Testimony on US Navy application for a "Small Take permit" incidental to LFA
Silver Spring, Maryland May 3, 2001

I am Judy Olmer of Cabin John MD. I am a member of Sierra Club's national Committee on Marine Wildlife and Habitat and chair of its Marine Mammal Working Group. In that capacity, I've been following the LFA saga for about 4 years. I will be submitting written comments on this application for Sierra Club.

The more one reads and learns about the US Navy's long range low frequency active sonar program, the more worried one becomes. A great many of us provided comments on the Navy's draft Environmental Impact Statement and then again to NMFS in 1999 when the Navy made application for a take permit. We generally maintained then that we simply do not know enough about the potential impacts of extremely loud noises on marine mammals and other ocean wildlife to properly estimate potential deaths and disruption to critical functions, especially given the worldwide nature of proposed LFA operations. The DEIS fell far short of providing assurances that such harm and disruption really would be "insignificant" at the intensities and the distances it proposed. The Navy extrapolated wildly from very limited testing of a few species at sound levels well below those proposed operational program and from existing research on a few individuals or species to larger populations.

The DEIS seemed to ignore completely the mass stranding of Cuvier's beaked whales in the Mediterranean in 1996 in connection with NATO naval exercises that involved something like LFA. It failed to deal seriously with observations from Hawaii that suggested there may have been more impacts from the testing than the Navy researchers saw. Frankly, although the Navy has added a number of additional species to its final EIS and added responses that purport to address questions raised earlier, the final document continues to display these deficiencies. The science is just not there. NMFS does not have the science available to grant the take permit request.

The primary new fact since the draft EIS is the stranding of some 17 whales and dolphins in the Bahamas in March 2000, again in relative close proximity to a naval exercise, involving a variety of active sonars. Again, the Navy essentially dismisses that incident as irrelevant to LFAS since the active sonars operate at different frequencies. What it suggests to most of us is that whales and dolphins can be catastrophically affected by active sonar at a variety of frequencies and far beyond the 1 km range the Navy estimates will ensure that no animal is severely harmed. The Final EIS does not deal at all with Ken Balcomb's analysis regarding resonance frequency effects on whales and dolphins.

What the Navy never seems to recognize—but NMFS should--is that LFA impacts may take hours, even days, to play out and that the affected animals may beach dozens of miles from the operational area. Worse, many will never beach at all, because they will simply die and sink. It's hard to avoid the conclusion that the strandings we've seen have only been the tip of the iceberg. What the Navy's small take request and NMFS'

proposed rule are is a giant gamble. They hope the program won't kill large numbers and that mitigation efforts will work.

I have one question for the US Navy and for NMFS having to do with the definition of "small take." Did the 17 whales and dolphins which washed ashore in the Bahamas last year constitute a "small take?" If Ken Balcomb is correct and all of the 35 beaked whales he had been studying were killed, is that "negligible?" Please think hard about that answer in making your decision.

Speaking just for myself, I actually have a certain amount of sympathy with the Navy. Only a few years ago, no one would have suggested that the Navy go through all this, file an Environmental Impact Statement for a new program to defend US submarines against a powerful enemy. But the world has changed—not only has the Cold War ended, leaving the US the preeminent military power. But we are beginning to understand more about the very complicated processes that maintain the heath and biological diversity of the oceans. LFA is a program whose time has come and gone and which should be mercifully put to sleep.