inducing effects.⁷ Cumulative impacts “are effects on the environment that result from the incremental effects of the action when added to other past, present, and reasonably foreseeable [future] actions.”⁸

In addition, NEPA requires that an EIS “[e]valuate reasonable alternatives to the proposed action,” discussing each alternative “in detail, ... so that reviewers may evaluate their comparative merits.”⁹ This requirement ensures agencies do not undertake projects “without intense consideration of other more ecologically sound courses of action, including shelving the entire project, or of accomplishing the same result by entirely different means.”¹⁰ Importantly, this evaluation extends to considering more environmentally protective alternatives and mitigation measures.¹¹

¹ *Ctr. for Biological Diversity v. Bernhardt*, 982 F.3d 723, 734 (9th Cir. 2020) (citation omitted).

² 42 U.S.C. § 4321.

³ *Kleppe v. Sierra Club*, 427 U.S. 390, 410, n. 21 (1976); 40 C.F.R. § 1500.1(a).

⁴ *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

⁵ 42 U.S.C. § 4332(2)(C).

⁶ *Id.*; 40 C.F.R. § 1508.1(g).

⁷ 40 C.F.R. § 1508.8.

⁸ *Id.* § 1508.1(g)(3).

⁹ *Id.* § 1502.14(a), (b).

¹⁰ *Env't Def. Fund., Inc. v. U.S. Army Corps. of Eng'rs*, 492 F.2d 1123, 1135 (5th Cir. 1974); *see also City of New York v. U.S. Dept. of Transp.*, 715 F.2d 732, 743 (2d Cir. 1983) (NEPA's requirement for consideration of a range of alternatives is intended to prevent the EIS from becoming “a foreordained formality.”).

¹¹ *See, e.g., Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1122-1123 (9th Cir. 2002) (and cases cited therein); *see also* 40 C.F.R. § 1502.14(e).

Scoping Comments on HCTT EIS/OEIS
January 29, 2024
Page 3

The public must be given adequate information about the project and its environmental effects to be able to provide meaningful input before the Navy makes a final decision regarding the course of action to adopt. “NEPA’s public comment procedures are at the heart of the NEPA review process.”¹² “This reflects the paramount Congressional desire to internalize opposing viewpoints into the decision-making process to ensure that an agency is cognizant of all the environmental trade-offs that are implicit in a decision.”¹³

a. The Navy Must Consider New Information (Including New, Peer-Reviewed Studies) Regarding the Environmental Effects of Military Activities

The Navy must consider new, peer-reviewed scientific information on the adverse effects of active sonar on marine mammals and other wildlife.

Especially notable are the new recommendations by Southall et al. that describe a framework for determining the behavioral responses of marine mammals to sonar.¹⁴ It also provides a severity scale for behavioral responses among other important developments that will assist the Navy in analyzing behavioral responses to sonar and other noise sources.¹⁵ In addition, recent science raises serious concerns that using all-or-nothing thresholds may grossly underestimate effects.¹⁶ The Navy’s environmental review must contain a robust and meaningful analysis of not only the auditory injury that may result from sonar, but also of the behavioral responses that interfere with essential life functions like foraging, communication, and reproduction.

Blue Whales

Recent scientific research confirms that blue whales are extremely sensitive to military sonar.¹⁷ A model of energetic costs from sonar disturbance found that lost feeding opportunities have a significant energetic cost, and, for example, blue whales with a mild response may suffer greater energetic costs than other species because of lost foraging opportunities.¹⁸ A new study highlights that the adverse effects depend on the context, not just the intensity or duration of

¹² *State of Cal. v. Block*, 690 F.2d 753, 770-71 (9th Cir. 1982).

¹³ *Id.* at 771.

¹⁴ Southall, Brandon L. et al., Marine Mammal Noise Exposure Criteria: Assessing the Severity of Marine Mammal Behavioral Responses to Human Noise, 47 *Aquatic Mammals* 5 (2021). Please note that the scientific papers referenced in this letter are attached hereto. Given the 20MB limit on uploaded files, we will provide the referenced papers in several installments.

¹⁵ Southall et al., 2021, *see* Table 3.

¹⁶ Tyack, Peter L. and Len Thomas, Using Dose-Response Functions to Improve Calculations of the Impact of Anthropogenic Noise, 29 *Aquatic Conservation: Marine and Freshwater Ecosystems* S1 (2019).

¹⁷ Southall, Brandon L. et al., Behavioral Responses of Individual Blue Whales (*Balaenoptera Musculus*) to Mid-Frequency Military Sonar, 222 *Journal of Experimental Biology* 5 (2019).

¹⁸ Czapanskiy, Max F. et al., Modelling Short-term Energetic Costs of Sonar Disturbance to Cetaceans Using High-resolution Foraging Data, 58 *Journal of Applied Ecology* 8 (2021); Southall, Brandon L. et al., Behavioural Responses of Fin Whales to Military Mid-Frequency Active Sonar, 10 *Royal Society Open Science* 12 (2023).

Scoping Comments on HCTT EIS/OEIS
January 29, 2024
Page 4

sonar exposure; some blue whales exposed to brief or even weak sonar can lose an entire day of foraging.¹⁹

Beaked Whales

Beaked whales, which are highly sensitive to sonar, occur in the action area. Beaked whale strandings have a highly significant co-occurrence with military active sonar use.²⁰ A recent study indicated that displacement of beaked whales from good foraging habitat could have detrimental population consequences, and researchers recommended locating sonar exercises outside of key foraging habitat and avoiding activities that disperse beaked whales into sub-optimal foraging areas.²¹ Blainesville's beaked whales exposed to active sonar in the Bahamas fled the area and avoided it for up to three days after exposure, and such displacement can impair foraging activities and have energetic costs.²²

Minke Whales

Minke whales occur in the action area and are extremely sensitive to sonar exposure. Researchers found significant behavioral changes in the movement and calling behavior of minke whales in response to sonar activities during U.S. Navy training at the Pacific Missile Range Facility in the waters off Kaua'i, Hawai'i.²³ This is particularly concerning as the behavior being disrupted was most likely related to breeding as it is believed that the calling of minke whales in the Hawai'i region from October through April relates to males calling to attract mates.²⁴ The cessation of calling as a result of sonar activities could ultimately lead to reduced reproductive output for this population.²⁵

¹⁹ Pirotta, E. et al., Context-dependent variability in the predicted daily energetic costs of disturbance for blue whales, 00 *Conservation Physiology* 1 (2021).

²⁰ Simonis AE, et al., Co-occurrence of beaked whale strandings and naval sonar in the Mariana Islands, Western Pacific, 287 *Proc. R. Soc. B*: 20200070 (2020).

²¹ Benoit-Bird KJ, et al., Critical threshold identified in the functional relationship between beaked whales and their prey, 654 *Mar. Ecol. Prog. Ser.* 1-16 (2020).

²² Jones-Todd, Charlotte M. et al., Discrete-space Continuous-time Models of Marine Mammal Exposure to Navy Sonar, 32 *Ecological Applications* 1 (2022).

²³ Durbach, Ian N. et al., Changes in the Movement and Calling Behavior of Minke Whales (*Balaenoptera Acutorostrata*) in Response to Navy Training, 8 *Frontiers in Marine Science* (2021).

²⁴ *Id.*

²⁵ Kratofil, Michaela A. et al., Biologically Important Areas II for Cetaceans within U.S. and Adjacent Waters – Hawai'i Region, 10 *Frontiers in Marine Science* (2023).

Scoping Comments on HCTT EIS/OEIS
January 29, 2024
Page 5

Pygmy Killer Whales

Pygmy sperm whales have been involved in stranding events associated with high-intensity mid-frequency sonar.²⁶ Recent research suggests that the rarity of pygmy sperm whales around Kaua‘i and Ni‘ihau, relative to the amount of survey effort off those islands, may be related to the regular Navy testing and training activities that occur there.²⁷ Additionally, because “pygmy killer whales are rarely encountered around Kaua‘i and Ni‘ihau, they are likely to be naïve animals that may be more susceptible to disturbance or mass strandings. Although no pygmy killer whale strandings have been documented on Kaua‘i or Ni‘ihau, the likelihood of stranded animals being detected in Hawai‘i is low.”²⁸

Dwarf Sperm Whales

Dwarf sperm whales have also been involved in stranding events associated with high-intensity naval mid-frequency active sonar use.²⁹ While only a single stock of dwarf sperm whales previously was recognized in Hawaiian waters, new research indicates that there is also a small resident population.³⁰ Due to this species’ susceptibility to strand in response to the use of military sonars, this population warrants not only recognition, but separate management from the much larger offshore population.³¹

Gray Whales

Gray whales have been observed to deflect from their normal migration path in response to high-frequency sonar signal ranging between 21 and 25 kHz at a received level of approximately 148 dB re 1 μPa^2 as far as 2 kilometers from the source.³²

²⁶ Baird, R. W., The lives of Hawai‘i’s dolphins and whales: natural history and conservation, University of Hawai‘i Press (2016); Hohn, et al., Report on marine mammal unusual mortality event UMESE0501Sp: Multispecies mass stranding of pilot whales (*Globicephala macrorhynchus*), minke whale (*Balaenoptera acutorostrata*), and dwarf sperm whales (*Kogia sima*) in North Carolina on 15–16 January 2005 (NOAA Technical Memorandum NMFS-SEFSC-537) U.S. Department of Commerce (2006); and Simmonds, M. P., & Lopez-Jurado, L. F., Whales and the military. *Nature*, 351, 448 (1991).

²⁷ Baird RW et al., Long-term strategies for studying rare species: results and lessons from a multi-species study of odontocetes around the main Hawaiian Islands, 30 *Pacific Conservation Biology* PC23027 (2024).

²⁸ *Id.* at 18.

²⁹ Baird, et al., Site Fidelity, Spatial Use, and Behavior of Dwarf Sperm Whales in Hawaiian Waters: Using Small-Boat Surveys, Photo-Identification, and Unmanned Aerial Systems to Study a Difficult-to-Study Species. 38 *Marine Mammal Science* 326-348 (2021).

³⁰ *Id.*

³¹ *Id.*

³² Frankel, Adam S. and Peter J. Stein, Gray Whales Hear and Respond to Signals from a 21–25 kHz Active Sonar, 36 *Marine Mammal Science* 4 (2020).

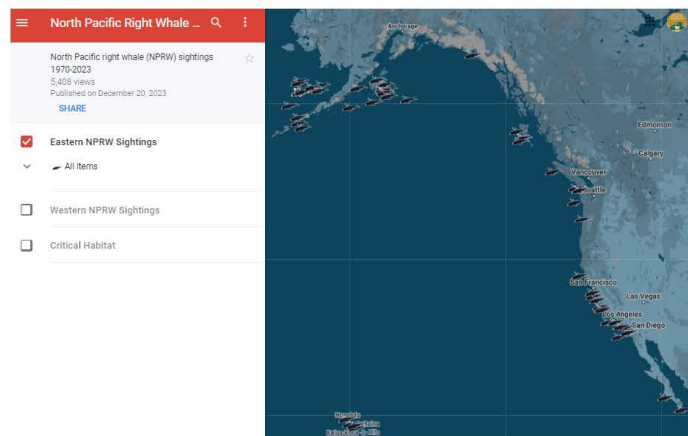
Scoping Comments on HCTT EIS/OEIS
January 29, 2024
Page 6

Sperm Whales

Active sonar continuously masks the echolocation of sperm whales at 160 dB re 1 μPa^2 and intermittently masks it at 120 dB re 1 μPa^2 .³³ Such masking can disrupt sperm whales' ability to locate prey, with corresponding potential impacts on their foraging success.

North Pacific Right Whales

Recent observations demonstrate that North Pacific right whales overlap with the action area. *See map below.* In March 2023, a North Pacific right whale was spotted in Monterey Bay.³⁴ The North Pacific right whale is one of the most critically endangered whales in the world, with a total population hovering around only 26–31 individuals.³⁵ The serious injury or death of even one whale from this population—particularly if it is a reproductive-aged female—would have catastrophic consequences for this species' survival and recovery.³⁶



Sightings of North Pacific Right Whale (Source: <https://www.northpacificrightwhale.org/recent-sightings>)

³³ Von Benda-Beckmann, A. M. et al., Modeling Potential Masking of Echolocating Sperm Whales Exposed to Continuous 1–2 kHz Naval Sonar, 149 *The Journal of the Acoustical Society of America* 4 (2021).

³⁴ Duggan, Tara, One of the rarest whales in the world was just spotted in Monterey Bay, San Francisco Chronicle (Mar. 6, 2023).

³⁵ Muto, M. et al., Alaska Marine Mammal Stock Assessments, 2019: NORTH PACIFIC RIGHT WHALE, NOAA-TM-AFSC-404 (2020).

³⁶ Wright, Dana L. et al. Acoustic detection of the critically endangered North Pacific right whale in the northern Bering Sea. 35 *Marine Mammal Science* 311 (2019). (“A single death of a NPRW (especially a reproductive female) from ship strike would be a major blow to this small population.”).

Scoping Comments on HCTT EIS/OEIS
January 29, 2024
Page 7

Humpback whales

Humpback whales have newly designated critical habitat off California.³⁷ Additionally, new science signals that the Hawai'i DPS population is declining.³⁸ Researchers report that mother-calf encounter rates dropped by more than 76 percent between 2013 and 2018.³⁹ Acoustic monitoring similarly indicates that vocalizations off Maui declined 50 percent between 2014 and 2019.⁴⁰ This is particularly concerning as empirical evidence has demonstrated the importance of song within the humpback whale mating system.⁴¹

Southern resident killer whales

Southern Resident killer whales have critical habitat in the area that should be protected from noise pollution to ensure habitat suitable for echolocation when they are present.⁴² Killer whales are believed to be particularly sensitive to sonar with severe flight responses.⁴³

Seabirds

The Navy must analyze the impacts of proposed training and testing activities on seabirds and their prey. For example, the Navy should consider recent science that has found adverse seabird behavioral responses, such as startle and cessation of feeding, to underwater sonar.⁴⁴ A study of mid-frequency sonar demonstrated that murre had behavioral responses to received levels from 110 to 137 dB re 1 μ Pa.⁴⁵

Invertebrates, Fish, and Sea Turtles

A recent review study determined that 81 and 82 percent of relevant studies have found significant impacts of noise on invertebrates and fish.⁴⁶ The Navy must also fully examine the impacts of its activities on sea turtles.

³⁷ 86 Fed. Reg. 21,082 (Apr. 21, 2021).

³⁸ Cartwright R., et al., Fluctuating reproductive rates in Hawaii's humpback whales, *Megaptera novaeangliae*, reflect recent climate anomalies in the North Pacific, 6 *R. Soc. Open Sci.* 181463 (2019).

³⁹ *Id.*

⁴⁰ Kügler, A, et al. Fluctuations in Hawaii's humpback whale *Megaptera novaeangliae* population inferred from male song chorusing off Maui, 43 *Endangered Species Research* 421 (2020).

⁴¹ Kügler A, et al. Diel spatiotemporal patterns of humpback whale singing on a high-density breeding ground, 11 *R. Soc. Open Sci.* 230279 (2024).

⁴² 86 Fed. Reg. 41,668 (Aug. 2, 2021).

⁴³ Chouinard, Maya and Carolyn Binder, Effects of Military Sonar on Free-Ranging Cetaceans, 2023.

⁴⁴ Hansen, K.A., et al., The common murre (*Uria aalge*), an auk seabird, reacts to underwater sound, 147 *J. Acoust. Soc. Am.* 4069 (2020).

⁴⁵ *Id.*

⁴⁶ Duarte CM, et al., The soundscape of the Anthropocene ocean. 371 *Science* 6529 (2021).

Scoping Comments on HCTT EIS/OEIS
January 29, 2024
Page 8

Vessel Strikes

In 2021, a military destroyer pulled into a Naval Base in San Diego with two dead endangered fin whales stuck to its hull.⁴⁷ The whales—likely a mother and her calf—were apparently killed by a collision with an Australian navy vessel that came to California to conduct military training exercises with the U.S. Navy.⁴⁸ For Santa Barbara Channel alone, scientists estimate that, in the summer and fall months (June–November), ship strikes kill an average of 8.9 blue whales, 4.6 humpback whales, and 9.7 fin whales each year, with an average of another 5.7 humpback whales dying annually due to ship strikes during winter and spring (January–April).⁴⁹

Redfern et al. (2020) found that vessel strike risk is highest for blue, humpback, and fin whales in the central region of California when vessel traffic occurs nearshore.⁵⁰ If vessel traffic instead follows an offshore route similar to those used by ships from 2009–2011 (to avoid California Air Resources Board regulations that applied within 24 nm of shore), mean risk for all three species can be reduced up to 35%. The Navy must consider alternatives that require its vessels to avoid nearshore areas where vessel strike risk is highest.

Additionally, the National Marine Fisheries Service reported that one of the most common causes of sea turtle stranding is due to vessel strikes, and it estimates that annually hundreds of sea turtles are struck by vessels in the United States.⁵¹

Aircraft Noise

A recent study that monitored military aircraft noise for 28 days in Washington State detected concerning noise levels 30 meters below the sea surface.⁵² The researchers noted that the noise exceeded thresholds that can trigger behavioral responses in marine mammals, fish and sea birds. The study demonstrates that the sea surface does not serve as an acoustic barrier to military aircraft noise. The Navy must analyze the adverse impacts on marine life associated with the proposed expanded airspace activities.

⁴⁷ Michael Chen, Two fin whales found dead under hull of Australian ship at Naval Base San Diego, ABC 10: San Diego, May 11, 2021, <https://www.10news.com/news/local-news/two-fin-whales-found-dead-under-hull-of-australian-ship-at-naval-base-san-diego>.

⁴⁸ *Id.*; 88 Fed. Reg. 68,290, 68,291, 68,294 (Oct. 3, 2023)

⁴⁹ Rockwood, R. Cotton et al., Modeling Whale Deaths From Vessel Strikes to Reduce the Risk of Fatality to Endangered Whales, 8 *Frontiers in Marine Science* (2021).

⁵⁰ Redfern, Jessica V., Elizabeth A. Becker, and Thomas J. Moore, Effects of Variability in Ship Traffic and Whale Distributions on the Risk of Ships Striking Whales, 6 *Frontiers in Marine Science* (2020).

⁵¹ <https://www.fisheries.noaa.gov/insight/understanding-vessel-strikes#:~:text=It%20is%20estimated%20that%20hundreds,stranding%20in%20the%20United%20States>.

⁵² Kuehne, Lauren, et al. Above and below: Military Aircraft Noise in Air and under Water at Whidbey Island, Washington, 8 *J. Mar. Sci. Eng.* 923 (2020).

Scoping Comments on HCTT EIS/OEIS
January 29, 2024
Page 9

Biologically Important Areas Identified in Hawai‘i

Biologically Important Areas (BIAs) include areas where cetaceans are known to congregate (either year-round or at certain times of the year) for vital activities such as feeding, mating, and migration, as well as known ranges of small and resident populations. BIAs play a crucial role in enhancing our comprehension and anticipation of how marine mammals might react to or be influenced by disturbances. Additionally, they help identify areas where populations could be more vulnerable to specific types of impacts.

For the Hawai‘i region, thirty-five BIAs were recently outlined or updated from the original 2015 initiative, with thirty-three focusing on small and resident odontocete populations and two targeting humpback whale reproductive areas (BIA II).⁵³ Cetacean experts assigned an overall “Importance Score” to each BIA, considering both “Intensity” (the characteristics and intensity underlying an area’s BIA designation) and “Data Support” (the quantity, quality, and type of information, along with associated uncertainties). Importance Scores, ranging from 1 to 3, reflect both the intensity of the area and the strength of data support, with higher scores indicating greater importance. There are four types of BIAs: 1) Reproductive Areas (R-BIA); 2) Feeding Areas (F-BIA); 3) Migratory Routes (M-BIA); and 4) Small and Resident Population (S-BIA). Hierarchical BIAs were established to represent core areas of use or population-specific ranges for nine species. Additionally, two reproductive watch list areas were identified for minke whales and humpback whales. “Watch lists” are areas that cetacean experts believe are likely BIAs, but currently lack sufficient information to meet the criteria for a BIA.

The Navy’s EIS must take into account these recent BIAs and watch lists, both in evaluating potential impacts and in evaluating environmentally preferred alternatives. For example, the only hierarchical BIA with an Importance Score of 3 for both child and parent was the Hawai‘i Island dwarf sperm whale S-BIA. Cetacean experts found that, due to “the small abundance and range size leading to the Importance score of 3, coupled with the apparent susceptibility of this species at large to a number of anthropogenic activities (e.g., high intensity military sonars, interactions with fisheries; Simmonds and Lopez-Juando, 1991; Hohn et al., 2006; Baird, 2016; Baird et al., 2021c), there are clear conservation concerns for this island associated population.”⁵⁴

Notably, both the rough-toothed dolphin Kaua‘i/Ni‘ihau-O‘ahu S-BIA and the Common bottlenose dolphin Kaua‘i/Ni‘ihau-O‘ahu-Maui Nui S-BIA overlap with the action area around Kaua‘i and Ni‘ihau.⁵⁵ The Navy must take a hard look at the impacts and behavioral responses of

⁵³ Kratofil, Michaela A. et al., 2023.

⁵⁴ *Id.* at 20.

⁵⁵ *Id.*; and Baird, Robin W, Odontocete Studies on the Pacific Missile Range Facility in February 2020, 2021; Oedekoven, C., Effectiveness of Navy Lookout Teams in Detecting Cetaceans. Report Number CREEM-24289-1 (2022).

Scoping Comments on HCTT EIS/OEIS
January 29, 2024
Page 10

these small and resident populations of delphinids to sonar, given their propensity for frequent exposure within their S-BIAs.⁵⁶

Additionally, the minke whale reproductive watch list area, which is supported by acoustic detection rates during the minke whale breeding season (period spanning October through April), overlaps with the action area around Kauaʻi and Niʻihau.⁵⁷ A reproductive watch list area was delineated rather than a BIA due to the lack of available information on minke whale occurrence in Hawaiian waters for reproductive purposes. Regardless, documented acoustic detections, which appear to be concentrated around Kauaʻi and Niʻihau, coupled with minke whales' sensitivity to sonar exposure exhibited across different behavioral contexts including reproduction, raise concerns about the potential for significant impacts, which the Navy must analyze.

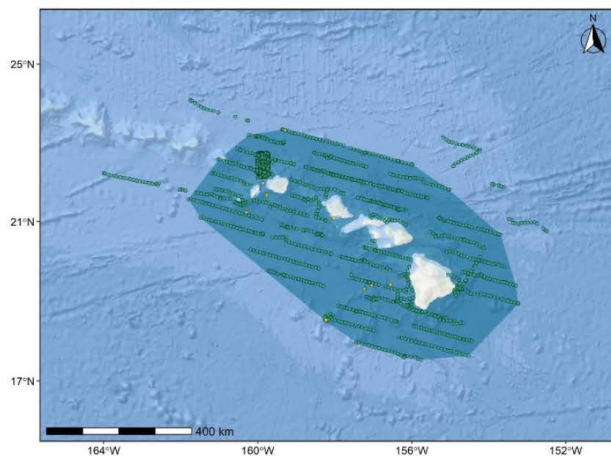


Figure 3. Watch list area boundary (blue polygon) for minke whales spanning October through April encompassing the majority of acoustic detection locations (green circles) and all sighting locations (yellow circles). Kratofil, et al., (2023), Supplementary File A: Detailed summaries of all Hawaiʻi BIAs at 219.

b. Alternatives and Mitigation That Should Be Evaluated

One of the most effective means to protect marine mammals from noise and disturbance associated with Navy training and testing activities is to impose time and area restrictions. The Navy should consider mitigation and time and area restrictions, including but not limited to:

⁵⁶ Durban, J.W. et al., Integrating Remote Sensing Methods During Controlled Exposure Experiments to Quantify Group Responses of Dolphins to Navy Sonar. 174 *Marine Pollution Bulletin* 113194 (2022).

⁵⁷ Kratofil, Michaela A. et al., 2023.

Scoping Comments on HCTT EIS/OEIS
January 29, 2024
Page 11

- Extending mitigation areas to include a buffer zone to adequately protect biologically important areas from received levels that are above the take threshold.
- Prohibiting active sonar and explosives training in biologically important areas.
- Capping the maximum level of activities each year.
- Installing passive acoustic monitoring to alert Navy personnel regarding the presence of marine mammals.
- Increasing the size of exclusion zones to protect animals that are sensitive to sonar at low levels of exposure.
- Imposing a 10-knot ship speed limit in Mitigation Areas to reduce vessel strikes.
- Minimizing Navy vessel traffic in nearshore areas where vessel strike risk is highest.
- Improving detection of marine mammals with restrictions on low-visibility activities and alternative detection such as thermal or acoustic methods.
- Adding mitigation for other marine mammal stressors such as dipping sonar and contaminants.

2. Conclusion

In conclusion, the Navy must undertake a comprehensive and meaningful environmental review of its proposed testing and training activities and evaluate a range of alternatives that incorporate effective steps to mitigate the harm of its activities on marine mammals, fish, birds, and other marine life.

Sincerely,

Miyoko Sakashita, Oceans Program Director, Center for Biological Diversity
Maxx Phillips, Hawai'i and Pacific Islands Director, Center for Biological Diversity
David Henkin, Senior Attorney, Earthjustice

Date/Time: 01-30-2024
Organization: NATIONAL PARK SERVICE
Name: DANETTE WOO/DAVID SZYMANSKI
City/State: SAN FRANCISCO/CA
Comment: See attached PDF.
Attachments: [Navy HI-CA Training and Testing EIS NOI-NPS comments.pdf](#)



United States Department of the Interior

NATIONAL PARK SERVICE
Interior Regions 8, 9, 10, and 12
555 Battery Street, Suite 122
San Francisco, CA 94111



IN REPLY REFER TO:
1.D (PW-P)

Naval Facilities Engineering Systems Command Pacific
Attention: HCTT EIS/OEIS Project Manager or Mr. Sean Gano, Environmental Public Affairs Specialist
([Hawaii-Southern California Training and Testing EIS/OEIS \(navy.mil\)](mailto:Hawaii-Southern California Training and Testing EIS/OEIS (navy.mil)))
258 Makalapa Drive, Suite 100
Pearl Harbor, HI 96860-3134

Dear HCTT EIS Project Manager:

Thank you for the opportunity to comment on the Department of the Navy's Notice of Intent to Prepare the Hawaii-California Training and Testing (HCTT) Environmental Impact Statement (EIS)/Overseas EIS (OEIS).

The HCCT includes activities on the Island of Hawai'i over Hawai'i Volcanoes National Park, Kaloko-Honokōhau National Historical Park, Pu'uhonua o Hōnaunau National Historical Park, and Pu'ukoholā Heiau National Historic Site. The National Park Service (NPS) manages these parks for purposes identified in their enabling legislation, including providing a high-quality visitor experience, and preserving cultural resources and traditional uses, congressionally designated wilderness, natural sounds, and threatened and endangered wildlife. Although the Notice of Intent does not address any land-based activities, the map for the Hawai'i Operating Area indicates an area that traverses multiple park units labeled "Air Traffic Control Assigned Airspace."

Low level military flights have the potential to impact the purposes for which these units were established. We look forward to working with the Navy to identify actions or mitigations that allow both the Navy and the NPS to meet our respective objectives. Some of these measures could include:

- An orientation to park resources and values to be included in pilot briefings, which the NPS would be happy to provide.
- Avoiding flight paths over national park sites, when feasible.
- When necessary to transit over or adjacent to a national park unit, maintaining a minimum elevation, such as 5,000 feet Above Ground Level (AGL).

Resources and values specific to the four national park units on the Island of Hawai'i are described below, for consideration in the EIS/OEIS analysis.

INTERIOR REGION 8 • LOWER COLORADO BASIN*
INTERIOR REGION 9 • COLUMBIA—PACIFIC NORTHWEST*
INTERIOR REGION 10 • CALIFORNIA—GREAT BASIN
INTERIOR REGION 12 • PACIFIC ISLANDS

AMERICAN SAMOA, ARIZONA*, CALIFORNIA, GUAM, HAWAII, IDAHO, MONTANA*,
NEVADA, NORTHERN MARIANA ISLANDS, OREGON, WASHINGTON
*PARTIAL

Biological Resources, Physical Resources, and Wilderness

The parks' biological resources include an extraordinary assemblage of native plants and animals – more than 90% of which are endemic to the Hawaiian Islands and many of which are rare, endangered, and threatened with extinction. Physical resources that affect the biological resources and visitor experience include natural soundscapes which are dominated by the sounds of wind, ocean, native species, and natural process. Hawai'i Volcanoes National Park includes designated wilderness and is mandated to preserve wilderness character and values.

Cultural Resources and Traditional Uses

The recommended measures would also protect cultural resources and traditional uses. Native Hawaiian traditional uses in the parks perpetuate traditional practices, knowledge, and the cultural importance of these areas. These practices, including chants and dances, depend upon natural sounds, unobstructed views of mountain summits, and an environment that has not been greatly altered by human-caused changes. The entire parks' landscapes and all their inhabitants and features, including the sky as a layered extension of the landscape, are sacred to Native Hawaiians.

Historic Properties

Pu'ukoholā Heiau National Historic Site is home to historically significant temples of the Hawaiian Kingdom. The temples are vulnerable to vibrations from low helicopter overflights that could cause shifts in their dry stacked rocks.

Thank you for inviting us to comment on the development of this EIS. For questions or additional information, please contact Danielle Foster (danielle_foster@nps.gov).

Sincerely,

David M. Szymanski
Regional Director

1 L.1.2 Emailed Comments

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

In reply, please refer to
EMD/CWB

05023PDCL.18

May 10, 2018

MEMORANDUM

SUBJECT: Clean Water Branch Standard Project Comments

TO: Agencies and Project Owners

FROM: ALEC WONG, P.E., CHIEF *Alec Wong*
Clean Water Branch

This memo is provided for your information and sharing. You are encouraged to share this memo with your project partners, team members, and appropriate personnel.

The Department of Health (DOH), Clean Water Branch (CWB) will no longer be responding directly to requests for comments on the following documents (Pre-consultation, Early Consultation, Preparation Notice, Draft, Final, Addendums, and/or Supplements):

- Environmental Impact Statements (EIS)
- Environmental Assessments (EA)
- Stream Channel Alteration Permits (SCAP)
- Stream Diversion Works Permits (SDWP)
- Well Construction/Pump Installation Permits
- Conservation District Use Applications (CDUA)
- Special Management Area Permits (SMAP)
- Shoreline Setback Areas (SSA)

For agencies or project owners requiring DOH-CWB comments for one or more of these documents, please utilize the DOH-CWB Standard Comments below regarding your project's responsibilities to maintain water quality and any necessary permitting. DOH-CWB Standard Comments are also available on the DOH-CWB website located at: <http://health.hawaii.gov/cwb/>.

May 10, 2018
Page 2

05023PDCL.18

DOH-CWB Standard Comments

The following information is for agencies and/or project owners who are seeking comments regarding environmental compliance for their projects with the Hawaii Administrative Rules (HAR), Chapters 11-54 and 11-55. You may be responsible for fulfilling additional requirements related to our program.

1. Any project and its potential impacts to State waters must meet the following criteria:
 - a. Antidegradation policy (HAR, Section 11-54-1.1), which requires that the existing uses and the level of water quality necessary to protect the existing uses of the receiving State water be maintained and protected.
 - b. Designated uses (HAR, Section 11-54-3), as determined by the classification of the receiving State waters.
 - c. Water quality criteria (HAR, Sections 11-54-4 through 11-54-8).
2. You may be required to obtain National Pollutant Discharge Elimination System (NPDES) permit coverage for point source water pollutant discharges into State surface waters (HAR, Chapter 11-55). Point source means any discernible, confined, and discrete conveyance from which pollutants are or may be discharged.

For NPDES general permit coverage, a Notice of Intent (NOI) form must be submitted at least 30 calendar days before the commencement of the discharge. An application for a NPDES individual permit must be submitted at least 180 calendar days before the commencement of the discharge. To request NPDES permit coverage, you must submit the applicable form ("CWB Individual NPDES Form" or "CWB NOI Form") through the e-Permitting Portal and the hard copy certification statement with the respective filing fee (\$1,000 for an individual NPDES permit or \$500 for a Notice of General Permit Coverage). Please open the e-Permitting Portal website located at: <https://eha-cloud.doh.hawaii.gov/epermit/>. You will be asked to do a one-time registration to obtain your login and password. After you register, click on the Application Finder tool and locate the appropriate form. Follow the instructions to complete and submit the form.

May 10, 2018
Page 3

05023PDCL.18

Some of the activities requiring NPDES permit coverage include, but, are not limited to:

a. Discharges of Storm Water

i. For Construction Activities Disturbing One (1) or More Acres of Total Land Area.

By HAR Chapter 11-55, an NPDES permit is required before the start of the construction activities that result in the disturbance of one (1) or more acres of total land area, including clearing, grading, and excavation. The total land area includes a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under a larger common plan of development or sale.

ii. For Industrial Activities for facilities with primary Standard Industrial Classification (SIC) Codes regulated in the Code of Federal Regulations (CFR) at 40 CFR 122.26(b)(14)(i) through (ix) and (xi). If a facility has more than one SIC code, the activity that generates the greatest revenue is the primary SIC code. If revenue information is unavailable, use the SIC code for the activity with the most employees. If employee information is also unavailable, use the SIC code for the activity with the greatest production.

iii. From a small Municipal Separate Storm Sewer System (along with certain non-storm water discharges).

b. Discharges to State surface waters from construction activity hydrotesting or dewatering

c. Discharges to State surface waters from cooling water applications

d. Discharges to State surface waters from the application of pesticides (including insecticides, herbicides, fungicides, rodenticides, and various other substances to control pest) to State waters

e. Well-Drilling Activities

Any discharge to State surface waters of treated process wastewater effluent associated with well drilling activities is regulated by HAR Chapter 11-55. Discharges of treated process wastewater effluent (including well drilling slurries,

May 10, 2018
Page 4

05023PDCL.18

lubricating fluids wastewater, and well purge wastewater) to State surface waters requires NPDES permit coverage.

NPDES permit coverage is not required for well pump testing. For well pump testing, the discharger shall take all measures necessary to prevent the discharge of pollutants from entering State waters. Such measures shall include, if necessary, containment of initial discharge until the discharge is essentially free of pollutants. If the discharge is entering a stream or river bed, best management practices (BMPs) shall be implemented to prevent the discharge from disturbing the clarity of the receiving water. If the discharge is entering a storm drain, the discharger must obtain written permission from the owner of the storm drain prior to discharge. Furthermore, BMPs shall be implemented to prevent the discharge from collecting sediments and other pollutants prior to entering the storm drain.

3. A Section 401 Water Quality Certification (WQC) is required if your project/activity:
- Requires a federal permit, license, certificate, approval, registration, or statutory exemption; and
 - May result in a discharge into State waters. The term "discharge" is defined in Clean Water Act, Subsections 502(16), 502(12), and 502(6).

Examples of "discharge" include, but are not limited to, allowing the following pollutants to enter State waters from the surface or in-water: solid waste, rock/sand/dirt, heat, sewage, construction debris, any underwater work, chemicals, fugitive dust/spray paint, agricultural wastes, biological materials, industrial wastes, concrete/sealant/epoxy, and washing/cleaning effluent.

Determine if your project/activity requires a federal permit, license, certificate, approval, registration, or statutory exemption by contacting the appropriate federal agencies (e.g. Department of the Army (DA), U.S. Army Corps of Engineers (COE), Pacific Ocean Division Honolulu District Office (POH) Tel: (808) 835-4303; U.S. Environmental Protection Agency, Region 9 Tel: (415) 947-8021; Federal Energy Regulatory Commission Tel: (866) 208-3372; U.S. Coast Guard Office of Bridge Programs Tel: (202) 372-1511). If your project involves work in, over, or under waters of the United States, it is highly recommended that you contact the Army Corp of Engineers, Regulatory Branch regarding their permitting requirements.

To request a Section 401 WQC, you must complete and submit the Section 401 WQC application. This application is available on the e-Permitting Portal website located at: <https://eha-cloud.doh.hawaii.gov/epermit/>.

May 10, 2018
Page 5

05023PDCL.18

Please see HAR, Chapter 11-54 for the State's Water Quality Standards and for more information on the Section 401 WQC. HAR, Chapter 11-54 is available on the CWB website at: <http://health.hawaii.gov/cwb/>.

4. Please note that all discharges related to the project construction or operation activities, whether or not NPDES permit coverage and/or Section 401 WQC are required, must comply with the State's Water Quality Standards. Noncompliance with water quality requirements contained in HAR, Chapter 11-54, and/or permitting requirements, specified in HAR, Chapter 11-55, may be subject to penalties of \$25,000 per day per violation and up to two (2) years in jail.
5. It is the State's position that all projects must reduce, reuse, and recycle to protect, restore, and sustain water quality and beneficial uses of State waters. Project planning should:
 - a. Treat storm water as a resource to be protected by integrating it into project planning and permitting. Storm water has long been recognized as a source of irrigation that will not deplete potable water resources. What is often overlooked is that storm water recharges ground water supplies and feeds streams and estuaries; to ensure that these water cycles are not disrupted, storm water cannot be relegated as a waste product of impervious surfaces. Any project planning must recognize storm water as an asset that sustains and protects natural ecosystems and traditional beneficial uses of State waters, like community beautification, beach going, swimming, and fishing. The approaches necessary to do so, including low impact development methods or ecological bio-engineering of drainage ways must be identified in the planning stages to allow designers opportunity to include those approaches up front, prior to seeking zoning, construction, or building permits.
 - b. Clearly articulate the State's position on water quality and the beneficial uses of State waters. The plan should include statements regarding the implementation of methods to conserve natural resources (e.g. minimizing potable water for irrigation, gray water re-use options, energy conservation through smart design) and improve water quality.
 - c. Consider storm water Best Management Practice (BMP) approaches that minimize the use of potable water for irrigation through storm water storage and reuse, percolate storm water to recharge groundwater to revitalize natural hydrology, and treat storm water which is to be discharged.

May 10, 2018
Page 6

05023PDCL.18

- d. Consider the use of green building practices, such as pervious pavement and landscaping with native vegetation, to improve water quality by reducing excessive runoff and the need for excessive fertilization, respectively.
- e. Identify opportunities for retrofitting or bio-engineering existing storm water infrastructure to restore ecological function while maintaining, or even enhancing, hydraulic capacity. Consideration should be given to areas prone to flooding, or where the infrastructure is aged and will need to be rehabilitated.

Rincon Band of Luiseño Indians

CULTURAL RESOURCES DEPARTMENT

One Government Center Lane | Valley Center | CA 92082
(760) 749-1092 | Fax: (760) 749-8901 | rincon-nsn.gov



January 16, 2024

Sent via email: Richard.G.Bark.civ@us.navy.mil

Naval Facilities Engineering Systems Command Pacific

Attention : HCTT EIS/OEIS Project Manager

258 Makalapa Drive, Suite 100

Pearl Harbor, HI 96860-3134

Re: Request Consultation under Section 106 of the National Historic Preservation Act (NHPA) on the Environmental Impact Statement/Overseas Environmental Impact Statement for Hawaii-California Training and Testing

Dear Mr. Bark:

This letter is written on behalf of the Rincon Band of Luiseño Indians ("Rincon Band" or "Tribe"), a federally recognized Indian Tribe and sovereign government. We have received your notification regarding the **Preparation of an Environmental Impact Statement/Overseas Environmental Impact Statement for Hawaii-California Training and Testing (EIS)**, and we request to engage in early consultation under Section 106 of the National Historic Preservation Act for the proposed undertaking, the definition of the area of potential effects (APE), and the identification of historic properties. The identified location is in part within the Traditional Use Area (TUA) of the Luiseño people. As such, the Rincon Band is traditionally and culturally affiliated to the project area.

The Rincon Band would like to consult on the undertaking to learn more about any potential impacts to historic properties, as we encourage the development of the EIS to be guided through tribal consultation to allow for active participation and input on the technical studies considered for the EIS. Please also include the Tribe on all distribution lists for environmental document reviews, consultations, circulation of public documents, and notices for public hearings and scheduled approvals.

We are looking forward to working with you. If you have additional questions or concerns, please do not hesitate to contact our office at your convenience at (760) 749 1092 ext. 323 or via electronic mail at cmadrigal@rincon-nsn.gov. Thank you for the opportunity to protect and preserve our cultural assets.

Sincerely,

Cheryl Madrigal
Tribal Historic Preservation Officer
Cultural Resources Manager

Bo Mazzetti
Chairman

Tishmall Turner
Vice Chair

Laurie E. Gonzalez
Council Member

John Constantino
Council Member

Joseph Linton
Council Member

**COUNTY of VENTURA**

RESOURCE MANAGEMENT AGENCY
CHARLES R. GENKEL
Environmental Health Director

January 10, 2024

Naval Facilities Engineering Systems Command Pacific
Attn: HCTT EIS/OEIS Project Manager
258 Makalapa Drive, Suite 100
Pearl Harbor, HI 96860-3134

**Hawaii - California Training and Testing, Notice of Intent to Adopt an
Environmental Impact Statement, RMA REF #23-025**

Ventura County Environmental Health Division (Division) staff reviewed the information submitted for the subject project.

The Division provides the following comments:

1. The project includes training and testing activities which may include the use of active sonar, explosives, and other sources of underwater sound. Hazardous wastes shall be properly disposed of and reported to the Ventura County Certified Unified Program Agency (CUPA). Improper storage, handling, and disposal of hazardous materials could result in the creation of adverse impacts to the environment. Compliance with applicable State and local regulations will reduce potential project-specific and cumulative impacts to a level considered less than significant.

<https://vcrma.org/en/cupa>

If you have any questions, please contact me at (805) 654-2830 or
Roxy.Cabral@ventura.org.

Roxy Cabral, R.E.H.S.
Land Use Section
Environmental Health Division

CC G:\Admin\TECH SERVICES\FINALE Letters\Land Use\ SR0021595ODR RMA REF 23-025- Hawaii- California Training and Testing

Page 1

HALL OF ADMINISTRATION #1730
805-654-2813 • FAX 805-654-2480 • 800 South Victoria Avenue, Ventura, CA 93009 • vcrma.org



Ventura County
Air Pollution
Control District

4567 Telephone Rd
Ventura, California 93003

tel 805/303-4005
fax 805/456-7797
www.vcapcd.org

Ali Reza Ghasemi, PE
Air Pollution Control Officer

**VENTURA COUNTY
AIR POLLUTION CONTROL DISTRICT**
Memorandum

TO: HCTT EIS/OEIS Project Manager DATE: January 29, 2024

FROM: Nicole Collazo, Air Quality Specialist, Planning Division *nc*

SUBJECT: Request for Review of Notice of Intent to prepare an Environmental
Impact Statement for the Hawaii-California Training and Testing Project
(RMA #23-025)

Air Pollution Control District staff has reviewed the subject Notice of Intent to prepare an Environmental Impact Statement (EIS), which is a proposal of conducting at-sea military readiness activities within the Hawaii-California Training and Testing Study Area. The Navy also proposed to modernize and sustain its ranges in a manner necessary to support these readiness activities. The Lead Agency for this project is the Department of the Navy.

District staff recommends the EIS evaluate all potential air quality impacts that may result from the project, both short-term and long-term. Specifically, the air quality assessment should consider reactive organic compound, nitrogen oxide emissions and particulate matter from all proposed sea range operations (aircrafts, vessels, etc.) as well as any potential stationary source emissions located in VCAPCD Channel Islands.

In addition, a NEPA Air Quality Analysis, if applicable, must be conducted to assess the impact of air pollutant emissions from proposed sea range operations for those effects occurring within *and* outside U.S. Territory. The NEPA analysis includes a Clean Air Act (CAA) General Conformity Analysis to make an applicability determination pursuant to the General Conformity Rule (40 C.F.R. § 93[B]). The NEPA analysis also includes an evaluation of potential exposures to toxic air pollutant emissions.

The EIS should also include analysis of any stationary engines and equipment that may be subject to APCD permitting requirements. An APCD Authority to Construct shall be obtained for all equipment subject to permit, prior to construction and an APCD Permit to Operate shall be obtained for all equipment or regulated processes subject to permit, prior to operation. To determine if proposed new equipment is subject to APCD Permitting, the applicant should contact District Staff at 805-303-3688.

Finally, APCD would like to inform the applicant that it participates in the Vessel Speed Reduction (VSR) Program or Protecting Blue Whales and Blue Skies. The VSR

Program is a partnership which provides public relations incentives to the operators of certain ocean-going vessels (OGV), cargo container ships and roll-on/roll-off (Ro-Ro) vessels, to reduce speeds in specified areas off the California coast. Reducing ship speeds cuts emissions of nitrogen oxides (NOx), toxic diesel particulate matter (DPM), sulfur compounds, and greenhouse gases (GHGs); reduces the risk of fatal ship strikes on whales; and reduces underwater acoustic impacts. The 2023 voluntary incentive program, where companies were asked to reduce speeds to 10 knots or less in both the Southern California Region and in the San Francisco Bay Area, started on May 1, 2023 and ended on December 15, 2023. For the 2023 season, the [VSR zones](#) were greatly expanded by including more navigable waters in Southern California and adding the area within the boundaries of the Monterey Bay National Marine Sanctuary. Please consider providing funding to the VSR Program as possible mitigation for reducing air pollutants from the project if approved, as the project description states 'For this EIS/OEIS, "at-sea components" include the marine environment around San Nicolas Island where marine mammals haul out on the shoreline. Missile and target firings from San Nicolas Island that could disturb the marine mammals are included in this analysis.'

Thank you for the opportunity to review this project. Should you have any questions, you may reach me via email at nicole@vcapcd.org.

From: Sean Hanser - NOAA Federal <sean.hanser@noaa.gov>

Sent: Monday, January 29, 2024 2:40 PM

To: Bostwick, Angela S CIV USN NAVFAC PAC PEARL HI (USA) <angela.s.bostwick.civ@us.navy.mil>;

Scheimer, Elizabeth A CIV USN NAVFAC PAC PEARL HI (USA) <elizabeth.a.scheimer.civ@us.navy.mil>

Cc: Chow, Marguerite M CIV (USA) <malia.chow@noaa.gov>; Delaney, David G CIV (USA)

<david.delaney@noaa.gov>; Bejder, Michelle M CIV USN NAVFAC PAC PEARL HI (USA)

<michelle.m.bejder.civ@us.navy.mil>

Subject: [Non-DoD Source] NMFS PIRO Habitat Conservation Division public comments on the HCTT EIS NOI

Hi Angela and Liz,

We wanted to submit public comments for the HCTT EIS NOI and ended up trying to submit around 14:00 HST, after the comment period had apparently ended. We found that It says on the "Submit Comments" page "Comments must be postmarked or received online no later than 11:59 p.m. PST on Jan. 29, 2024, for consideration in the Draft EIS/OEIS." We had prepared comments from reading the Federal Register announcement and looking at the Fact Sheet, however we had not gone to the submit comments page because we were not prepared to submit until today. As you may recall, it states on the front web page "The Navy is accepting public comments through Jan. 29, 2024." We had interpreted that to mean at least the entire business day in Hawaii would be included on Jan 29. However, it is clear that was not the case. With that understanding, we are providing the comments below to provide our input on the HCTT EIS NOI.

Comments:

National Marine Fisheries Service (NMFS), Pacific Islands Regional Office (PIRO), Habitat Conservation Division (HCD) is anticipating the Navy will conduct an EFH consultation for Phase IV of the HCTT EIS. We will be interested in understanding the location of planned underwater detonation training (UNDET) and testing. For the EIS and the EFH consultation, the current condition and community composition of the benthic and fish resources at UNDET and bombing ranges that are used regularly should be provided.

Also, in the Hawaiian Islands, PIRO HCD recommends that the footprint, timing, and tempo of training and testing be clearly presented for locations that occur in waters shallower than 400 m. These waters are EFH for bottomfish management unit species (BMUS) and could need closer analysis for potential impacts. Pay special attention to the overlap of testing and training with Penguin Bank and other habitat areas of particular concern (HAPCs); maps that show the footprint of activities with respect to HAPCs would be a useful tool for understanding the interaction of the planned activities and that key habitat.

PIRO HCD is happy to participate in early coordination with the Navy for an EFH consultation. Please feel free to contact our division at EFHESAconsult@noaa.gov for commencing early coordination.

Please feel free to contact me or our office at the above email if you have any questions about the above comments or wish to start early coordination.

Sincerely,
Sean

--

Sean F. Hanser, PhD.

*Resource Management Specialist, Habitat Conservation Division
Pacific Islands Regional Office
National Marine Fisheries Service | U.S. Department of Commerce
(808) 725-5091
www.fisheries.noaa.gov*



**NOAA
FISHERIES**

**COUNTY of VENTURA**

RESOURCE MANAGEMENT AGENCY

DAVE WARD
Planning Director**SUSAN CURTIS**
Assistant Planning Director

December 26, 2023

Anthony Ciuffetelli
RMA/Planning/EDR CoordinatorSent via email: anthony.ciuffetelli@ventura.org**SUBJECT: Hawaii-California Training and Testing Project**
RMA Ref# 23-025

To Whom It May Concern,

Ventura County Cultural Heritage Board (CHB) staff is in receipt of the invitation to comment on the above-referenced project and provides the following comments:

- The Hawaii-California Training and Testing Study Area contains known historic resources and may contain as-yet undiscovered resources that have not yet been documented. For example, the SS WINFIELD SCOTT (Steamship) site is listed in the National Register of Historic Places and currently rests underwater as part of the Channel Islands National Park and Marine Sanctuary. An expanded Study Area with additional or modified training activities could lead to direct and indirect impacts on known and as-yet undiscovered historic and cultural resources.
- The United States Department of the Navy should set forth goals, policies, and programs regarding the treatment of historic and cultural resources within the Study Area and evaluating the historical significance of sites that contain objects that are fifty years of age or older. Fifty years of age is a general estimate of the time needed to develop historical perspective and to evaluate significance. It is recommended that these sites be avoided to the greatest extent feasible to avoid potential direct and indirect impacts.

Thank you for the opportunity to comment on the proposed project. If you require anything further or have any questions, please contact Dillan Murray at (805) 654-5042 or at Dillan.Murray@ventura.org.

Sincerely,

Dillan Murray
Cultural Heritage Program Planner
Ventura County Planning Division

HALL OF ADMINISTRATION #1740

(805) 654-2481 • FAX (805) 654-2509 • 800 South Victoria Avenue, Ventura, CA 93009 • vcrma.org

**REGION 9**

SAN FRANCISCO, CA 94105

January 29, 2024

Alex Stone, HCTT EIS/OEIS Project Manager
Naval Facilities Engineering Systems Command, Pacific
258 Makalapa Drive, Suite 100
Pearl Harbor, Hawaii 96860-3134

Subject: Scoping comments for Hawaii-California Training and Testing Activities Environmental Impact Statement (EIS)

Dear Alex Stone:

The U.S. Environmental Protection Agency has reviewed the Notice of Intent (NOI) published on December 15, 2023, regarding the Department of the Navy's decision to prepare an Environmental Impact Statement for the subject project. Our comments are provided pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508) and our NEPA review authority under Section 309 of the Clean Air Act. The CAA Section 309 role is unique to EPA. It requires EPA to review and comment publicly on any proposed federal action subject to NEPA's environmental impact statement requirement.

The Department of the Navy is again renewing its authorizations under the Marine Mammal Protection Act (MMPA) and Endangered Species Act for the take of whales and other marine mammals during military training. Again the Navy is expanding its training areas and will evaluate a maximum training scenario as an alternative. We appreciate the briefing the Navy provided at our request since the scoping materials were vague and not sufficient to inform the preparation of scoping comments. We note that there are some areas where the Navy was not clear on its proposed actions. For example, the NOI indicates that the Northern California Range is an existing range; however, we have not seen this range in any previous EISs and during the briefing we learned that this range is largely not used except for limited aviation training, yet the NOI presents it as an active range suggesting there are no changes to current conditions under the proposed action. Additionally, the corridors being planned for amphibious landing areas in central California were mapped at such a large scale that it was not clear which areas the Navy is considering. Further, no live scoping meetings were offered, instead the website was to contain a virtual scoping meeting however, this consisted of slides that presented information similar to the scoping notice and was not informative. While EPA was afforded the opportunity to ask questions in our briefing, the public was denied this opportunity to learn more about the proposal. As such, the public will be learning about the specifics of the project at the draft EIS stage and should be afforded ample time to review the document and prepare comments.

We have the following suggestions for your consideration when preparing the Draft Environmental Impact Statement (DEIS):

Project Description, Scope, and Impact Assessment Methodology

The DEIS should include a clear project description that accurately presents the changes being proposed under the new MMPA authorization period. This includes accurately representing the current use of the Northern California range, as mentioned, as well as detailed maps of each proposed amphibious landing areas. During the EPA briefing, we learned that the amphibious landing corridors would be defined in this EIS, but the Marine Corps would prepare a separate NEPA document for the actions taking place on land once the amphibious vehicles are fully ashore. As we noted then, the designation of corridors in this EIS enables the future actions; thus, the impacts of using the corridors including approach of vehicles and their landings on shore, should be included in this EIS. Include maps of the landing areas at sufficient scale so the reader understands the precise locations.

The Navy frequently describes its proposed action as actions that have been taking place for decades;¹ however, as any toxicologist knows “the dose makes the poison”, so this statement that actions are essentially the same as what has been occurring for decades is not informative and should not be used as part of the impact assessment methodology. The stressors that environmental resources can experience have a limit; because some resources have absorbed stressors without apparent significant impact does not mean they could continue to do so under a higher training tempo under the proposal. It is important that the EIS make clear the amount of increase in stressors the Navy is proposing, and to evaluate the existing conditions, along with cumulative stressors, [especially those from climate change](#) which are pervasive in the oceans, in predicting project-related impacts.

As the Navy expands its ranges to larger and larger sizes that cover thousands of miles, it is important that the Navy ensure the impact assessment is addressing impacts to specific training and testing locales. Past NEPA practice for range EISs has been to average impacts over very large areas of ocean and/or stating that impacts would occur only locally and therefore were not significant. Such averaging is not a meaningful way to assess the impacts to local resources such as coral reefs, sea mounts, and nearshore areas that might be utilized by fish and wildlife, and it does not assist in identifying potential measures to mitigate such localized effects. Further, simply stating that impacts are localized does not support a less-than-significant impact conclusion without additional support.

Alternatives

The NOI and project website indicate that the Navy plans to evaluate two alternatives and the required No Action alternative. According to the NOI, Alternative 1 reflects a representative year of training and Alternative 2 reflects the maximum number of training and testing activities that could occur within a given year for the seven-year period. Considering the importance of the alternatives analysis in environmental impact statements under NEPA, this is a very limited range and would offer no substantial differences in impacts if assessed in the manner that past range EISs have been, where the higher tempo alternative’s impacts are described as being “slightly higher” than those under the other

¹ From project website: “Proposed training and testing activities are similar to those analyzed in previous environmental impact analyses and are representative of activities that have been conducted off Hawaii and California for more than 80 years “

alternative but no substantial difference in impacts is predicted.² This is not a meaningful alternatives analysis. We note that the recent changes to the National Environmental Policy Act under the Fiscal Responsibility Act include additional references to alternatives – see Section 102 (C)(iii), and Section 102 (F) in addition to existing Section 102 (H). Consistent with this new focus on alternatives in the National Environmental Policy Act, a more robust alternatives analysis is needed for the DEIS.

We strongly recommend the Navy evaluate at least one additional action alternative that incorporates mitigation, consistent with 40 CFR 1502.14 (e) which states that agencies shall evaluate appropriate mitigation measures not already included in the proposed action or alternatives. We recommend evaluating an alternative with additional temporal and geographic mitigation protections from sonar and other wildlife impacts than what was authorized in the last EIS and MMPA rulemaking. The impact assessment informs the decision but is not the decision-making document; therefore, if the inclusion of some additional geographic and temporal exclusion areas for the protection of marine life could even partially meet the purpose and need, it should be considered in the alternatives analysis. The 2007 Marine Mammal Commission Report to Congress on Noise stated that experts in their workshop agreed that the “habitat avoidance” strategy of restricting sound generation geographically or seasonally offered the most benefits and fewest negative side effects of all the ocean noise mitigation options considered.³

Another option for a mitigated alternative is to hold mid-frequency active (MFA) sonar use at existing levels amid any training increases. The Navy utilized this approach under a previous Hawaii Range Complex EIS.

Include Monitoring Results

Because this is an ongoing action, the assessment of impacts need not be speculative as is the case for some project impact assessments that have not yet occurred; monitoring results from past and current training should inform the impact assessment. We recommend including a section in the DEIS, or in each resource section, that summarizes monitoring results and discusses any adaptive responses that have occurred. Monitoring results must be integrated into any analyses that would be considered best available science.

Impacts on Marine Mammals

Acoustic impacts from MFA sonar

The Proposed Action would continue or increase the use of MFA sonar in its training. The inclusion of the Northern California Range and the use of MFA sonar in that range is an entirely new activity compared to current conditions per the Navy’s briefing to EPA (January 10, 2024). This was not made clear in the NOI; it should be clearly communicated that any sonar-related impacts to species in this area would be new impacts.

² See Mariana Islands Testing and Training Supplemental EIS; Hawaii-Southern California Testing and Training EIS etc.

³ <https://www.mmc.gov/wp-content/uploads/fullsoundreport.pdf>, page 34

It is known, and the Navy has acknowledged in the past, that MFA sonar can be a source of acoustic or impulse trauma to marine mammals.⁴ We recommend the DEIS summarize the latest scientific information regarding impacts from MFA sonar on marine mammals. After-action and monitoring reports from past training should be summarized in the DEIS. We also recommend that a history of strandings and mortalities coincident in space and time with the deployment of military sonar be disclosed, regardless of whether they occurred in the study area, with acknowledgment that severely injured animals rarely make it to shore.

The last MMPA permit authorization period (2018 through 2025) included geographic mitigation measures in the HSTT Study Area and stated that depending on the area, mitigation would be implemented year-round or seasonally during applicable activities involving active sonar, explosives, and physical disturbance and strike stressors. The Navy was to implement mitigation measures within certain mitigation areas and/or times where they are known to engage in biologically important behaviors (i.e., for foraging, migration, reproduction) where the disruption of those behaviors would be more likely to result in population-level impacts. Additional mitigation areas that were not evaluated, per the HSTT ROD, were included as a result of negotiations from a lawsuit. Despite these additional mitigations, more whales and marine mammals were killed than expected under the authorization. In 2021, two separate U.S. Navy vessels struck unidentified large whales on two separate occasions, one whale in June 2021 and one whale in July 2021, in waters off Southern California and then killed another large whale by ship strike in May 2023 – reaching its maximum allowable kill for the permit period with two additional years to go. As a result, the Navy has asked NMFS permission to kill 2 additional whales.⁵ This doesn't count the two dead fin whales, a mother and her calf, that had to be dislodged from the hull of a Royal Australian Navy ship in San Diego after it was participating in joint exercises with the U.S. Navy in Southern California. More can be assumed to have died at sea.

This indicates that either mitigation measures are not effective or not being implemented, or that the impact assessment methodology is underrepresenting the number of whales and other marine mammals that would be killed during training. The DEIS for the updated term should incorporate this information and adjust its training and/or mitigation, as possible, instead of just adjusting its allowable take. The addition of new MFA sonar training off the Northern California at approximately Monterey and San Luis Obispo Counties, and Marin and Sonoma Counties is of concern as these areas include the Greater Farallones National Marine Sanctuary, Cordell Bank National Marine Sanctuary, and the Monterey Bay National Marine Sanctuary, all of which are rich with whale and other marine mammal activity.

Because these sections of the DEIS are highly technical, efforts should be made to present the information in a manner that is understandable to the general public (40 CFR 1502.8), with the more technical reports included as appendices to the DEIS.

⁴ Joint Interim Report, Bahamas Marine Mammal Stranding, Event of 15-16 March 2000, page ii. Available:

<https://repository.library.noaa.gov/view/noaa/16198>

⁵ <https://www.federalregister.gov/documents/2023/10/03/2023-21499/taking-and-importing-marine-mammals-taking-marine-mammals-incident-to-the-us-navy-training-and>

Mitigation for marine mammal impacts

Mitigation measures to reduce MFA impacts should be identified in the DEIS. NEPA also requires that the effectiveness of proposed mitigation measures be discussed⁶. Mitigation measures that are untested should not be assumed to be effective. We recommend referencing monitoring and after-action reports, and other sources as appropriate, in this discussion of mitigation effectiveness. Incorporate the information gains from the recent ship strikes, including the assumption, now disproven by the Royal Australian Navy incident, that sailors aboard a ship would know if they had fatally struck a whale.

Since posting lookouts on vessels is the primary mitigation method the Navy uses, the DEIS should distinguish the effectiveness of mitigation measures for marine mammals with a low probability of visual observation (e.g., beaked whales) versus other easily observed marine mammals. Include the likely percentage of effectiveness when claiming mitigation measures would reduce impacts. For example, according to the study by Oedekoven and Thomas (2022), military personnel effectiveness of observing marine mammals ranged from 2 to 13%, and experienced marine mammal observers detected somewhat higher depending on the species but was never more than 54% effective. It is not enough to simply state in the impact assessment that impacts would not be significant due to mitigation measures without considering the limited effectiveness of certain mitigations.

Additionally, the DEIS should make clear the limitation of lookout mitigation in weather conditions with poor visibility. Based on the information in the NMFS Federal Register notice dated 10/3/23, it is clear that in conditions of poor visibility, lookout mitigation is largely ineffective. The DEIS should discuss and evaluate the addition of passive acoustic monitoring. Include data on when and where it has been used by other navies or entities. NEPA requires the discussion of mitigation measures, even if they are not adopted.

Impacts to marine ecosystems

Impacts to deep-sea coral and sponge (DSCS) habitat off southern California should be mapped and discussed. According to NOAA, vibrant deep-sea coral and sponge communities are present across a diversity of seafloor features throughout the West Coast, such as seamounts, basins, oil and methane seeps and submarine canyons. Deep-sea corals and sponges “provide a number of ecosystem services that are critical to the health of surrounding ecological communities.”⁷ These areas should be avoided for underwater detonations, mine neutralization activities, and other training that could impact the living sea floor. Provide maps of all the areas protected or proposed for protection, not just marine sanctuaries, in the DEIS.

Mitigation for cumulative DoD and ocean impacts

As mentioned above, NEPA requires that mitigation be discussed, even if not adopted, in the EIS. The Navy generally does not propose any innovative mitigations for these projects, but instead posits that permit/authorization compliance is sufficient. While compliance with the MMPA is obviously important, the only mitigation in the authorizations are attempts to minimize harm. Since recent

⁶ The Supreme Court has required a mitigation discussion precisely for the purpose of evaluating whether anticipated environmental impacts can be avoided. *Methow Valley*, 490 U.S. at 351-52, 109 S.Ct. 1835 (citing 42 U.S.C. § 4332(C)(ii)). A mitigation discussion without at least some evaluation of effectiveness is useless in making that determination.

⁷ See <https://repository.library.noaa.gov/view/noaa/50942>

evidence suggests these attempts are not effective as previously assumed, the Navy should include mitigation that helps restore or enhance the species and/or ecosystems it is incidentally harming. We have never seen such innovation in EISs in Region 9, nor are aware of it elsewhere; however, NEPA is clear: the Federal Government is to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may fulfill the responsibilities of each generation as trustee of the environment for succeeding generations (42 U.S.C. 4331 (section 101) (b)). With increasing impacts from Navy and other training, coupled with the potentially devastating impacts of climate change on the oceans, more is needed if future generations would enjoy even a fraction of what the oceans have historically provided. We recommend discussing possible efforts that could help mitigate (enhance and restore) some of the ocean resource damages. For example, including proactive methods of seagrass or other restoration in the proposed action. Such “blue carbon” efforts can help store and sequester carbon, helping to mitigate climate change, support biodiversity, and provide valuable ecosystem services to coastal communities. Again, NEPA requires the discussion of mitigation, and the definition of mitigation under NEPA is broad and includes “Rectifying the impact by repairing, rehabilitating, or restoring the affected environment” (40 CFR 1508 (s)(3)).

Clear Water Act, Section 404

EPA learned, during our December 10, 2023, briefing, that a small part of the proposed action off San Clemente Island involves laying a grid of cable on the sea floor to expand the hydrophone network. We learned that in the past, this activity was authorized under a CWA Section 404 Nationwide Permit. The DEIS should discuss how CWA Section 404 applies to the project and its expected permitting strategy. If the Corps of Engineers would require an individual CWA Section 404 permit, EPA will review the project for compliance with Federal Guidelines for Specification of Disposal Sites for Dredged or Fill Materials (40 CFR 230), promulgated pursuant to Section 404(b)(1) of the CWA (“404(b)(1) Guidelines”). Pursuant to 40 CFR 230, any permitted discharge into waters of the U.S. must be the least environmentally damaging practicable alternative available to achieve the project purpose so long as the alternative does not have other significant adverse environmental consequences.

Climate Change and Greenhouse Gases

Greenhouse gas emissions

The Council of Environmental Quality’s “Interim National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions and Climate Change” (88 FR 1196, January 9, 2023) is in effect, and we recommend it be referenced in the DEIS. The CEQ Guidance states that to ensure that Federal agencies consider the incremental contribution of their actions to climate change, agencies should quantify the reasonably foreseeable direct and indirect GHG emissions of their proposed actions and reasonable alternatives (as well as the no-action alternative) and could discuss significance by including a discussion of how the proposed action would help meet or detract from achieving relevant climate action goals and commitments, including Federal goals and international agreements⁸ or by providing other measures of context to describe the effects associated with those projected

⁸ Per CEQ Guidance, “Agencies also should discuss whether and to what extent the proposal’s reasonably foreseeable GHG emissions are consistent with GHG reduction goals, such as those reflected in the U.S. nationally determined contribution under the Paris Agreement. US commitments in the Paris Climate Agreement may be found at: <https://unfccc.int/sites/default/files/NDC/2022-06/United%20States%20NDC%20April%2021%202021%20Final.pdf>.

emissions in the NEPA analysis. Regarding the additional context, CEQ states that “In most circumstances, once agencies have quantified GHG emissions, they should apply the best available estimates of the social cost of GHGs (SC-GHG) to the incremental metric tons of each individual type of GHG emissions.”⁹ CEQ guidance indicates that “SC-GHG can assist agencies and the public in assessing the significance of climate impacts. This is a simple and straightforward calculation that should not require additional time or resources” (CEQ Guidance Section IV, B). CEQ indicates that other techniques can be used to provide context such as communicating a proposed action's GHG emissions in more familiar metrics such as household emissions per year, annual average emissions from a certain number of cars on the road, or gallons of gasoline burned.

When assessing the impacts of GHG emissions, CEQ dissuades agencies from comparing project emissions to global emissions, stating: “NEPA requires more than a statement that emissions from a proposed Federal action or its alternatives represent only a small fraction of global or domestic emissions. Such comparisons and fractions are not an appropriate method for characterizing the extent of a proposed action's and its alternatives' contributions to climate change.”

We understand it might be difficult to account for all emissions from training exercises, but an accounting may already exist that could be utilized for creating estimates. We note that the CEQ regulations provide for when there is insufficient information available - see 40 CFR 1502.21 - *Incomplete or unavailable information*. Specific direction is provided in 40 CFR 1502.21 (c) 1 through 4.

Climate change effects

When discussing climate change effects, the DEIS should identify that there are unique impacts of aviation emissions released at altitude. The impact of burning fossil fuels high in the atmosphere is approximately double that of burning the same fuels at ground level.¹⁰ In addition to carbon dioxide (CO₂) emissions, other factors increase the climate change impacts of aircraft emissions; the Intergovernmental Panel on Climate Change estimated aviation's total climate change impact could be from two to four times that of its CO₂ emissions alone. A research study found that two-thirds of the impact from aviation is attributed to contrails, NOx, water vapor, sulfate aerosol gases, soot, and other aerosols.¹¹ The remainder is due to the cumulative heat-trapping effects of long-lived CO₂ emissions.

Cumulative effects

As mentioned, climate change is having large effects on oceans. When evaluating project impacts to specific resources, include the cumulative stressors that are now playing on all ocean resources. This provides the context for the impacts and helps clarify the ability of the existing condition of the resource to absorb additional impacts from the project. We find that an effective presentation of cumulative effects is when the discussion occurs in each resource section following the description of project impacts, as opposed to a separate cumulative impacts section. The list of cumulative projects can be presented at the end of Chapter 2 or elsewhere.

⁹ According to CEQ guidance, “SC-GHG estimates allow monetization (presented in U.S. dollars) of the climate change effects from the marginal or incremental emission of GHG emissions, including carbon dioxide, methane, and nitrous oxide.”

¹⁰ See <http://web.mit.edu/aeroastro/sites/waitz/publications/Mil.paper.pdf>

¹¹ See <https://www.sciencedirect.com/science/article/pii/S1352231020305689?via%3Dihub>
<https://research.noaa.gov/2020/09/03/aviation-is-responsible-for-35-percent-of-climate-change-study-finds/>

Environmental Justice

The DEIS should discuss environmental justice in the context of the project areas, including impacts to subsistence fishers in all locations and for all effects impacting Native Hawaiian populations. We note that environmental justice is now evaluated based simply on disproportionate and adverse impacts per Executive Order 14096 - *Revitalizing Our Nation's Commitment to Environmental Justice for All*. The [Fact Sheet](#) that accompanied the E.O. indicates that “The Executive Order uses the term “disproportionate and adverse” as a simpler, modernized version of the phrase “disproportionately high and adverse” used in Executive Order 12898. Those phrases have the same meaning but removing the word “high” eliminates potential misunderstanding that agencies should only be considering large disproportionate effects.”

We recommend discussing the Administrations’ recently released *Ocean Justice Strategy*.¹² According to the Strategy, ocean justice derives from environmental justice, with a specific focus on the ocean, and seeks to address environmental justice concerns related to the use of the ocean for economic, cultural, spiritual, and recreational purposes, and food security. Ocean justice provides the opportunity to work towards repairing past harms and a lens through which to think through past, current, or future impacts to the ocean. It also provides a framework with which to improve the well-being of people in coastal communities and other communities connected to and dependent on the ocean.

Sea mounts are often preferred fishing locations in the broad ocean areas. Identify the approximate number of days per year that subsistence fishing would be affected for each subsistence fishing population. Avoiding these areas for training exercises will reduce some EJ-related subsistence fishing impacts, as well as impacts to other fishers and to fish and wildlife. Identify other modifications that could ease the burden of project impacts on vulnerable populations. Assess all EJ impacts in consultation with the affected community and identify in the DEIS the feedback the Navy received. Conclusions regarding EJ impacts must consider the input of the affected community (See Ocean Justice Strategy, Section 1.1). Local communities are often best equipped to understand their own unique needs, dynamics, and goals and to recommend appropriate solutions. We recommend against an EJ methodology that evaluates all resources for significance and then simply transfers conclusions of less than significant to the EJ impact discussion. Impacts to EJ-affected communities must be seen through a different lens; one that considers the preexisting vulnerabilities that affect how impacts are experienced.

The Navy may want to utilize the information in the EPA tool [EJ Screen](#). EJScreen is EPA’s nationally consistent environmental justice screening and mapping tool that offers a variety of powerful data and mapping capabilities that enable users to understand details about the population of an area and its environmental conditions. The tool provides information on environmental and socioeconomic indicators as well as pollution sources, health disparities, critical service gaps, and climate change data.

¹²Ocean Justice Strategy, December 2023. See <https://www.whitehouse.gov/wp-content/uploads/2023/12/Ocean-Justice-Strategy.pdf>

Tribal/Native Hawaiian Sacred Sites and Traditional Ecological Knowledge

The Bureau of Indian Affairs recently developed a Best Practices Guide¹³ for Federal agencies regarding tribal and Native Hawaiian sacred sites. This guide addresses indigenous knowledge and consultation requirements. We recommend the Navy include the feedback it has received from tribal and native Hawaiian populations in the DEIS and indicate how the Navy will be utilizing any indigenous knowledge shared or addressing any concerns identified.

Noise impacts to people

The utilization of the largely dormant Northern California Range will introduce new noise sources into the project area that have not been experienced previously. Assess noise impacts along expected flight paths and corridors, including from both aviation/aircraft, as well as surface vessels and the new amphibious landing areas. Present noise impacts in a manner that comports with how humans experience noise, and include maximum noise levels as well as averaging metrics. We note that the Government Accountability Office found that providing information on potential noise impacts grounded in average Day Night Level (DNL) was not clear enough for communities to understand planned changes.¹⁴ Ensure noise is not averaged over long quiet periods but represents sound as closely to what would be experienced by individuals as possible. Identify whether children would experience new noise and if so, assess impacts on children's schools and learning.

The EPA appreciates the opportunity to comment on preparation of the DEIS. When the Draft EIS is released for public review, please send an electronic copy to me at vitulano.karen@epa.gov. If you have questions, please contact me at (415) 947-4178 or by email.

Sincerely,

KAREN
VITULANO

Digitally signed by
KAREN VITULANO
Date: 2024.01.29
17:48:42 -08'00'

Karen Vitulano
Environmental Scientist
Environmental Review Branch

cc: Leah Davis, Office of Protected Resources, National Marine Fisheries Service
Cassidy Teufel, California Coastal Commission

¹³ BEST PRACTICES GUIDE For Federal Agencies Regarding Tribal and Native Hawaiian Sacred Sites. Available: https://www.bia.gov/sites/default/files/media_document/sacred_sites_guide_508_2023-1205.pdf

¹⁴ See <https://www.gao.gov/assets/gao-22-105844.pdf>

**COUNTY of VENTURA**

RESOURCE MANAGEMENT AGENCY
DAVE WARD
Planning Director

SUSAN CURTIS
Assistant Planning Director

January 29, 2024

Attention: HCTT EIS/ OEIS Project Manager
Naval Facilities Engineering Systems Command Pacific
258 Makalapa Drive, Suite 100
Pearl Harbor, HI 96860

**SUBJECT: Response to Notice of Intent to Prepare an Environmental Impact
Statement for the Hawaii- California Training and Testing**

Dear HCTT EIS/ OEIS Project Manager,

Thank you for providing the Ventura County Planning Division (Planning Division) with the opportunity to comment regarding the Notice of Intent to Prepare an Environmental Impact Statement (EIS) for the Hawaii-California Training and Testing Activity (Proposed Activity). The Planning Division coordinates with neighboring jurisdictions and provides review and comment on environmental documents prepared for projects that could affect the unincorporated area.

The EIS will assess the potential environmental effects associated with the Proposed Activity, which is a plan to conduct at-sea military readiness activities within the Hawaii-California Training and Testing (HCTT) Study Area. The Navy also proposes to modernize and sustain its ranges in a manner necessary to support these readiness activities. The Proposed Activity is needed to ensure U.S. military services are able to organize, train, and equip service members and personnel to meet their respective national defense missions. Modernization and sustainment proposals include new special use airspace in Southern California, an expansion of an underwater training range near San Clemente Island, and installation and maintenance of mine training areas off Hawaii and Southern California. The HCTT Study Area includes only at-sea components of the range complexes, Navy pierside locations and port transit channels. Bays, harbors, inshore waterways, and civilian ports where training and testing activities occur, as well as transits between homeports and operating areas.

Naval Base Ventura County Operations

Compatibility between military installations, adjacent land uses, and local communities is essential to protect military missions, the health of local economies and industries, and the quality of life for county residents. Ventura County General Plan Policy LU-21.4, as shown below, supports coordination with local jurisdictions to ensure military compatibility:

HALL OF ADMINISTRATION #1740

(805) 654-2481 • FAX (805) 654-2509 • 800 South Victoria Avenue, Ventura, CA 93009 • vcrma.org

Hawaii- California Training and Testing
January 29, 2024
Page 2 of 2

General Plan Policy LU-21.4 – *The County shall work to enhance communication and coordination with Naval Base Ventura County (NBVC) and other jurisdictions in the county to enhance public knowledge and access to information regarding military operations and compatibility challenges while adhering to operational security requirements.*

The Proposed Activity may include actions at Naval Base Ventura County (NBVC), and the Broad Ocean Area off the coast of Southern California. If the Proposed Activity would increase noise effects on the local community, such as an increased frequency of flights to the NBVC military installations, particularly if the flights will emit sonic booms or fly low over residential areas, please provide advanced notification to local residents through multiple communication methods and languages. The County's Public Information Officer may also be able to assist with some types of communications.

Thank you again for the opportunity to comment on this Notice of Intent to Prepare a Draft Environmental Assessment. If you have any questions about this letter, please contact Joel Hayes at Joel.Hayes@ventura.org or 805.654.2834.

Sincerely,



Dave Ward, AICP | Planning Director
County of Ventura, Planning Division

JOSH GREEN, MD.
GOVERNOR | KE KAĀĀNA
SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KAĀĀNA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL
RESOURCES DIVISION OF AQUATIC RESOURCES
1151 PUNCHBOWL STREET, ROOM 330
HONOLULU, HAWAII 96813

Date: 1/29/2024

DAR # AR 6538

DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
RYAN K. P. KANAKA'OLE
FIRST DEPUTY
DEAN D. UYENO
ACTING DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION BUREAU
OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

MEMORANDUM

TO: Brian J. Neilson
DAR Administrator

FROM: Catherine Gewecke, Aquatic Biologist *Catherine Gewecke*

SUBJECT: Request for Comments - Intent to Prepare an Environmental Impact
Statement (EIS) / Overseas EIS for Hawaii-California Training & Testing / Ref
#: 5090 Ser N46/0939

Request Submitted by: Department of the Navy
Hawaii-California Training and Testing (HCTT) Study Area

Location of Project: _____

Brief Description of Project:

The Department of the Navy (including both the U.S. Navy and the U.S. Marine Corps), in cooperation with the U.S. Coast Guard, U.S. Army, and U.S. Air Force, is preparing an EIS/OEIS to assess potential effects from conducting at-sea military readiness activities within the Study Area. The Proposed Action (consisting of sonar, missile/ artillery firing, mine training, etc.) is needed to ensure U.S. military services are able to organize, train, and equip service members and personnel to meet their respective national defense missions in accordance with their Congressionally mandated requirements; realistic training and testing are crucial for military readiness, personnel safety, and national defense.

Comments:

☐ No Comments ☒ Comments Attached

Thank you for providing DAR the opportunity to review and comment on the proposed project. Should there be any changes to the project plan, DAR requests the opportunity to review and comment on those changes.

Comments Approved: *Brian J. Neilson* Date: Jan 30, 2024
Brian J. Neilson
DAR Administrator

DAR# AR 6538

Brief Description of Project

The Department of the Navy (including both the U.S. Navy and the U.S. Marine Corps), in cooperation with the U.S. Coast Guard, U.S. Army, and U.S. Air Force, is preparing an EIS/OEIS to assess potential effects from conducting at-sea military readiness activities within the Study Area. The Proposed Action is needed to ensure U.S. military services are able to organize, train, and equip service members and personnel to meet their respective national defense missions in accordance with their Congressionally mandated requirements; realistic training and testing are crucial for military readiness, personnel safety, and national defense.

These military readiness activities (as previously described in the EIS conducted in 2017) include the use of active sonar and explosives at sea off the coasts of Hawaii and Southern California, on the high seas during vessel transit between these areas. The newly proposed actions include the following (note: some actions do not apply to Hawaii):

- 1) Continuing military training and testing activities
- 2) Modernizing and sustaining ranges in the Study Area
- 3) Adding a new special use airspace in Southern California
- 4) Expanding the Southern California underwater training range
- 5) Installing and maintaining mine training areas off Hawaii and Southern California

See attachment for maps of proposed training and testing areas in Hawaii.

Specific New Activities for Hawaii include the following:

- 1) Increased use of unmanned systems –air, surface, subsurface
- 2) Cable/sensor installation east of Kaneohe
- 3) Installation and maintenance of mine training shapes in Maui Basin
- 4) Missile/Artillery firing from PMRF
- 4) U.S. Air Force Air-to-Air Gunnery
- 5) Use of new vessels during amphibious landings

DAR# AR 6538

Comments

DAR requests that any previous or updated information relevant to the potential biological impacts to marine organisms (including marine mammals, sea turtles, fish, corals and other invertebrates, algae and live rock), resulting from continued or newly proposed training and testing activities be provided in the Draft EIS for review by DAR biologists (including biologists from Hawaii, Maui/Molokai/Lanai/Kahoolawe, Oahu and Kauai and Protected Species Program biologists). Updated information could include information from newly published studies, results of monitoring / biological reporting from past training/testing or any observations relevant to potential impacts to marine organisms/resources during past training/testing.

DAR also requests information on the range (min / max distances from land out to sea) of proposed missile / artillery firing from PMRF (Kauai) and information on the material type and disposition of ocean debris that may result from any type of missile / artillery firing, information on materials used for mine training and information on coral or live rock benthic cover in areas where mine training, amphibious landings or cable placement will be conducted.

DAR requests that the Department of the Navy pre-consult with local marine mammal researchers / organizations, which currently conduct research (or have conducted research in recent years) on marine mammals or sea turtles in Hawaii, and DAR biologists (including biologists from Hawaii, Maui/Molokai/Lanai/Kahoolawe, Oahu and Kauai, and Protected Species Program biologists), while preparing the draft EIS, to discuss and evaluate potential areas to conduct certain kinds of training, in order to attain lower potential behavioral, TTS and PTS takes for marine mammals and sea turtles or other potential impacts to marine organisms/resources.

The following researchers / organizations may have the most current information related to the status and distribution of select marine mammal species. These researchers / organizations include but are not limited to the following: Robin Baird (Cascadia Research Collective), Ed Lyman (Hawaiian Island Humpback Whale National Marine Sanctuary), Adam Pack (University of Hawaii at Hilo), Rachel Cartwright (Keiki Kohola Project), Jens Currie (Pacific Whale Foundation), Jim Darling (Whale Trust), Joseph Mobley (University of Hawaii), Lars Bejder or Paul Nachtigall (Marine Mammal Research Program - UH), Ann Zoidis (Cetos Research Organization), Christine Gabriele (Hawaii Marine Mammal Consortium), Jason Turner (University of Hawaii - Hilo), Bruce Mate (Oregon State University-Marine Mammal Institute).

DAR# AR 6538

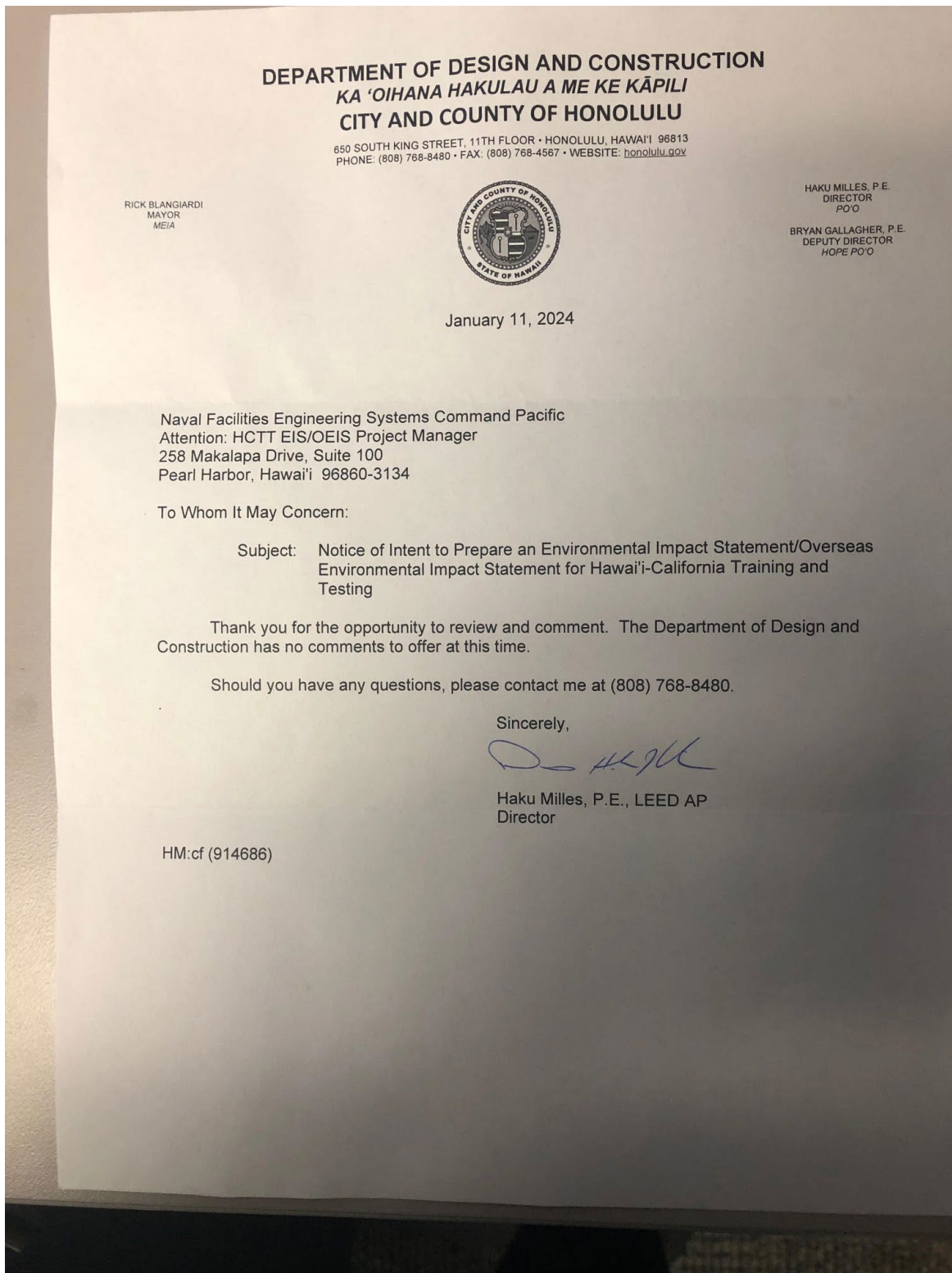
Comments

Note: Principle Investigators (PI) for each program / organization may have changed over time - please consult organizations directly for updated PI contact info.

DAR requests that the Navy integrate consideration of the vulnerable state of some cetacean populations in the Main Hawaiian Islands (MHI) (as discussed in the 2017 Draft EIS comments from DAR) including the MHI Insular Stock False Killer Whales (FKW), Kohala Resident Melon Headed Whales and potentially other species, while planning certain exercises and logistics.

Thank you for providing us the opportunity to review and comment on the Notice of Intent to Prepare an Environmental Impact Statement (EIS) / Overseas EIS for Hawaii-California Training & Testing. Should there be any changes, amendments or modifications to the current plans, DAR requests the opportunity to review and comment on those changes. DAR also requests the opportunity to review and comment on the Draft Environmental Impact Statement (DEIS) / Overseas DEIS for Hawaii-California Training & Testing, when completed.

1 L.1.3 Postal Mailed Comments



Scoping comments by Kenneth A. Martyn
January 29, 2024

Hawaii-California Training and Testing ("HCTT")

I reside on the North Shore of the Island of Oahu. I am primarily concerned with the possible effects of the proposed continuation of the HCTT in Hawaii, and the need for careful study of the possible adverse effects of the HCTT on marine mammals, coral reefs, and other aquatic life in Hawaii.

In particular, I think it is important for the Draft EIS to give careful and detailed consideration of the possible effects on marine mammals, coral reefs, and other aquatic life from the active sonar, explosives and other sources of underwater sound, and to the possible effects of any electromagnetic discharges or stray electricity (including without limitation, microwave communication electrical energy), that may result from the proposed and continued HCTT "training and testing" that will be the subject of the Draft EIS/OEIS.

This should include careful consideration of the work by marine biologist Terry Lilley on the possible negative effects of the past military activities similar to the proposed HCTT on coral reefs in Hawaii, which also then may have possible adverse effects on the sandy beaches in Hawaii. Some of this work by Terry Lilley, which should be considered, is described in the following two URL sites:

<https://www.youtube.com/watch?v=NCOVciuYjg8> (especially the portions of this video from minutes 2:30 to 7:45).

<https://yourpositiveimprint.com/episodes/electromagnetic-energy-killing-hawaii-coral-reefs-marine-biologist-terry-lilley/> (especially the portions of this interview from minutes 19:54 to about 24:17).

The extensive data that that marine biologist has collected via underwater photography in Hawaii over many years should also be given careful consideration, along with any other available scientific data or analysis by other scientists, including marine scientists from the University of Hawaii.

The Draft EIS/OEIS should also consider various possible ways to mitigate possible adverse effects, and risks of possible adverse effects of the HCTT, including possibly restricting the HCTT (or some particular HCTT "training and testing" activities) to areas greater than 30 nautical miles and/or greater than 50 nautical miles from the island of Oahu.

Given the very large economic value, and cultural value, of Hawaii's coral reefs and sandy beaches, it is important to err on the side of caution before conducting any activities that may have any significant adverse effects on Hawaii's coral reefs and sandy beaches.

This should include the careful consideration in the Draft EIS/OEIS of the possible cumulative effects of the combination of the HCTT plus other likely stressors on Hawaii's coral reefs, such as warming ocean water, and ocean water pollution from various sources.

I also request that I receive notification of the Draft EIS/OEIS (and access to a copy of it) as soon as it is available. My e-mail address for sending me that notification is: kmhawhome-NEPA@yahoo.com

I attempted to submit these scoping comments via the website www.nepa.navy.mil/hctteis/ at about 8:45 pm PST time (6:45 pm HAST) on January 29, 2024, but that website said the scoping comment period had ended, and it would not accept my comments, even though the public announcement said the scoping comment period would end at 11:59 pm PST. So I will attempt to get this paper copy post marked at the Honolulu Airport Post Office before they close at 8 pm HST (10 pm PST).

NORTHWESTERN HAWAIIAN ISLANDS CORAL REEF ECOSYSTEM RESERVE RESERVE ADVISORY COUNCIL

Non-Government (Voting)

Douglas Fetterly
Citizen-At-Large
Linda Paul
Conservation
Robin Baird
Conservation
Samuel M. 'Ohukani'ōhi'a Gon, III
Conservation
Bonnie Kahapea-Tanner
Education
Solomon Pili Kaho'ohalahala
Native Hawaiian Elder
Pelika Andrade
Native Hawaiian
Kainalu Steward
Native Hawaiian
Thorne Abbott
Ocean Related Tourism
Rick Hoe
Recreational Fishing
Mark Hixon
Research
Don Schug
Research
Haunani Kane
Research

Government (Non-Voting)

Eric Roberts
Papahānaumokuākea MNM
Kim Hum
HIHAW National Marine Sanctuary
Malia Chow
NMFS - PIRQ
Brandon Jim ON
NMFS - OLE
Kealoha Pisciotto
Office of Hawaiian Affairs
Jared Underwood
USFWS - Refugees
Dan Polhemus
USFWS- Ecological Services
Brian Neilson
DLNR - DAR
Cynthia Vanderlip
DLNR - DOFAW
Joshua DeMello
WESPAC
Emily Hauck
US Navy
Maile Norman
US Coast Guard
Peter Thomas
Marine Mammal Commission

Naval Facilities Engineering Command Pacific
Attention: HCTT EIS/OEIS Project Manager
258 Makalapa Drive, Suite 100
Pearl Harbor, HI 96860-3134

January 29, 2024

RE: SCOPING FOR ENVIRONMENTAL IMPACT STATEMENT/OVERSEAS
ENVIRONMENTAL IMPACT STATEMENT FOR THE UNITED STATES
DEPARTMENT OF THE NAVY'S HAWAII CALIFORNIA TRAINING AND
TESTING

To Whom it May Concern:

We write to you as the Northwestern Hawaiian Island Coral Reef Ecosystem Reserve Advisory Council (RAC) to provide comments regarding scoping for the United States Department of the Navy's Draft Hawaii-California Training and Testing (HCTT) Environmental Impact Statement/Overseas Environmental Impact Statement. The RAC is an advisory group to the Office of National Marine Sanctuaries consisting of representatives from various stakeholder groups, governmental agencies, and Native Hawaiian representatives. It includes fishing, business, conservation, science, education, and Kupuna interests.

On January 29, 2024, the RAC had a meeting at which time the preparation of the HCTT Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) was discussed.

Full compliance with the National Environmental Policy Act ("NEPA"), 42 U.S.C. 4321 et seq., is vital to ensuring that marine mammals and other marine life are protected from unnecessary harm. As Congress intended when it passed NEPA, the U.S. Navy is required to employ rigorous standards of environmental review, including a comprehensive analysis of all practical alternatives, a full explanation of potential impacts, a reasonable and objective accounting of cumulative impacts, and a thorough description of mitigation measures that will significantly lessen environmental impacts.

The RAC requests the following to be included in a Cumulative Impact Analysis:

- Assessment of the impacts of deep sea mining
- Take of marine mammals by foreign vessels involved in military training
- Assessment of areas where impacts have occurred in the past or are likely to occur to help inform future potential impacts
- Impacts on Native Hawaiian cultural resources and connection to the ocean
- NHPA Section 106 Consultation with Native Hawaiians, see 36 CFR §800.4(c)(1)
- Discussion on marine debris and related impacts such as increased entanglement, and unexploded ordnance removal, including that of all participants included in the exercise

NORTHWESTERN HAWAIIAN ISLANDS CORAL REEF ECOSYSTEM RESERVE RESERVE ADVISORY COUNCIL

Non-Government (Voting)

Douglas Fetterly
Citizen-At-Large
Linda Paul
Conservation
Robin Baird
Conservation
Samuel M. 'Ohukani'ōhi'a Gon, III
Conservation
Bonnie Kahapea-Tanner
Education
Solomon Pili Kaho'ohalahala
Native Hawaiian Elder
Pelika Andrade
Native Hawaiian
Kainalu Steward
Native Hawaiian
Thorne Abbott
Ocean Related Tourism
Rick Hoo
Recreational Fishing
Mark Hixon
Research
Don Schug
Research
Haunani Kane
Research

Government (Non-Voting)

Eric Roberts
Papahānaumokuākea MNM
Kim Hum
HIHW National Marine Sanctuary
Malia Chow
NMFS - PIRO
Brandon Jim ON
NMFS - OLE
Kealoha Pisciotto
Office of Hawaiian Affairs
Jared Underwood
USFWS - Refugees
Dan Polhemus
USFWS- Ecological Services
Brian Neilson
DLNR - DAR
Cynthia Vanderlip
DLNR - DDFAW
Joshua DeMello
WESPAC
Emily Hauck
US Navy
Maile Norman
US Coast Guard
Peter Thomas
Marine Mammal Commission

The RAC requests a review of these proposed areas as smaller subdivisions for evaluation. For example, the Southern California area differs from the Hawaiian archipelago in terms of impact and mitigation needed.

These are just a few examples of issues for consideration and reassessment, and are in no way comprehensive.

Thank you for your consideration of this matter. We look forward to receiving detailed information on the EIS.

Sincerely,



Linda Paul
Chair, Reserve Advisory Council

The Council is an advisory body to the Reserve/NOAA Monument superintendent. The opinions and findings of this document do not necessarily reflect the position of the Reserve, the Monument, or the National Oceanic and Atmospheric Administration.



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Marine Region
1933 Cliff Drive, Suite 9
Santa Barbara, CA 93109
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



January 29, 2024

Naval Facilities Engineering Systems Command Pacific
Attention: HCTT EIS/OEIS Project Manager
258 Makalapa Drive, Suite 100
Pearl Harbor, HI 96860-3134
www.nepa.navy.mil/hctteis/

**HAWAII-CALIFORNIA TRAINING AND TESTING ACTIVITIES
NOTICE OF INTENT OF A DRAFT ENVIRONMENTAL IMPACT
STATEMENT/OVERSEAS ENVIRONMENTAL IMPACT STATEMENT**

Dear HCTT EIS/OEIS Project Manager:

The California Department of Fish and Wildlife (Department) received a Notice of Intent (NOI) of a Draft Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) from the Department of the Navy (Navy) for the Hawaii-California Training and Testing Activities (Project).

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that the Department, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

DEPARTMENT ROLE

The Department is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the state (Fish and Game Code, Section 711.7, subd. [a] & 1802; Public Resources Code, Section 21070; CEQA Guidelines Section 15386, subd. [a]). The Department, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., Section 1802). Similarly for purposes of NEPA, the Department, under its Trustee authority, provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources. The Department is also responsible for marine biodiversity protection under the Marine Life Protection Act in coastal marine waters of California and ensuring fisheries are sustainably managed

Conserving California's Wildlife Since 1870

Naval Facilities Engineering Systems Command Pacific
Attention: HCTT EIS/OEIS Project Manager
January 29, 2024
Page 2 of 7

under the Marine Life Management Act. Pursuant to our jurisdiction, the Department has the following comments and recommendations regarding the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Department of the Navy

Objective: The primary objective of the proposed Project is to ensure that U.S. military services are able to organize, train, and equip service members and personnel to meet their respective national defense missions in accordance with their Congressionally mandated requirements, and advance joint interoperability in Navy led exercises with other military service. The Navy plans to address environmental impacts associated with ongoing military readiness activities, which include training and research, development, testing and evaluation activities within the Hawaii-California Training and Testing Study Area (Study Area). Proposed training and testing activities may include the use of active sonar, explosives, and other sources of underwater sound. Modernization and sustainment proposals include new special use airspace in Southern California, an expansion of an underwater training range near San Clemente Island, and installation and maintenance of mine training areas off Hawaii and Southern California.

Location: The Study Area consists of the at-sea components of the Hawaii Operating Area (OPAREA) and Temporary OPAREA, the California OPAREA, and the transit corridor connecting the two. This includes areas along the Southern and Central California coastline, including the marine environment around San Nicolas Island, and the Northern California Range Complex. The Study Area also includes in-water areas of San Diego Bay, Port Hueneme, and Pearl Harbor, including select pier side facilities associated with Navy ports and naval shipyards, as well as four amphibious approach lanes along the central coast, providing land access from the Northern California Range Complex and Point Mugu Sea Range.

Timeframe: The NOI did not note when implementation of the Project would go into effect, however, the record for decision on the Final EIS/OEIS is anticipated to occur late 2025.

BIOLOGICAL SIGNIFICANCE

Discussion and Comment: California waters support many resident and migratory fish and special status wildlife, such as seabirds, marine mammals, and sea turtles. The marine and coastal habitats include the sandy seafloor, beaches, kelp forests, estuaries, seagrass meadows, and rocky reef. This variety of habitats provide fish and wildlife with nursery grounds, shelter, and areas to forage and reproduce, supporting the state's coastal economy, including numerous commercial and recreational fisheries.

Naval Facilities Engineering Systems Command Pacific
Attention: HCTT EIS/OEIS Project Manager
January 29, 2024
Page 3 of 7

COMMENTS AND RECOMMENDATIONS

The Department offers the comments and recommendations below to assist the Navy in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife resources.

Biological Resources within the Area of Potential Effect

1. Include the following discussions from the standpoint of the protection of marine plants and animals:
 - a) A complete discussion along with maps and diagrams of the proposed testing areas including all staging areas and access routes.
 - b) A range of feasible alternatives to ensure that the proposed testing areas are fully considered and evaluated; the alternatives should avoid or otherwise minimize impacts to sensitive species and their essential habitats and any state or federally listed species. Specific alternative locations should be evaluated in areas with lower biological species or habitat sensitivity compared with the preferred or existing locations.
2. Provide a complete assessment of the flora and fauna within and adjacent to the Study Area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and their habitats. The Draft EIS/OEIS should include the following information:
 - a) Information on the regional setting is critical to an assessment of environmental impacts, with special emphasis placed on resources that are rare or unique to the region. Examples include:
 - i) Green sea turtles are resident foragers in San Diego Bay (unique to the region).
 - ii) California grunion (*Leuresthes tenuis*) spawning grounds and Pismo clam (*Tivela stultorum*) beds are locally and/or regionally unique on central and southern California beaches.
 - iii) Southern sea otters (*Enhydra lutris nereis*) are endemic to California's central coast from San Mateo County to Santa Barbara County and San Nicholas Island.
 - b) An updated inventory of the biological resources associated with each habitat type on site and within the area of potential explosion or sonar effects. The Department's California Natural Diversity Database (CNDDDB) at <https://wildlife.ca.gov/Data/CNDDDB> and Marine BIOS at <https://wildlife.ca.gov/Conservation/Marine/GIS/MarineBIOS> have publicly available data on previously reported listed, rare or sensitive species or habitats

Naval Facilities Engineering Systems Command Pacific
Attention: HCTT EIS/OEIS Project Manager
January 29, 2024
Page 4 of 7

including sensitive marine fish, invertebrates, seabirds, sea turtles, and marine mammal species. The Department is available for any questions on California marine resources and recommends reaching out to other state and federal agencies to obtain additional current information on important California marine resources.

- c) Focused species-specific surveys, conducted at the appropriate time of year and time of day when the species are active or otherwise identifiable, are recommended. Acceptable species-specific survey procedures should be developed in consultation with the Department, U.S. Fish and Wildlife Service and the National Marine Fisheries Service. These surveys should include endangered, threatened, sensitive, and locally unique species, including but not limited to the examples stated in 2a.
- d) Marine Life Protection Act (MLPA): The Study Area may potentially conflict with the MLPA (Title 14 Section 632), which resulted in the creation of California's existing network of Marine Protected Areas (MPAs). MPAs are named, discrete geographic marine or estuarine areas designed to protect and conserve marine life, habitats, and ecosystems. The Study Area should be searched to determine if it overlaps any MPAs, including State Marine Reserves (SMR), State Marine Conservation Areas (SMCA), State Marine Recreational Management Areas (SMRMA), and State Marine Parks (SMP). A Special Closure (SC) is a unique designation used by the Fish and Game Commission under Title 14 Section 632 and is also part of the MPA network. The Draft EIS/OEIS should include a detailed discussion of what activities are proposed in MPAs.
- e) Fully Protected Species: The Department has jurisdiction over fully protected species pursuant to Fish and Game Code Sections 3511, 505, 4700, and 5515. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except for collecting these species for necessary scientific research and certain relocation situations. Therefore "take" of any fully protected animal species is prohibited and must be avoided where take is likely. Fully protected marine species that may occur in the testing areas include: the southern sea otter (*Enhydra lutris nereis*), northern elephant seal (*Miroinga angustirostris*), Guadalupe fur seal (*Arctocephalus townsendi*), North Pacific right whale (*Eubalaena japonica*), and the California least tern (*Sterna antillarum browni*). The Department maintains a list of fully protected species that can be found on the Department's web site: <https://wildlife.ca.gov/Conservation/Fully-Protected>
- f) Endangered Species: The California Endangered Species Act (CESA) is a California environmental law that conserves and protects plant and animal species at risk of extinction (Fish and Game Code Section 2050 et seq.). A CESA-listed species, or any part or product of the plant or animal, may not be

Naval Facilities Engineering Systems Command Pacific
Attention: HCTT EIS/OEIS Project Manager
January 29, 2024
Page 5 of 7

imported into the state, exported out of the state, "taken" (i.e., killed), possessed, purchased, or sold without proper authorization. If the Project may impact CESA listed species, early consultation with the Department is recommended, as modification to the Project and mitigation measures should be incorporated into the Draft EIS/OEIS. Additional information on CESA and CESA-listed species can be found at: <https://wildlife.ca.gov/Conservation/CESA>.

Analyses of Potential Impacts on Marine Biological Resources

3. Provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures and monitoring programs to offset such impacts. The following should be fully evaluated in the Draft EIS/OEIS:
 - a) An analysis and discussion of potential adverse impacts from sonar, explosions, lighting, noise, human activity, exotic species, and oil spills should be included. Mitigation measures and best management practices proposed to alleviate such impacts should be included.
 - b) An analysis of potential indirect impacts on biological resources, nearby MPAs, adjacent natural habitats and ecosystems, and wildlife movement/migration areas, including access to undisturbed habitats in adjacent areas.
 - c) Testing areas that are within or nearby MPAs may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the Draft EIS/OEIS.
 - d) A cumulative sonar and explosive effects analysis should be developed for local populations of marine fish communities, invertebrates, seabirds, sea turtles, and mammals where appropriate. General and specific plans, as well as past, present, and anticipated future plans for testing, should be analyzed relative to their impacts on marine life communities, habitats, and ecosystems.
 - e) Long-term fish assemblage monitoring in the nearshore and other marine life communities monitoring are appropriate to detect long term cumulative effects from sonar or detonation testing. An adequate monitoring frequency should be developed to detect changes or trends over time within and adjacent to the testing areas.
 - f) A commercial and recreational fisheries analysis that focuses on impacts to both federally and state-managed species and associated habitats should be included. The analysis should include anticipated changes to the fishing fleets' ability to access fishing grounds due to the Project. The Department recommends that the Navy consult the Department, commercial and recreational

Naval Facilities Engineering Systems Command Pacific
Attention: HCTT EIS/OEIS Project Manager
January 29, 2024
Page 6 of 7

fishermen, the National Marine Fisheries Service, the Pacific Fishery Management Council, and relevant data sources such as the California Cooperative Oceanic Fisheries Investigations (CalCOFI) larval fish data sets regarding potential impacts to fisheries from the Project.

Mitigation for Marine Biological Impacts

4. Canopy kelp (*Macrocystis pyrifera*), eelgrass (*Zostera* spp.) beds, and rocky reefs are sensitive marine habitats that occur or may occur in the Project area. These habitats have been designated as habitat areas of particular concern (HAPC) within the Pacific Coast Groundfish Fishery Management Plan under the Magnuson-Stevens Fishery Conservation and Management Act. HAPC, a subset of Essential Fish Habitat, are habitats of special importance to fish populations due to their rarity, vulnerability to development and anthropogenic degradation, and/or ability to provide key ecological functions. Canopy kelp and eelgrass have some of the highest primary productivity in the marine environment and provide a significant contribution to the marine and estuarine food webs. Native eelgrass species create large beds beneficial for fish habitat and have been identified as special aquatic sites and given protections by the Clean Water Act. Additionally, the importance of eelgrass protection and restoration, as well as the marine ecological benefits of eelgrass, is identified in the California Public Resources Code (PRC §35630). The Department uses the [California Eelgrass Mitigation Policy \(CEMP\)](#) (NOAA 2014), developed by the National Marine Fisheries Service (NMFS), for guidance on identifying eelgrass impacts, eelgrass mitigation measures and compensation, and for identifying appropriate eelgrass mitigation and donor sites. The proposed Project's plans and activities should avoid and minimize potential impacts to sensitive marine habitats, including canopy kelp, eelgrass beds, and rocky reefs, to the greatest extent possible. The Draft EIS/OEIS should include measures to fully avoid and otherwise protect regionally rare marine life communities and their habitats and MPAs from testing related impacts. The Department considers these habitats as having both regional and local importance.
5. The Draft EIS/OEIS should include mitigation measures for adverse impacts to sensitive marine plants, animals, and habitats. Mitigation measures should emphasize avoidance and minimization (reduced frequencies) of testing impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If compensation is not feasible or would not be biologically viable, and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be considered and discussed.
6. For proposed preservation and/or restoration, the Draft EIS/OEIS should include measures to perpetually protect the targeted habitat values from direct and indirect negative impacts. The objective should be to offset the habitat's qualitative or

Naval Facilities Engineering Systems Command Pacific
Attention: HCTT EIS/OEIS Project Manager
January 29, 2024
Page 7 of 7

quantitative losses of marine water or bottom habitat values. Issues that should be addressed include restrictions on access, monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc.

CONCLUSION

The Department appreciates the opportunity to comment on the NOI to assist the Navy in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Leslie Hart and Amanda Canepa, Environmental Scientists at R7CEQA@wildlife.ca.gov.

Sincerely,



Becky Ota
Habitat Conservation Program Manager
Marine Region

ec: Becky Ota, Program Manager
Department of Fish and Wildlife

Eric Wilkins, Senior Environmental Scientist
Department of Fish and Wildlife

Office of Planning and Research, State Clearinghouse
State.Clearinghouse@opr.ca.gov

PHONE (808) 594-1888

FAX (808) 594-1938



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HWY., SUITE 200
HONOLULU, HAWAII 96817

January 22, 2024

Naval Facilities Engineering Systems Command Pacific
ATTN: HCTT EIS/OEIS Project Manager
258 Makalapa Drive, Suite 100
Pearl Harbor, HI 96860-3134

Re: Notice of Intent to Prepare an EIS/Overseas EIS (NEPA)
Hawai'i-California Training and Testing Study Area

Aloha:

The Office of Hawaiian Affairs (OHA) is in receipt of your Notice of Intent (NOI) December 7, 2024, letter seeking comments on the scope of the Department of the Navy (DON) Hawai'i-California Training and Testing (HCTT) Environmental Impact Statement (EIS)/Overseas EIS (OEIS) to assess potential environmental effects associated with the proposed action to conduct at-sea military readiness activities within the HCTT study area. The United States (U.S.) DON will be preparing this EIS/OEIS in accordance with the National Environmental Protection Act (NEPA). The NOI states that the current proposed activities are similar in scope to what was assessed in the 2018 HCTT EIS/OEIS. Thus, the new EIS/OEIS is characterized as a "follow on" NEPA analysis to support renewal of current Federal regulatory permits and authorizations that expire in December of 2025.

Proposed activities include training and research (i.e., sonar, explosives, and other underwater sounds), development, testing, and evaluation within the Hawaii Operating Area, the California Operating Area, and the Pacific Ocean transit corridor connecting the two. The DON further proposes to modernize and sustain its ranges in a manner to support these readiness activities. This will include new special use airspace in Southern California, an expansion of an underwater training range near San Clemente Island, and installation and maintenance of mine training areas off Hawai'i and Southern California.

The OHA is the constitutionally established body responsible for protecting and promoting the rights of Native Hawaiians.¹ OHA has substantive obligations to protect the cultural and natural resources of Hawai'i for its beneficiaries.² Accordingly, OHA is

¹ Haw. Const. Art. XII Sec. 5.

² See HRS § 10.

NAVFAC Pacific
NEPA Public Scoping – HCTT EIS/OESIS
January 22, 2024
Page 2 of 7

required to (1) serve as principal public agency in the State of Hawai‘i responsible for the performance, development and coordination of programs and activities relating to native Hawaiians and Hawaiians; (2) assess the policies and practices of other agencies impacting native Hawaiians and Hawaiians; and (3) conduct advocacy efforts for native Hawaiians and Hawaiians.³

OHA provides the following comments pertaining updated studies, marine sanctuaries, incidental take, cumulative impacts, and consultation planning:

Updated Studies

In review of the 2018 EIS/OEIS, OHA observes that most of the studies pertaining to marine mammal populations and migratory patterns relied on studies that took place between 2011 to 2015. Section 3.7 details that the information was used to determine seasonal mitigation areas that were developed in coordination with the National Marine Fisheries Service. The section further mentions that “Navy funded efforts” as being underway to further improve understanding and ability to predict how stressors ultimately effect marine mammal populations. OHA is further aware that the DON applied to increase the incidental take of large whales from 3 to 5 per year in 2021.

OHA would expect that the most up-to-date studies will be used in the forthcoming draft EIS/OEIS, with a clear discussion on how the DON’s understanding of populations and migrations have changed (or not) since publication of the 2018 EIS/OEIS. With a projected publication of a draft EIS/OEIS in 2024, some of the studies referenced in the 2018 EIS/OEIS would be a decade old or more. The draft EIS/OEIS should further provide updates on the mentioned “Navy funded efforts” in the 2018 EIS/OEIS and share how such information has changed (or not) the DON’s understanding and ability to predict how stressors effect marine mammal populations. While OHA specifically calls out examples pertaining to marine mammal population studies, our comment should be applicable to any study referenced as part of the assessment of impacts to all environmental components. In other words, the DON should always be using the most up to date information as possible and consistently provide discussion on how conditions and subsequent mitigation measures have changed (or not) or will change (or not).

Marine Sanctuaries

In the Culture Resources discussion, Section 3.10, of the 2018 EIS/OEIS, OHA observes that Papahānaumokuākea is actually discussed as a World Heritage Site within the context of National Historic Preservation Act Section (NHPA) 106 compliance. The monument was described as being within the Temporary Operating Area of the Hawai‘i Range Complex and that it could be susceptible to sonic booms or utilized for emergency situations. However, an emphasis was placed on the fact that no actual physical activities

³ HRS § 10-3.

NAVFAC Pacific
NEPA Public Scoping – HCTT EIS/OESIS
January 22, 2024
Page 3 of 7

would occur in the monument area (unless there was an emergency), and that any possible impacts to cultural voyaging or wayfinding would be temporary. OHA believes the DON should reasonably disclose what qualifies as an emergency and what actions could occur in Papahānaumokuākea or any marine sanctuary as part of the NEPA process.

OHA does appreciate inclusion of the Papahānaumokuākea monument within the discussion of NHPA Section 106 compliance given the area's cultural importance and presence of numerous historic properties. However, we do question why other marine sanctuaries with similar characteristics within both the Hawai'i operating area (HOA) and California operating area (COA) were omitted. For example, both the South Molokai Reef and the Hawaiian Islands Humpback Whale National Marine Sanctuary are within the HOA. Notably, the South Molokai Reef has been described as a national treasure and is currently home to a number of historic fishponds. Further, it is believed to be sacred to Hina, the Hawaiian akua of the Moon. In regards to the COA, the Channel Islands National Marine Sanctuary exists off the coast of Southern California, which also hosts a number of cultural resources that are important to the Chumash tribe.⁴ If not already done so, the Chumash, Pomo, Ohlone, Makah, and any other Pacific Coast tribes should be invited to consult as part of NEPA and NHPA processes. These sanctuaries should be included as part of the NEPA analysis and NHPA discussion as they are comprised of historic and cultural resources.

OHA further advises that these sanctuaries be evaluated as traditional cultural properties (TCP). Per the National Park Service's National Register Bulletin No. 38, a TCP is defined as:

"A property that is eligible for inclusion in the National Register of Historic Places because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community."

In specific regards to Papahānaumokuākea, it is a sacred place to Native Hawaiians that supports a diversity of life, including hundreds of native species and the largest extent of coral reefs in the archipelago.⁵ The ancient belief system of Hawai'i still exists and acknowledges the island of Mokumanamana³ as the potent portal that presides at the boundary between pō and ao. This boundary is the northern limit of the sun's journey on the horizon, the Tropic of Cancer, reverently referred to as Ke Alanui Polohiwa a Kāne, the dark glistening path of Kāne, whose kinolau as Kānehoalani details the sun and its movements on the horizon. Nihoa and Mokumanamana collectively contain more than 140 archaeological sites that evince the unique agricultural, religious, and settlement efforts

⁴ The Channel Islands National Marine Sanctuary has a Chumash community working group informing its sanctuary advisory council.

⁵ See Mai Ka Po Mai, A Native Hawaiian Guidance Document for the Management of Papahānaumokuākea Marine National Monument, prepared by OHA in 2021.

NAVFAC Pacific
NEPA Public Scoping – HCTT EIS/OESIS
January 22, 2024
Page 4 of 7

of Native Hawaiians in this region. There is no question that Papahānaumokuākea would qualify as a TCP.

Similarly, its OHA's understanding that the other sanctuaries within the HOA and COA are utilized by cultural practitioners and contain numerous historic and cultural resources; thus, we do not see why these sanctuaries would not at least be considered as eligible for the National Register of Historic Places as TCPs as well.

Incidental Take

As mentioned above in our first comment, the DON had to increase their take of large whales due to incidences in 2021 in which two separate Navy vessels struck whales off the coast of Southern California in June and July. Separately, a foreign vessel struck two fin whales off the coast earlier in May 2021. Originally, the National Oceanic and Atmospheric Administration (NOAA) issued a take of 3 large whales per year, but had to increase this authorization to 2 additional whales per year for DON activities spanning 2018 to 2025.

To Hawaiians, whales are the largest ocean manifestation of the Hawaiian akua (god), Kanaloa – akua of the ocean realm, voyaging, ocean animals, and fresh underground water.⁶ Some of his other forms or kinolau are known to include the nihi (white shark), he'e (octopus), hihimanu (sting ray), honu (turtle), and nai'a (dolphin). Kanaloa is one of the four major akua kāne (male gods) – Kāne, Kanaloa, Kū, and Lono. He is arguably the most common deity across Oceania with various names (e.g., Tangaroa, Takaroa, Tagaloa, Ta'aroa). Kanaloa was the creator of the world and superior god in many parts of Polynesia (e.g., Marquesas, New Zealand) except Hawai'i.⁷ While not viewed as prominent throughout all of Hawai'i, it is believed that Kanaloa's importance was more pronounced on Lanai, Molokai, Maui, and Kaho'olawe. Coincidentally, these islands are also the same islands in which whales were found in significant numbers during the mid to late 19th century.⁸

Further alarming to OHA is the current incidental take authorization issued by NOAA that allows a cumulative take in the thousands of marine mammal species. According to a complaint filed by Earth Justice in December 2013,⁹ "National Marine

⁶ See Libo, Susan A. 2010. *A Local Perspective of Hawaii's Whaling Economy: Whale Traditions and Government Regulation of the Kingdom's Native Seamen and Whale Fishery*. Bishop Museum, Honolulu, Hawaii.

⁷ See McKinzie, edit. N.D. *N a Mo'i o Kaho'olawe: The Administrators of Kaho'olawe*. Kaho'olawe Island Conveyance Commission, Consultant Report No. 15.

⁸ See Herman, Louis. 1979. Humpback Whales in Hawaiian Waters: A Study in Historical Ecology. *Pacific Science*, Vol 33, No 1. University Press of Hawaii.

⁹ Sese Conservation Council for Hawai'i, a non-profit corporation Animal Welfare Institute, a non-profit corporation; Center for Biological Diversity, a non-profit corporation; and Ocean Mammal Institute, a non-profit corporation, v. National Marine Fisheries Service; United States Department of Commerce; Penny Pritzker, Secretary of Commerce.

NAVFAC Pacific
NEPA Public Scoping – HCTT EIS/OESIS
January 22, 2024
Page 5 of 7

Fisheries determined that, over the next five years, the Navy's use of sonar, other active acoustic sources and explosives for training and testing in the [Hawai'i-Southern California Training and Testing] HSTT Study Area will likely result in the deaths of up to 140 marine mammals, cause permanent injury to more than 2,000 additional marine mammals, and inflict additional harm to marine mammals nearly 9.6 million times by disrupting vital behaviors such as migration, nursing, breeding, feeding, and sheltering." The take of Kanaloa is overwhelming.

OHA expects the matter pertaining to the DON's request for an increase in incidental take to be fully discussed within the EIS/OEIS as well as resolution on any filed complaints related to incidental take. The most up to date studies should be used to provide the most accurate incidental take request going forward. All efforts should be made to minimize take as much as possible, with a clear indication in the EIS/OEIS of how this is demonstrated. While administratively another incidental take could be requested if projected numbers are off again, this is not a preferable outcome nor a means to instill trust in the DON's research and modeling. As the kinolau of one of our akua, the DON must take more care to honor their commitments to not take more than is needed from Kanaloa.

Cumulative Impacts

OHA recommends that the DON's consideration of the cumulative impacts at a minimum must consider activities that are of an extraction nature (i.e., deep-sea mining) and that would further frustrate any kind of recovery and protection such as the following: the longliner fishing fleets (foreign and domestic) that harbor in Honolulu; the Aquarium Trade as it is extractive and effects near shore ocean life; and, Rim of the Pacific Exercise (RIMPAC) and other related exercises that occur by any of the other armed forces operating in Hawaiian waters and or on land that impact our fresh water and ocean systems. By cumulative, OHA specifically means the cumulative impact on any and all lifeforms, sacred places and spaces, and the health and wellbeing of all natural and cultural resources that will be affected by the DON's proposed training activities and modernization efforts.

In review of the 2018 EIS/OEIS, Table 4.2-1, activities like the aquarium trade, foreseeable future deep-sea mining activities¹⁰, and annual RIMPAC activities do not appear to be acknowledged as a source of possible cumulative impacts. While commercial fishing is discussed, a greater level of specificity should be included to directly address longliner fishing, both from foreign and domestic parties.

The 2018 EIS/OEIS further mentions that the "quality" of information on past, present and reasonably foreseeable actions varies and that quantifications were done where possible. In the absence of quantitative data, a "qualitative assessment" was made by "professional judgement and experience." The document appears to concede that given the large-scale study area, that "analysis of the incremental contribution of cumulative

¹⁰ Canadian based "The Metals Company" planned operations in the Clarion-Clipperton Zone and Honolulu Harbor.

NAVFAC Pacific
NEPA Public Scoping – HCTT EIS/OESIS
January 22, 2024
Page 6 of 7

stress that the proposed action may have on a given resources is largely qualitative and speculative.” OHA finds this situation unfortunate as essentially DON training activities are continuing without solid quantitative analysis and potentially without appropriate mitigations. Minimally, the DON should indicate in the document, especially in regards to cumulative impacts, where quantitative data is used versus qualitative. If findings and information are speculative, then the DON must call out where such speculation exists. The DON should then indicate ways in which quantitative and non-speculative data can be obtained through additional research or a means of appropriate monitoring actions.

Further, it should be made clear to the reader how follow up research data and monitoring mechanisms can or could trigger amendments to existing mitigation measures. OHA would expect this to include a statement on what Federal processes and respective timelines would be triggered to incorporate new data and proposed mitigation measures.

Consultation Planning

The DON may want to craft an actual NEPA public participation plan as an optional tool pursuant to 32 CFR 775.11 as a means to set protocols (i.e., meeting minutes/notes, comment periods, speaking time allocations, engagement with Indigenous Peoples). All prior consulting parties that participated in the 2018 EIS/OEIS should serve as the starting point for current outreach efforts. As the 2018 EIS/OEIS was a very long document (in excess of 2000 pages), a longer comment period should be allotted for the current EIS/OEIS. 40 CFR 1506(d) requires a minimum comment period of 45 days, but subsection (e) goes on to state that the minimum comment period may be shortened or extended. The DON should consider a 60-day comment period in this case.

In regards to public meetings and consultation events, OHA recommends that minimally 30-day's notice be provided. As a means to assist the DON, OHA could be provided with advance notice of any such meetings so that we can plan to disseminate information via our monthly newspaper, *Ka Wai Ola*, and online social media outlets. This may assist with outreach to the Native Hawaiian community. Any public engagement meetings or consultations should allow speakers to speak on topics for at least 5 to 10 minutes given the voluminous amount of information that the EIS/OEIS will cover. Previously, OHA received concerns about speakers allegedly being only allotted 3 minutes of time during consultations for the 2018 EIS/OEIS.

OHA further notes that in November 2022, a memorandum was issued by the Executive Office of the President, Council on Environmental Quality, providing guidance to Federal departments and agencies on Indigenous Knowledges. Notably, this includes guidance on inclusion of such knowledge in the NEPA and NHPA processes, encouragement of early and sustained engagement, maintaining trust, and even developing an “Indigenous Knowledge Plan”. Indeed, a public participation plan could include a robust Indigenous Knowledge component that specifically incorporates guidance from the CEQ November 2022 memo.

NAVFAC Pacific
NEPA Public Scoping – HCTT EIS/OESIS
January 22, 2024
Page 7 of 7

Closing Remarks

OHA looks forward to seeing our comments taken into consideration as the HCTT EIS/OEIS is being prepared. Mahalo for the opportunity to comment. Should you have any questions, please contact OHA's Lead Compliance Specialist, Kamakana C. Ferreira at (808) 594-0227 or by email at kamakanaf@oha.org.

‘O wau iho nō me ka ‘oia ‘i‘o,



Stacy Ferreira
Ka Pouhana, Chief Executive Officer

SF:kf

CC: Carmen Hulu Lindsey, OHA Board of Trustees Chairperson