



By Facsimile and Overnight Mail

January 30, 2006

Mr. Keith Jenkins
Naval Facilities Engineering Command Atlantic (Code EV21KJ)
6506 Hampton Boulevard
Norfolk, VA 23508
Fax: (757) 322-4894

Re: Draft Overseas Environmental Impact Statement/ Environmental Impact Statement for the Undersea Warfare Training Range

Dear Mr. Jenkins:

On behalf of the Natural Resources Defense Council ("NRDC") and our more than 650,000 members, over 70,000 of whom reside in potentially affected states, we are writing to submit these additional comments on the Navy's Draft Overseas Environmental Impact Statement/ Environmental Impact Statement ("DEIS") for a proposed Undersea Warfare Training Range. See 70 Fed. Reg. 62102 (Oct. 28, 2005).¹

Since we submitted our main body of comments two weeks ago, a number of events have occurred that bear on the Navy's environmental analysis.

First, some preliminary information has become available on the unusual multi-species mass stranding of whales that occurred on North Carolina's Outer Banks in January 2005. As we observed in our January 13 letter, that event could have enormous significance for the Navy's analysis, both because it would provide further evidence of the potential for mortalities at the proposed North Carolina site and because it would demonstrate that the range of marine mammals vulnerable to strandings is broader than the Navy suggests.² On January 17, under orders from a federal court, NMFS turned over a preliminary summary of its investigation, which contains several findings suggesting the whales may

¹ Our comments are joined by the Whale Dolphin Conservation Society ("WDCS"). As with our earlier letter, the comments that follow do not constitute a waiver of any factual or legal issue raised in any other comments submitted on the Navy's DEIS and not specifically discussed herein.

² Letter from Joel R. Reynolds and Michael D. Jasny, NRDC, to Keith Jenkins, Naval Facilities Engineering Command Atlantic, Navy, at 30-31 (Jan. 13, 2006) (hereinafter "Jan. 13 letter").

have been injured by sonar. While a second, but still not final summary released by the agency states that some of the lesions that had originally been observed, microemboli in the liver, “were not confirmed,” it continues to note the presence of other lesions, such as hemorrhaging in the acoustic fats, and, indeed, finds that the number of animals exhibiting them have increased.³ Both summaries rule out other potential causes of the strandings, including viral, bacterial, and protozoal infection, direct blunt trauma, and fishery interactions.⁴ It has additionally been reported that the Navy may have been operating sonar as close as 50 nm to one of the stranding sites, about 90 nm south-southeast of Oregon Inlet.⁵ Any analysis must take the location of Navy vessels into account, recognizing that the stranded whales belong to deep-water species that generally reside offshore, where the sonar presumably was used.

We urged the Navy, in our January 13 letter, either to withdraw its DEIS or to extend its public comment deadline until after NMFS’ report and data from the North Carolina investigation are issued; otherwise, it would effectively deny the public and scientific community the opportunity to comment on a core factual issue, in violation of the National Environmental Policy Act (“NEPA”). Jan. 13 letter at 31. We would further note that NEPA requires agencies to prepare a supplemental analysis, and release it for public comment, if “significant new circumstances or information relevant to environmental concerns” happen to emerge. 42 C.F.R. § 1502.9(c)(1)(ii). Clearly NMFS’ report on the 2005 strandings and the data underlying it will meet the legal standard of “significance.” For example, the fact that the strandings involved species other than beaked whales make the range’s impacts “highly uncertain”; and the broad coverage that NMFS’ preliminary reports received in the national and regional press—including Nature and the Washington Post—indicate an extraordinary degree of public and scientific controversy. 42 C.F.R. § 1508.27(b)(4), (5).⁶ At the very least, the Navy must issue a supplemental environmental impact statement once materials from the investigation are released.

³ NMFS, Preliminary Report on the Mass Stranding in North Carolina, January 15, 2005 and Updated Report on the January 14-15, 2005 Multi-Species Mass Stranding in North Carolina, enclosed in Letter from Michael J. Garcia, U.S. Attorney for the Southern District of New York, to Erin Tobin, Attorney, Meyer Glitzenstein & Crystal, at 2-3 (Jan. 17, 2006) (attached to this letter at Exhibit (“Ex.”) A).

⁴ Id.

⁵ Kate Wiltrout, “Reports on Beached Whales Show Gap over Cause,” Virginian-Pilot, Jan. 20, 2006; Marc Kaufman, “Whale Stranding in N.C. Followed Navy Sonar Use,” Washington Post, Jan. 28, 2005.

⁶ See, e.g., Marc Kaufman, “Reference to Sonar Deleted in Whale-Beaching Report,” Washington Post, Jan. 20, 2006 (attached to this letter at Ex. B); Rex Dalton, Panel Quits in Row over Sonar Damage, 439 Nature 376, 377 (2006) (attached to this letter at Ex. C); Gareth McGrath, “Public Comment Period Likely Over,” Wilmington Star-News, Jan. 25, 2006 (attached to this letter at Ex. D); Editorial, “Science Not Spin,” Charlotte News & Observer, Jan. 23, 2006 (attached to this letter at Ex. E); Bo Petersen, “Report on Whale Deaths Criticized,” Charleston Post and Courier, Jan. 21, 2006 (attached to this letter at Ex. F); Wade Rawlins, “Sonar’s Role in Beaching Uncertain,” Charlotte News & Observer, Jan. 19, 2006 (attached to this letter at Ex. G); Kate Wiltrout, “Reports on Beached Whales Show Gap over Cause,” Virginian-Pilot, Jan. 20, 2006 (attached to this letter at Ex. H). The Washington Post story was subsequently published by papers around the country, including the Los Angeles Times (California), the Fort Worth Star Telegram (Texas), and the Bremerton Sun (Washington).

Second, on January 25-26, for example, at least four Cuvier's beaked whales were found to have mass-stranded in the vicinity of Mojacar, on the southeast coast of Spain. This recent event reflects circumstances that, in the past, have later been shown to have coincided with the use of anthropogenic noise sources: namely, the stranding of multiple beaked whales, particularly Cuvier's beaked whales, over several miles of coastline. The Spanish strandings must be meaningfully addressed in the Navy's EIS, including any data produced by the investigation now underway.⁷

Third, a number of Northern right whales have been sighted off the North Carolina coast by the U.S. Coast Guard and others. According to NMFS, three sightings have been reported off North Carolina, apparently within the Navy's Cherry Point Op Area, since the beginning of the year.⁸ One occurred about 60 miles east of Cape Lookout, lending further support to the hypothesis, noted in our Jan. 13 letter, that one of the whales' migration routes through the region may run along the shelf break.⁹ Such a route would take this critically endangered species directly through the proposed training range. Again, available evidence does not support the Navy's conclusion that right whales would rarely if ever occur within its preferred site.

Fourth, NMFS issued a notice concerning a series of Air Force gunnery missions, at Eglin Air Force Base in the Gulf of Mexico, that suggest the variety of mitigation measures which may be consistent with military training. For example, the harassment authorization proposed by NMFS would require aerial monitoring of marine mammals and other protected species; relocation or suspension of exercises if marine mammals or sea turtles are sited within a 5 nm target area; the use of modified ammunitions, at least under some circumstances, that put out only a small fraction of the power of regular rounds; the use of ramp-up; suspension of operations in sea states greater than Beaufort 3, at which point visual monitoring becomes substantially less effective; siting of individual exercises to avoid slope waters, where some of the most sensitive species in the operations area are expected to reside; commencement of visual monitoring 60 minutes in advance of each exercise; and detailed monitoring and reporting requirements. 71 Fed. Reg. 3474, 3483-84 (Jan. 23, 2006). Most of these measures are already contained in the Air Force's application for authorization. Id. Again, as we noted at length in our January

⁷ See Ana Cañades, SEC-Spanish Cetacean Society, "Update on the Beaked Whales Stranded on 26 January in SE Spain" (Jan. 29, 2006) (message posted on the Marine Mammal Research and Conservation (MARMAM) discussion list, hosted by Dalhousie University).

⁸ NMFS Northeast Fisheries Science Center, 2006 Sightings Advisory System Sighting Report at 1 (2006) (available at NMFS, "Right Whale Sightings by Year," rwhalesightings.nefsc.noaa.gov/yearly.html (accessed Jan. 29, 2006)). See also Navy, Marine Resource Assessment for the Cherry Point Operating Area: Final Report at 3-9, Fig. B-3 (June 2002).

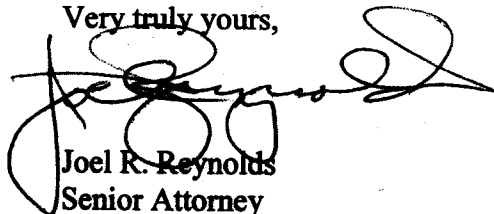
⁹ Jan. 13 letter at 46 (citing R. Kenney, C. Mayo, and H. Winn, Migration and Foraging Strategies at Various Spatial Scales in North Atlantic Right Whales: A Review of Hypotheses, 2 Journal of Cetacean Research and Management: Special Issue 251 (2001)).

Mr. Keith Jenkins
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13 letter, NEPA requires the Navy to consider a full range of measures for reducing the environmental impacts of its proposed range.

For the reasons set forth in our January 13 letter, as supplemented by the information presented here, we once more urge the Navy to withdraw its DEIS on the Undersea Warfare Training Range and to revise and recirculate the document for public comment.

Very truly yours,



Joel R. Reynolds
Senior Attorney
Director, Marine Mammal Protection Project



Michael D. Jasny
Senior Consultant

Cc: Hon. Donald C. Winter (Navy)
Donna Wieting (NMFS)
Steve Leathery (NMFS)

Encl.



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street, 3rd Floor
New York, New York 10007

January 17, 2006

VIA FACSIMILE & FEDERAL EXPRESS

Erin M. Tobin
Meyer Glitzenstein & Crystal
1601 Connecticut Avenue, N.W., Suite 700
Washington, DC 20009
Facsimile: (202) 588-5049

Re: **Natural Res. Def. Council, Inc. v. Nat'l Marine Fisheries Serv., et al.**
No. 05 Civ. 5172 (JGK)


Dear Ms. Tobin:

Pursuant to the Court's January 9, 2006 Order, enclosed please find a copy of Document No. 12, redacted in accordance with the Court's instructions. I also enclose a revised preliminary report of the January 2005 mass stranding incident in North Carolina, dated January 13, 2006, a copy of which will be posted today on the National Marine Fisheries Service website, www.nmfs.gov.

Very truly yours,

MICHAEL J. GARCIA
United States Attorney

By:


PIERRE G. ARMAND
Assistant United States Attorney
Tel.: (212) 637-2724
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Preliminary Report on the Mass Stranding in North Carolina,
January 15, 2005

- Tissues from 24 cetaceans representing three species (21 pilot whales- *Globicephala macrorhynchus*, 2 Dwarf sperm whales-*Kogia sima*, 1 minke whale- *Balaenoptera acurostrata*) have been examined histologically.
 - Females represented the majority of animals (88%, 21/24). Animals were primarily adults and sub-adults.
 - Ears have not yet been examined
- REDACTED**
- Observed lesions were found in the following systems (in order of highest frequency): respiratory (33%, 8/24), hepatobiliary (25%, 6/24), hematopoietic/lymphoreticular (25%, 6/24), urinary (20%, 5/24), reproductive (20%, 5/24), digestive (12%, 3/24), cardiovascular (12%, 3/24), musculoskeletal (4%, 1/24), central nervous (4%, 1/24), and integumentary (4%, 1/24). Three animals (12%) had intrabdominal granulomas (likely parasitic in origin).
 - Lesions directly attributable to stranding and or death were only found in three animals (meningeal hemorrhage in 1 pilot whale, myocardial fibrosis in 1 pilot whale, and cardiomyopathy in one dwarf sperm whale).
 - Many incidental lesions, for example, endometritis/cystic endometrial hyperplasia, were present, but were not likely to play a significant role in stranding.
 - Lesions that may be indicative of anthropogenic sources (e.g. sonar) include one pilot whale with microemboli within the liver (acute), a second pilot whale with dilated central veins with occasional disrupted vessel lining (suggestive), 1 *Kogia* with hemorrhage in acoustic fats, 2 pilot whales and 1 *Kogia* with hemorrhage in the lungs and meningeal hemorrhage in 1 pilot whale.
 - Emboli within the liver has been previously reported to be associated with sonar activity in stranded cetaceans from the Canary Islands and Bahamas. The mechanism for those lesions are not understood at this time.
 - Hemorrhage within the meninges and lung is not a pathognomonic feature of sonar or blast injury, but could indicate trauma (although no fractures were observed nor any other superficial bruising or hemorrhage) or severe respiratory effort.
 - In summary, there was no evidence of disseminated infection (viral, bacterial, or protozoa), direct blunt trauma, or recent fishery interactions. Tissues were relatively fresh. The histological evidence of microemboli in one pilot whale and suggestion in another pilot whale are similar to those described in two mass strandings attributed to the effects of sonar.
 - Further analyses are ongoing and a full preliminary report is expected by mid to late June. The final report will be completed after analyses of the ears.
 - Items remaining: final report from the CT and MRI scans after review by radiologists, aging, ear histology, stomach contents analyses, special stains of tissues, review of tissues by two other pathologists, and serology.

Updated Preliminary Report on the January 14-15, 2005 Multi Species Mass Stranding in North Carolina

January 13, 2006

- On January 14, 2005, 33 pilot whales (*Globicephala macrorhynchus*) were reported stranded near Oregon Inlet, NC, and 1 minke whale (*Balaenoptera acurostrata*) was reported stranded in Corolla, NC. On January 15, 2005, two dwarf sperm whales (*Kogia sima*) were reported stranded north of Cape Hatteras, NC. The following results are provided as updates on the investigation.
- Of these stranded cetaceans, samples from 28 animals representing three species (25 pilot whales, 1 minke whale, 2 dwarf sperm whales) have undergone histologic examination. Tissue suites examined were complete (n = 19), or partial including either heads or subsampling of internal organs (n = 9).
- The investigative team has finished the necropsies of additional pilot whale heads, completed some additional disease testing, and consulted with four additional pathologists (some of whom had also reviewed the histopathology from the Canary Island strandings).
- Female pilot whales predominated (78%, 21/27). The pregnancy rate was 29% (6/21). Animals were primarily adults and sub-adults.
- Ears have not yet been examined.
- Observed lesions were found in all systems. Denominators reflect complete tissue suites (n = 19), or with reference to the nervous system (n = 26). In order of highest frequency, affected systems included: respiratory (89%, 17/19), hematolymphoreticular (84%, 16/19), digestive (74%, 14/19), nervous (38%, 10/26), hepatobiliary (53%, 10/19), urinary (47%, 9/19), reproductive (42%, 8/19), cardiovascular (37%, 7/19), musculoskeletal (21%, 4/19), integumentary (21%, 4/19), sensory (21%, 4/19), body cavities (21%, 4/19), and endocrine (5%, 1/19). Fibrosed intra-abdominal granulomas constituted body cavity lesions in three animals.
- Lesions directly or contributory to stranding, and/or death were found in 4 pilot whales and 1 dwarf sperm whale.
- Incidental lesions (e.g., dilated central veins) were present, but were not likely to play a significant role in the stranding.
- Meningeal hemorrhage (n = 1), pulmonary hemorrhage (n = 3), and focal to multifocal mandibular fat and acoustic fat hemorrhage (n = 3) were observed in pilot whales and dwarf sperm whales. Upon further analysis and expert consultation, microemboli in the liver were not confirmed.
- Hemorrhage within the meninges and lung is not a pathognomonic feature of sonar or blast injury, but could indicate trauma (although no fractures, any other superficial bruising or superficial hemorrhages were observed) or severe respiratory effort (agonal change).
- In summary, there was no evidence of disseminated infection (viral, bacterial, or protozoal), direct blunt trauma, or recent fishery interactions. Tissues were relatively fresh.
- Items remaining: final report from the CT and MRI scans after review by radiologists, aging, stomach contents analyses, special stains of tissues, pathology review summation, serology and final synthesis of data.
- Further review and analyses of histologic sections and special stains may lead to histological diagnosis amendments or addendums.
- Further analyses are ongoing and a full report is expected by March 2006.
- The full report will be released after a two step peer review process in accordance with NOAA's policies for implementation of the Information Quality Act.

The Washington Post

FRIDAY, JANUARY 20, 2006

Reference to Sonar Deleted in Whale-Beaching Report

By Marc Kaufman
Washington Post Staff Writer

Documents released under a court order show that a government investigator studying the stranding of 37 whales on the North Carolina coast last year changed her draft report to eliminate all references to the possibility that naval sonar may have played a role in driving the whales ashore.

The issue of sonar's effects on whales is a sensitive topic for the U.S. Navy. It has clashed with environmentalists in several court suits seeking to limit use of the technology because of its possible effects on marine mammals and other sea creatures.

The January 2005 stranding occurred shortly after naval maneuvers in the area -- which is off North Carolina and in the region where the Pentagon wants to build a controversial underwater sonar training range.

In her initial April 2005 preliminary report on the deaths, Teri Rowles, coordina-

tor of the National Marine Fisheries Service's stranding response program, described injuries to seven of the whales that "may be indicative" of damage related to the loud blasts of sound from active sonar.

She also noted that one of the injuries -- air bubbles in the liver of a pilot whale -- had been reported in mass strandings in the Bahamas and Canary Islands associated with sonar activity.

That report was made public this week after a federal judge in New York ordered its release to the Natural Resources Defense Council (NRDC), an environmental group, which had sued the agency over its refusal to release information on the whales' stranding on North Carolina's Outer Banks.

But before it was released by NRDC, the National Oceanic and Atmospheric Administration released an updated report -- by Rowles and others -- that did not mention sonar. In a cover letter to that report, NOAA officials said

the initial draft that mentioned sonar "contains early information that was later found to be inaccurate."

NRDC attorney Andrew Wetzler said that the second report "seems a lot more like spin than science." He said the absence of any reference to sonar was surprising because the evidence suggesting that sonar might have played a role hardly changed between the first and second drafts. What changed, he said, was some limited analysis by Rowles.

In an interview yesterday, Rowles said the references to sonar were removed because it was just one of several possible causes of the strandings. "Sonar has not been implicated or eliminated -- it remains one of many possible causes," she said. "We wanted to put out a report that included our most up-to-date information."

Most important, she said, was the conclusion after further analysis that the presence of air bubbles in one animal's liver had not been conclusively confirmed. Air bubbles

were found in the organs of several whales that stranded in the Canary Islands after a sonar exercise, leading some researchers to conclude that the animals swam to the surface too rapidly and suffered a version of the bends. If air bubbles were present in the whales that beached in North Carolina, it could suggest that sonar caused their stranding, as well.

The federal court order to release the report came at an awkward time for NOAA and the Navy, which has been holding public hearings on its controversial plan to build an underwater sonar training range.

The public record on that issue will close at the end of the month, and some activists have complained that officials are trying to withhold information about the stranding until after that time. In its court filings, NRDC argued that it was unfair to complete the hearings before information about the strandings was released.

Navy officials say that the sonar training range is essential, and that active sonar is increasingly important because of a growing threat from diesel submarines that cannot be detected using traditional passive sonar.

The Navy has also acknowledged that sonar can harm whales. A Navy-NOAA investigation found that sonar from Navy ships was the most plausible explanation for the stranding of 17 whales in the

Bahamas in 2000. The report found that sonar-induced damage to the ears of some animals may have disoriented them and caused them to swim onto the shore.

Researchers are also studying the ears of some animals that stranded in North Carolina, but Rowles said those results will not be known for some time. The final report, she said, is scheduled to be released in March.

News

Nature

Published online: 24 January 2006; | doi:10.1038/439376a

Panel quits in row over sonar damage Programme to test how noise affects marine mammals seems doomed.

Rex Dalton

Whales and dolphins have been found beached after military sonar tests, but the link between the two is unclear.

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SAN DIEGO As the US Navy plans to expand its testing of sonar in the oceans, the creation of an independent research programme to find out how the noise may affect marine mammals seems doomed. Evidence is also emerging that the Navy may have been pressuring scientists to downplay links between sonar and damage to marine life.

After two years of meetings costing nearly \$1 million, an advisory committee of scientific, military and industry leaders convened by the US Marine Mammal Commission (MMC) has collapsed. Instead of producing a consensus-based report on how best to study the effects of sonar on marine mammals, the 28 members will, next week, submit individual recommendations. The MMC will then report to US Congress in the next few months, but without agreement, it is unlikely that any research will be funded.

At the beginning of the decade, environmental groups took the Navy to court over its use of low-frequency sonar. The Navy lost early court rounds, but after going to Congress, won exemptions from environmental laws. In 2003, Congress created the MMC advisory panel, in which warring parties were brought together to hammer out a plan for future research and management. It was hoped that agreed research questions would be pursued by an independent programme, estimated to cost about \$25 million over five years.

Such research is badly needed. Little is known about how marine mammals are affected by sonar - although whales or dolphins have repeatedly been found beached after military sonar tests. The

strongest evidence for its destructive effects comes from British researchers, who reported that military sonar off the Canary Islands was linked to decompression deaths of beaked whales (P. D. Jepson *et al. Nature* 425, 575-576; 2003). A subsequent study found cavities in sperm whale skeletons, supporting the idea that whales suffer from decompression sickness (M. J. Moore and G. A. Early *Science* 306, 2215; 2004).

MMC executive director David Cottingham says the committee couldn't agree because of "the high degree of uncertainty over the impact of various noises on marine mammals". But interviews with observers and panel members suggest that the Navy, as well as other groups that use sonar, including geophysical researchers and the oil and gas industry, blocked a consensus. A Navy spokesman, however, denies this; along with representatives from the other groups, Navy officials insist that they are interested in good science.

What lies beneath

Mammalogists on the panel disagree. "This process has been a travesty of fiscal responsibility, scientific integrity, and environmental stewardship," Lindy Weilgart of Dalhousie University in Nova Scotia, Canada, wrote to the MMC as the committee disintegrated last September.

"The science of ocean sound is highly politicized," adds Hal Whitehead, a marine mammalogist at Dalhousie and Weilgart's husband. "I see the breakdown of the committee as an indication that the Navy and others didn't want Congress to have a clear picture of what the risks are."

Either way, the promised research is unlikely to happen. And scientists question whether the current US programme, funded mainly by the Navy, will tackle questions fairly and openly. Late last year, a lawsuit forced the release of e-mails in which military officials discussed their attempts to pressurize a researcher funded by the Office of Naval Research (ONR) to withhold comments on the damaging effects of sonar. The 2001 e-mails detail how Robert Gisiner, who manages the ONR's mammal research funding programme, engaged in "a pretty scorching phone call" with Robert Schusterman, a marine biologist at the University of California at Santa Cruz. Schusterman had filed comments for an environmental report saying that a Navy sonar test could be harmful to marine mammals. Gisiner denies any impropriety and says he was simply "talking to an old friend".

And last week, a report by Teri Rowles, co-ordinator of the National Marine Fisheries Service's (NMFS) stranding programme, was made public in another court case; the National Resources Defense Council is aiming to force the NMFS to release information about the potential impact of a new training range planned off North Carolina. In an initial version of the report, Rowles reported that the death of at least one whale stranded on the North Carolina coast last year could have been caused by sonar. But in the final report released by the NMFS, the link to sonar had been removed.

Critics see such incidents as evidence of the conflict of interest inherent in the current Navy programme. Whitehead and Weilgart wrote in October that the funding system should be changed, "to safeguard the credibility of the field and protect us all from conflicts of interest" (see *Mar. Mamm. Sci.* 21, 779-781; 2005).

Meanwhile, the public has until the end of January to comment on the Navy's plans for a new training range.

Wilmington-Star

WEDNESDAY, JANUARY 25, 2006

Public comment period likely over

By Gareth McGrath
Staff Writer

The Navy appears unlikely to again extend the public comment period for the controversial shallow-water sonar training range it wants to build off the Southeastern North Carolina coast.

The Pentagon has said it needs an East Coast training area to practice tracking diesel-electric submarines, which are smaller, quieter and able to operate closer to shore than the military's nuclear submarines.

The comment window, which was originally scheduled to end in late December, is now slated to close Monday.

But environmentalists are crying foul about the deadline since reports related to the mass-stranding of 37 whales on the Outer Banks a year ago aren't going to be finished for several weeks.

Impacts on marine mammals, specifically the highly endangered North Atlantic right whale that migrates along the Carolina coast, are among the biggest concerns with the proposed sonar range.

"Certainly this is significant data; we know it's coming, so of course they ought to wait," said Michelle Nolan, an attorney with the Southern Environmental Law Center.

Although the Navy was holding a sonar exercise nearby, the military has said it's confident it didn't play a role in January's whale-beaching event. But suspicions were rekindled last week by comments in a preliminary government report on the incident. Released after the National Resources Defense Council filed suit, the report by the National Marine Fisheries Service described injuries to seven of the whales that could have been indica-

tive of damage from active sonar testing.

But a later draft of the report, which was quickly released by Marine Fisheries, removes all mention of sonar as a cause – although officials stressed that it hasn't been discounted.

Agency spokeswoman Connie Barclay said the early report was just that, a quick look based on initial observations.

"It wasn't in any way intended to be a complete report or anything like that," she said.

Donna Wieting, chief of the agency's Marine Mammal Conservation Division, said a review of last year's incident is still ongoing with a final report due around March.

"That was done during the early stages based on observations at that point in time," she said of the preliminary report. "There's been no conclusions drawn so far."

Navy spokesman Jim Brantley said the military

would reopen the public comment period if the study warrants it.

But Joel Reynolds, director of NRDC's marine mammals protection program, said it's ridiculous that it took a court order to get information that's obviously in the public interest and is directly related to the protection of critical ocean habitat.

"It just doesn't provide much comfort to the public about what the impacts of this could be to the coast of North Carolina," he said.

Cape Lookout Coastkeeper Frank Tursi said that the changing information in the Marine Fisheries' reports is as worrisome as the lack of science in the Navy's proposal. "We just don't know enough to make those kind of broad conclusions that this project won't have any series impacts on our environment or marine life," he said.

Tursi added that he's been surprised at the public's response to the proposed sonar range, attributing the outpouring of opposition directly to the Navy's bungling of the outlying landing field (OLF) project in Northeastern North Carolina. "There's no more giving them the benefit of the doubt," he said.

Brantley said that so far the Navy has received more than 200 comments and nearly 20,000 form letters in regard to the sonar range.

He added that the Navy hopes to have a final decision on the proposed range by this fall, although that could slip depending on what happens during the environmental review process.

The proposed North Carolina range, which the Navy favors among three options it is studying in the Mid-Atlantic region, would be 50 miles off the Onslow County coast and cover about 600 square miles.

The range would include hundreds of nodes, or listening devices, bolted to the ocean floor that would record the mid-range sonar tests.

Military officials have said they envision about 160 exercises a year in the range, with most involving only a few vessels or aircraft.

The News & Observer

MONDAY, JANUARY 23, 2006

Science, Not Spin

Editorial

The Navy's announced plan to build an underwater sonar training range off the coast of North Carolina could be of vital importance to the nation's security, the sailors who would train in those shallow waters and the sea life there now.

That's why the clumsy public relations moves of the National Marine Fisheries Service are of such concern. Those charged with making such a potentially life and death decision need facts, not spin disguised as science.

In April, 2005, the service completed a preliminary report on the possible effects of sonar on whales. It specifically dealt with the grounding of 30 pilot whales on the Outer Banks in January, 2005 and concluded the deaths could have been caused by sonar.

The fisheries service attempted to keep that report under wraps, claiming it was an internal "heads-up" memo to the staff. And when a federal judge, responding to a demand from environmentalists, ordered the report released, it was accompanied by a disturbingly sanitized companion version.

The revised study reported the same injuries -- gas bubbles in the bloodstream, bleeding in the jaws and lungs, dilated veins -- but mysteriously absent was a possible link to sonar.

There are strong arguments on both sides of the issue. Environmentalists, commercial fishermen and other watermen fear intense sonar waves would harm the rich environment

off our coast. The Navy also makes a strong case for a convenient area to train crews who may some day have to use their skills to track down an enemy submarine intent on causing great harm to Americans.

As the nation's leading experts on sea life, the National Marine Fisheries Service is uniquely qualified to offer expert analysis. What they've offered so far is suspiciously akin to propaganda.

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The Post and Courier

SATURDAY, JANUARY 21, 2006

Report on Whale Deaths Criticized Any link to sonar removed, group says

By Bo Petersen
Staff Writer

More than three dozen whales beached themselves on the Outer Banks in North Carolina in a few hours last January, lying on their sides until they died.

At the time, the Navy was offshore testing sonar.

A year later, environmental groups say the government's investigation of the whales' deaths smacks of a whitewash.

"All references to sonar have been systematically excised from the document," said Andrew Wetzler, an attorney for the Natural Resources Defense Council

The council sued to have a preliminary necropsy report released. This week the government released two versions of the report, one of which is a revision a council spokesman says is watered down.

A National Marine Fisheries Service official who helped write both reports called the drawn-out ne-

croscopy and the revised report part of the scientific process.

"Only after we bring together all the data can we say which (factors) are the cause of death," said Teri Rowles, director of the marine mammal stranding response program.

The tests took place at the site of a proposed 600-square-mile Undersea Warfare Training Range on the continental shelf off North Carolina, less than 200 miles from the Charleston jetties.

A draft environmental impact statement, which would help decide what the Navy can do at the site, says the range would have little or no impact on whales or other marine creatures.

But if sonar blasts injure marine mammals or fish, the range could disturb offshore populations from the endangered right whale to dolphins and game fish.

"No one argues the Navy needs to be trained. How far are you willing to go to compromise our environment, our cultural amenities?

On the policy level, I get concerned when the game is rigged," said Frank Tursi, of the nonprofit North Carolina Coastal Federation.

The dispute comes as public interest is raised in marine mammals and the man-made threats to them, and as researchers have discovered that mammoth, nearly extinct right whales winter in Lowcountry coastal waters.

Conservationists worry that sonar and other man-made noises could be deafening whales and frightening deep-diving whales into rapid surfacing that causes deadly embolisms, or "the bends." Whales communicate and are thought to navigate using whistles and their echoes.

"People spend thousands of dollars and travel to Alaska to see these creatures. If they are right out there offshore we should care about them being wiped out," said Nancy Vinson, of the Coastal Conservation League in Charleston.

The 37 whales stranded last year were mostly pilot whales, which have a history of beaching themselves in groups. That stranding followed another stranding of 17 whales off the Bahamas in 2000. The fisheries service report on the Bahamas incident characterized Navy sonar as "the most plausible source of this acoustic or impulse trauma."

The original Jan. 15, 2005, report on the Outer Banks stranding said trauma in at least some of the whales was similar to other cases where damage was caused by sonar. The revised report does not say that, and a news release about it called the original report inaccurate. Rowles said further study of the whale tissue couldn't confirm the trauma was caused before the whales beached and died. "We're not ready to say a cause of death or a contributing cause of death."

A final necropsy report awaits additional tests, including a 14-month process to remove calcium from bones in the ears in order to slice specimens and examine them under the microscope, she said. "We could have done a 'quick and dirty,' but we were concerned for it causing damage" to the ears.

Phone and e-mail requests asking for comment from the U.S. Navy public affairs office in Norfolk, Va.,

were not returned Thursday, and officials were not available Friday.

An information packet about sonar accompanying the Navy's environmental impact statement draft online said, "There have been a handful of incidents where the use of Navy sonar coincided in time and space with the stranding of marine mammals. A conclusive 'cause and effect' relationship has not been established for any of the incidents, but Navy research is under way to determine whether or not a causal link exists."

Rowles said the final necropsy report should be completed by March. The range's environmental impact statement is expected to be submitted in the fall. But the deadline for public comment that could force more study is the end of this month.

Tursi compared the sonar-range dispute to a fight over a proposed Marine remote training airstrip in eastern North Carolina that has been ongoing for more than a decade. That kind of drawn-out court fight "is certainly one possible outcome," he said.

The News & Observer

THURSDAY, JANUARY 19 2006

Sonar's Role in Beaching Uncertain

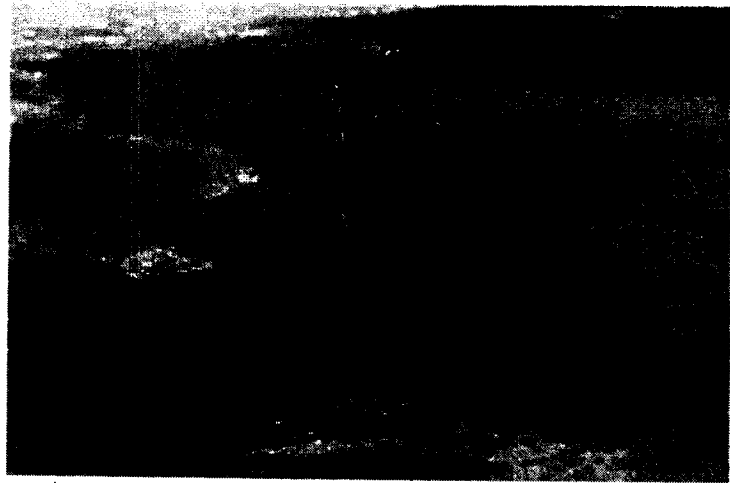
By Wade Rawlins
Staff Writer

A preliminary government report, released this week by court order, draws a possible link between the stranding of more than 30 whales on the Outer Banks last year and the Navy's use of sonar.

A second, revised report, also produced by the National Marine Fisheries Service and issued Wednesday, finds many of the same injuries to the stranded whales -- but omits all references to sonar as a possible cause.

The reason for the mass stranding of whales in January 2005 is significant because it could affect the Navy's plans to build an underwater sonar training range off the coast of North Carolina near Camp Lejeune.

The Navy has said the range would not harm whales. But scientists have linked sonar to some fatal whale beachings, although they are still trying to understand exactly how the underwater pulses of sound affect the animals. Environmentalists say more must be known about sonar before



In January 2005, more than 30 pilot whales beached near Oregon Inlet on the Outer Banks. A draft report in April said that sonar might have caused some of the whales' injuries, which included dilated veins and gas bubbles in the liver, possibly from surfacing too quickly.

AP File Photo

the Navy builds the range.

The government had tried to keep secret its April 2005 preliminary report on the whale stranding. But the Natural Resources Defense Council, an environmental group, sued to get the document. A federal judge ruled this week that the fisheries department should release the report; in turning it over, the fisheries service also produced the revised report, saying the earlier draft could be misleading.

"The facts are largely the

same, but the analysis is different," said Andrew Wetzler, a senior attorney with the defense council. "It seems more like spin than like science."

The first version said wounds found in some whales might indicate injuries from sonar blasts. The dead animals included a pilot whale with gas bubbles within the liver, possibly from the bends -- a result of surfacing too quickly. A second pilot whale had dilated central veins; a dwarf sperm whale had bleeding in

fat lining the jaws in a sensitive area used for hearing; and three whales had bleeding in the lungs.

The second report detailed the same injuries but omitted the original analysis, which drew a possible link between the internal wounds and sonar.

"There are many [possible] causes for those lesions," said Teri Rowles, coordinator of the Marine Mammal Health and Stranding Response Program. "Sonar is one of these. We can't conclusively say that sonar was or was not involved."

Rowles, who wrote both summaries, said the initial report was intended as a heads-up to colleagues, not for public release. She said agency officials decided to omit references to sonar because it was one of many possible causes for the whales' deaths.

She said fisheries scientists are trying to figure out what went on by looking for correlations with other cases of mass strandings. She said she wasn't sure they could nail down a cause for the Outer Banks case when a final report is issued this year.

"I think it's going to be several years before we pin down how sonar affects marine mammals and what injuries are associated with it," she said.

The revised report said further analysis could not confirm that gas bubbles damaged a whale's liver, as first suspected. The first report had noted the bubbles were similar

to those described in two mass strandings attributed to sonar.

"Looking at tissues, you can see things that might look like [gas bubbles], but might be related to inflammation or infection, or gases coming out of bacteria as the carcass decomposes," Rowles said.

Both reports rule out blunt trauma, viral or bacterial infection or collisions with fishing boats or gear.

The Navy says it needs a sonar range on the Atlantic Ocean to provide realistic training for sailors and pilots to detect a new generation of quieter submarines. A sonar system emits pulses of sound that bounce off objects, enabling crewmen to "see" underwater.

Environmentalists, commercial fishermen and others who make their living off the water have come out against the range, citing possible harm to marine life.

The Virginian-Pilot

FRIDAY, JANUARY 20, 2006

Reports on Beached Whales Show Gap Over Cause

By Kate Wiltrout
Staff Writer

NORFOLK — Read two preliminary reports about more than 30 whales that stranded on the Outer Banks last January, and you might draw two very different conclusions.

The first, a one-page document, released Tuesday on order from a federal judge, mentions “sonar” four times. The National Oceanic & Atmospheric Administration report is dated April 2005.

An updated version, released by NOAA this month, mentions sonar only once — specifying that certain injuries are not a feature of sonar or acoustic trauma.

Why the change? It depends on whom you ask in this contentious, high-stakes issue.

Daniel Parry, a spokesman for NOAA’s Fisheries division, says the first draft “prematurely” cited sonar as a

possible cause of the mass stranding on Jan. 14 and 15, 2005.

The National Resources Defense Council, which sued NOAA for a copy of the April document, contends that the agency’s changes smack of public relations, not research.

A spokesman for the Navy acknowledges the investigation isn’t finished but described the development as “positive.” Its plans for a shallow water sonar training range off North Carolina’s coast could hang in the balance.

Meanwhile, a marine mammal physiologist says scientists may never know why the whales beached themselves.

A few facts aren’t in dispute.

Thirty-four whales — pilot, minke and pygmy sperm species — died on Corolla and Cape Hatteras beaches.

Active sonar, which has been shown to cause acoustic trauma in marine mammals,

was immediately suspected as a cause.

The Navy has said that no sonar was in use within 50 nautical miles of the Outer Banks’ Oregon Inlet between Jan. 11 and 15.

Lt. William Marks, a Washington-based spokesman, said only one Navy ship activated its sonar within 100 miles of the inlet during that period.

That vessel was 95 nautical miles away on Jan. 14, and used its sonar system for seven minutes, Marks said.

Both reports conclude that the majority of the whales didn’t show signs of infections or blunt trauma.

The earlier report suggests that acute lesions in the liver of one pilot whale “may be indicative of anthropogenic sources (e.g. sonar).” It says five other whales experienced various types of hemorrhage.

The second report drops the reference to liver lesions.

Dr. Teri Rowles, a NOAA veterinarian, compiled both

reports using data from fellow investigators. She explained that the April report was reviewed by one pathologist, while the later version included results from 19 internal and external laboratories reviewed by six pathologists, half of them from outside the United States.

Rowles, coordinator of NOAA's marine mammal health and stranding response program, emphasized that dropping the sonar references might be temporary.

"We haven't ruled in or ruled out any factor," she said. "It's too early still, without having all the data in front of us, to say one way or another."

Andrew Wetzler said the timing of the second report seems too much of a coincidence.

"First the government linked sonar to the stranding and now they don't," said Wetzler, a lawyer with the National Resources Defense Council. "It seems more like spin than science. Almost all facts are the same, but all references to sonar have been systematically excised."

Wetzler said the incident bore all the marks of sonar-induced strandings: The whales came ashore in numbers, coincident with naval activity, involving multiple species and individuals that appeared to be healthy.

Wetzler didn't say that Navy sonar was a definite cause. He just doesn't want it

to be prematurely ruled out – especially as the Navy plans a sonar training range that could see use up to 168 days a year.

Heather Koopman, an assistant professor at the University of North Carolina in Wilmington, works within miles of the site the Navy would like to use to practice hunting "enemy" submarines.

"Animals have been mass stranding along all coasts for eternity," said Koopman, a marine mammal physiologist. "In most of those cases, we don't know what the cause of that is."

If sonar did alter the whales' behavior, Koopman said, it might not be clear how. Acoustic trauma can disturb feeding or mating patterns or force them to dive deeper than usual.

"I'm not trying to defend anyone, but we don't know what causes these things," Koopman said.

NOAA's Rowles hopes that months of additional research will bring clarity to everyone curious about the January strandings.

The explanation could be as simple as whales having followed prey close to shore, then getting trapped at low tide. It might be influenced by weather, biotoxins in their food or sonar, or some combination of them all.

Rowles hopes to have a full report finished in March.

While the Navy presses ahead with its plan for the sonar training range, Marks said the service would take NOAA's findings into account.

If the agency presents "significant findings that conclusively link the Navy to the strandings," Marks said, the Navy would reconsider opening the public comment period on the training range.

For now, comments on the Navy's draft environmental impact statement on the range must be received by Jan. 30.