March 7, 2017

Representative Derek Kilmer
1520 Longworth House Office Bldg.
Washington, DC 20515

Dear Representative Kilmer:

We write on behalf of our thousands of members and supporters, your constituents, to request that you undertake a review of emerging critical environmental and public health issues affecting communities, businesses, and Tribes located on the Olympic Peninsula, Whidbey Island, the San Juan Islands, and the millions of visitors to these areas. You have heard from many of your constituents, who believe that they have not been adequately informed nor consulted, with regard to the rapid expansion of naval air, sea and land-based activities in our area that poses a threat to the environment and human health. We, the undersigned, have reviewed thousands of pages of incomplete and questionable technical data and analysis, and participated in numerous public processes that may violate basic NEPA procedure, and that appear to be retrofitted to improper decisions already made.

- The Navy is segmenting major projects with significant impacts into multiple public processes with multiple Findings of No Significant Impact, with the twin results of confounding the public and avoiding cumulative impacts analyses.
- It also increases the burden of consultation with federal and state agencies.
- We have reviewed information obtained through Freedom of Information Act requests and have attended public meetings where we learned that the increases in Navy activities are not limited to those currently under review; rather, major expansions in activities in our area will continue this year and in the years to come.
- The U.S. Navy's planning and funding cycles begin many years in advance of implementation. NEPA appears too late in their process for realistic mitigation or change that results from public input.
- Public processes with choices among meaningful alternatives that mitigate harmful impacts are required before final decisions are made. It is also required that they be organized into functionally related projects to identify direct, indirect and cumulative impacts of activities.

We therefore implore you to undertake a thorough review of this matter, and to intervene on behalf of your constituents to protect human health and the environment. We ask you to help ensure that the Navy's and Forest Service's public processes meet NEPA and NHPA requirements at a minimum, so the activities that will likely result in significant unnecessary degradation of the cultural, historic and ecological environment as well as public health can be adequately reviewed and mitigated. We ask that you consider urging the Navy and the Forest Service to do the following:

Navy:

1.) Immediately stop the practice of segmenting large projects into numerous smaller ones, and conduct cumulative impacts analyses for the full scope of functionally and geographically related activities;

2.) Provide any and all information and materials requested by state and federal agencies to undertake the reviews and consultations required of them;

3.) Hold public meetings and hearings in addition to Open Houses. In most cases at the latter, questioners are sent from table to table without getting answers to their questions, and their concerns and comments are not adequately documented. A proper public Q&A where everyone can hear the Navy's responses would greatly improve the public's understanding of proposed activities and provide information upon which the public may evaluate and propose alternatives that would meet the Navy's needs, as well as the public's. Further, the Navy must advertise in media of record in affected communities, and not assume that an ad in the Seattle Times will be read by people living three to four hour's drive away.

4.) Incorporate and grant mitigation requests and proposals by wildlife, historic preservation, and public health agencies; so far, mitigation proposals have been reasonable. Yet the Navy as a matter of course refused to grant some of the most basic of mitigation requests. For example, refusing to allow Fish and Wildlife Service experts to train Navy personnel on spotting marbled murrelets is unwarranted and was not justified by the Navy with any reasons or analysis.

5.) Respond to requests from local governments for consultation under Section 106 of the National Historic Preservation Act, and initiate these consultations at the same time the Area of Potential Effect is expanded in order to assess impacts to the areas requested by the State Historic Preservation Officer in her letter of January 9, 2017.

6.) Reinstate public comment periods and suspend "30 day wait periods" on Final Navy EISs, especially when new information is made available.

7.) Ensure that the scientific inaccuracies contained in the 2014 Pacific Northwest Electronic Warfare EA are corrected to standards that Forest Service and Fish and Wildlife Service biologists can support, and allow the public to read and comment.

8.) Require the Navy to employ more rigorous cumulative impacts analyses in general, including evaluations of effects on climate change. The military is the world's largest single user of fossil fuels, and exhaust emissions beyond the narrowly defined affected areas near runways are not being analyzed.

9.) Insist that the Navy clarify basic terms by asking that the word "event" be defined in each context, so that the public can understand their durations and significance. Some events last for seconds and involve one or two aircraft; others last for hours and involve multiple aircraft, and still others last for days and involve multiple aircraft, ships and submarines; the Navy must clarify the term "event" each time it is used.

10.) Ensure that the Navy fulfills the DOD-USDA 1988 Master Agreement requirements to fully substantiate the need for Defense Department use of non-military lands for electronic warfare training, by proving in a report to the public that DOD-owned lands are either unsuitable or unavailable.

11.) Request that the Navy provide a detailed, specific answer on whether and how the additional Navy stressors on Endangered Species Act (ESA) listed species as described in the Growler DEIS, particularly to marbled murrelets, comports with ESA Section 4F recovery, given that the acknowledged lack of scientific information on noise impacts to this species affects the ability to determine harm and cumulative effects, and also in light of its precipitous declines and the December 2016 uplisting by the State of Washington from threatened to endangered.

Forest Service:

1.) Ask the Forest Service to acknowledge that the 2014 Navy Electronic Warfare EA was deficient and did not address the full scope of direct, indirect and cumulative impacts; take

steps to require that the improper segmentation shown in that EA be addressed before a final permit decision is made.

2.) Request the Forest Service to conduct its own independent scientific investigations on all reasonably foreseeable impacts and cumulative analyses, in order to verify or refute the Navy's Finding of No Significant Impact.

3.) Rescind the decision to grant the permit until the omission by that EA, which addressed exhaust emissions only from the truck-mounted mobile emitters and associated "construction activities," and not the cumulative air quality impacts of more than a hundred Growler jets and hundreds more other aircraft flying overhead, can be assessed.

It is therefore of grave concern that the Navy is not meeting NEPA requirements to inform and consult with the public on its activities. Outlined below are the details of a few of our reasons for taking the extraordinary step of appealing to our elected officials to ask that you employ your good offices on our behalf in order to protect human health and the environment entrusted to your care.

Electronic Warfare Activity

The military jet noise we are now experiencing, while not yet constant, is intense, profoundly disruptive, and damaging. Other federal agencies are contributing to this problem. For example, the Forest Service received more than 4,000 public comments on their draft decision, in November 2014, to grant the Navy a permit to conduct electronic warfare on public lands. All but a few were vehemently opposed, and many substantive concerns were made in 2014 but have gone unaddressed. We have repeatedly pointed out the following:

- According to stipulations in a 1988 Master Agreement between the Departments of Defense and Agriculture, the Navy had not demonstrated via its 2014 EA on which this permit will be based, that DOD lands were either unsuitable or unavailable; nor did the Forest Service conduct its own research as is required by law, to verify the Navy's Finding of No Significant Impact.
- The utility of the mobile emitters without the jets that their presence would trigger would be negated, yet jet noise was never considered.
- Noise from Growler jets has never been analyzed for many areas due to incomplete information in NEPA documents.
- Further, the amount of new information that has emerged since 2014 and will affect potential impact analyses requires that a correspondingly new public process be initiated, in which all of the new information is incorporated.

On the Navy's 2014 Pacific Northwest Electronic Warfare Environmental Assessment (EA), not one comment was received from elected officials, Tribes, or individual members of the public. While the Navy insists it followed the law, no public notices were ever placed in the newspaper of record for affected communities on the north Olympic Peninsula. This foreclosed public capacity to evaluate and comment in time, and gain standing, as is our lawful right.

The Forest Service's recent draft decision to grant the permit is presented in the complete absence of documentation of answers to public concerns. It is as if we don't even exist.

Growler DEIS on Whidbey Island

The current Growler Draft EIS (DEIS) comment period was extended to February 24 thanks to your help. It analyzes potential impacts of only 35 or 36 of the projected 160 Growlers, and is confined to evaluating impacts only to areas immediately surrounding the runways, yet jet

noise, emissions and other impacts from their operations are adversely affecting a wide area including Olympic National Park, Indian reservation lands, and private lands as well as waters where fishermen and others make their livings. The DEIS is deficient in the following areas:

- By considering only takeoff and landing noise and exhaust emissions at Navy runways on Whidbey Island, the DEIS violates the National Environmental Policy Act (NEPA) §1508.25 by failing to consider the wider area of functionally connected impacts caused by naval flight operations.
- By failing to enlarge the scope of its analysis beyond Naval Air Station Whidbey Island, the DEIS also violates NEPA by not considering the interdependent parts of a larger action, that cannot proceed without takeoffs and landings.
- By failing to consider these automatically triggered additional impacts resulting from activities beyond the runways that cannot be conducted without takeoffs and landings, the DEIS also fails to evaluate cumulative effects.
- By failing to initiate consultation under Section 7 of the Endangered Species Act with the US Fish and Wildlife Service on potential impacts from the 47 percent increase in flights to 130,000 per year, including 79,000 Growler flights, the DEIS fails to evaluate direct, indirect and cumulative impacts on threatened and endangered species.
- There are no alternatives proposed in this DEIS that would reduce noise. Therefore, it represents decisions already made. This violates NEPA §1506.1, which states, "…no action concerning the proposal shall be taken which would have an adverse environmental impact or limit the choice of reasonable alternatives."

Despite an August 2016 request for formal consultation under Section 106 of the National Historic Preservation Act, from the City of Port Townsend in a letter asking the Navy to expand its Area of Potential Effect (APE), the Navy has not responded. The APE is so narrowly defined in this DEIS that the State Historic Preservation Officer (SHPO) wrote to the Navy in January 2017, confirming that not only would cultural and historic resources within the existing APE be adversely affected, but also recommended expanding the APE to include additional portions of Whidbey Island, Camano Island, Port Townsend vicinity, and the San Juan Islands, because the State is "…not convinced that the 65 dBA serves as the best or most appropriate measure for quantifying and assessing harmful levels of sound and vibrations from Growler activities."[1] The SHPO went on to say, "Our concern is based upon what appears to be an averaging of sound levels over long time periods that does not adequately capture the real time experience of brief but more numerous exposures to higher decibel levels, as well as the cumulative effect of these events." Her letter noted, "…that the U.S. Department of Housing and Urban Development has posted on HUD Exchange (https://www.hudexchange.info/programs/environmental-review/noise-abatement-and-control/) standards that classify 65 dB as "normally unacceptable" and above 75 as being "unacceptable."

In addition to the unresponsiveness described above, the Navy has also indicated on its web site that no public comment period will be provided on the Final EIS, which will foreclose the public's ability to officially comment on whether the Navy has addressed our concerns.

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[1] State Historic Preservation Officer. Letter to Navy, January 9, 2017. http://westcoastactionalliance.org/wp-content/uploads/2017/01/SHPO-Letter-102214-23-USN_122916-2.docx

Inadequate Public Process/Improper Segmentation/Minimization of Impacts

The Navy said it evaluated noise for the Olympic Peninsula in 2010 with the Northwest Training Range Complex EIS, but that document did not do so. Had the activities contemplated by the proposed Electronic Warfare Range been evaluated by that EIS, the ground-based mobile emitters should have been listed as an emission source. They were not. For Electronic Combat and Electronic Attack, the only areas listed by activity and training area, warfare type, and Range and Training Site were the Darrington Area and coastal waters of "Warning Area" W-237. Had noise been properly evaluated, the Olympic MOAs should have been listed. They were not. Therefore, noise has not been evaluated for the Olympic Peninsula. The existence of more than 6,400 public complaints in two years, in a database compiled by the San Juan County Board of Commissioners attests to the same reality in San Juan County.[2] Nor has the Navy made any actual noise measurements in affected communities; it relies on modeling using a "library" of sounds that are not available to the public for inspection. In addition, the NOISEMAP software used for computer modeling is outdated, and a report from a DOD commission concluded that noise measurements using this software may be legally indefensible.[3]

The Navy has, to date, piecemealed its aircraft training and testing activities affecting Whidbey Island, the San Juans, and the Olympic Peninsula into at least six separate actions:

1. 4 squadrons of P-8A Poseidon Multi-Mission Aircraft;
2. A 2005 EA (57 Growler jets); 2010 EIS (reaffirming the 57 Growlers that replaced Prowlers);
3. 2012 EA (26 Growlers including 5 from a reserve unit);
4. 2014 EA (Growler electronic warfare activity);
5. 2015 EIS discussing electronic warfare training and testing activity;
6. The current 2016-2017 DEIS (36 Growlers);
7. And, likely, a seventh process, as confirmed by a Navy official at a recent open house, for 42 more jets to bring the Growler fleet total to 160.

Therefore, it has been impossible for the public to know just how many Growlers there would be, or what their impacts would be, or what limits, if any, the Navy intends to establish. In just four documents—the 2014 EA, Forest Service permit Draft Decision, and the 2010 and 2015 EISs, there are more than 6,000 pages of complex technical material.

40 C.F.R. § 1502.4 "…does not allow an approach that would permit dividing a project into multiple 'actions,' each of which individually has an insignificant environmental impact, but which collectively have a substantial impact." Finally, a Navy representative recently informed the public at a meeting that further increases in naval activities are coming, in the form of a new "Phase 3" EIS this summer on Northwest Training and Testing (NWTT), with more increases via another EIS to come the following year. The public had assumed that the October 2015 Final EIS for NWTT, for which there was no public comment period, was actually a final document representing the totality of impacts for the next five years. Now we are faced with a new EIS for the same functionally and geographically related activities.

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[2] San Juan County Jet Aircraft Noise Reporting: http://sjcgis.org/aircraft-noise-reporting/
[3] https://www.serdp-estcp.org/Program-Areas/Weapons-Systems-and-Platforms/Noise-and-Emissions/Noise/WP-1304

In efforts to minimize its potential impacts in presentations to Tribes, federal agencies and the public, the Navy has labeled increases in activities as "adjustments" to its mission,[4] [5] but that word means a small alteration. They have made a series of these "adjustments" to functionally and geographically related activities, each of which when taken individually might not rise to the level of "significant," but when taken together, are significant. Such increases include:

- The number of aerial combat (dogfighting) events, from 160 to 550 per year, which is not an "adjustment" but a 244 percent increase;
- At least a 1,000 percent increase in the number of torpedoes fired;
- A 72 percent increase in chaff events;
- A 3,500 percent increase in the number of disposable sonobuoys;
- A 1,400 percent increase in military expended material. All these percentages were arrived at using figures from the EIS and a calculator.

These are all significant increases, yet in their many piecemealed forms have not been allowed to rise to the level of significance that would require cumulative impacts analysis. Further, public concerns about impacts to public health, the environment and our economies are being utterly dismissed by the Navy, and by the agencies it is working with.

Other Examples of Improper Segmentation as Standard Operating Procedure

The Navy's pattern of segmenting and omitting impacts analyses is widespread. We wish to bring your attention to the following, seemingly unrelated examples, as evidence of a widespread and pervasive pattern of segmentation of impacts and avoidance of cumulative effects analyses while assessing potential harm.

In the Northern Marianas Islands, the Navy's 1,388-page Draft EIS proposing turning Pagan Island into a bombing range and Tinian Island into an artillery range overlooks impacts to residents, water supplies, historic sites, and rare species of coral. Among the problems were:

- While human habitation has been documented to go back 3,000 years, historic site surveys were stopped after only a few were completed;
- No analysis of how rocket fuel could contaminate the aquifer was conducted;
- No discussion of cleanup or mitigation for destruction of coral reefs was included.

A December 2016 news article stated, "Federal agencies and other organizations found the Navy's analysis was plagued with missing information on issues ranging from how the Navy would handle hazardous waste to how noise from Navy training could be worsened by concurrent training activities."[6] Finally, as we have seen locally, the Navy already has other usable properties in that area, and has not justified taking private, public or Native-owned lands.

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[4] US Navy presentation to Olympic Coast National Marine Sanctuary. http://westcoastactionalliance.org/wp-content/uploads/2017/01/update_us_navy_nwtt_deis-for-OCNMS-adjustments.pdf

[5] US Navy presentation to Hoh Tribe, August 30 2016. http://westcoastactionalliance.org/wp-content/uploads/2017/01/Navy-presentation-to-Hoh-Tribe-Aug-30-2016.pdf

[6] "Missing Data Plagues Military Training Plans In The Marianas," Honolulu Civil Beat, December 2016. http://www.civilbeat.org/2016/12/what-the-military-isnt-saying-about-its-training-plans-in-the-marianas/

The most astounding example of NEPA segmentation, mentioned here not because it concerns Growlers but because it so vividly illustrates our point, is about noise in the water (sonar, pile driving, etc.) Noise, whether in the water or in the air, is a sensitive issue with significant potential for serious impacts. Sonar is a known source of harassment and injury to marine mammals and diving seabirds. Pile-driving noise can carry for 18 miles underwater. In one short stretch of waterfront at Bangor, there have been:

- 10 separate NEPA processes for driving 2,000 pilings into the seabed, plus 1 at Keyport, 3 at Everett, 2 at Whidbey, 5 at Bremerton, 2 at Manchester, and 2 at Port Angeles.
- The total number of public processes on pile-driving *alone* between 2012 and 2018 number at least 24, with a spreadsheet obtained from the Navy showing more than 5,200 pilings being driven in Puget Sound and the Strait of Juan de Fuca during this period.[7]
- No NEPA documents have ever presented these totals to agencies or the public.

<u>Forthcoming Activities Impacting the Olympic Peninsula</u>

For Fiscal Years 2016 through 2018, another spreadsheet obtained from the Navy shows thirty-four Findings of No Significant Impact and Records of Decision scheduled in the Puget Sound region alone.[8] Many of these upcoming EAs could be combined into EISs. But an internal memo obtained from the Navy illustrates their preference for segmenting impacts to avoid stopping the project; it is an analysis of several courses of action for multiple functionally related projects that concluded the Navy's risk of legal liability was worth the segmenting of these projects.[9]

Segmentation represents a significant but hidden erosion of environmental protection and public health. Citizens, elected officials, and Tribes have reminded the Navy for years that its segmentation of impacts violates both the law and the public trust, but the Navy continues to ignore these concerns.

- It is not legal to piecemeal the NEPA process to the point where each piece becomes a small alteration and thus deemed not significant by the applicant.
- It is not legal to exclude commonsense considerations, such as the jet noise that a permit will trigger, as being "outside the official decision space," as the public was told.
- It is not legal to commit funding, as the Navy has done, before the NEPA public process is initiated. To have at least 34 Findings of No Significant Impact and Records of Decision scheduled before the public processes are begun, for the period between 2016 and 2018, is highly questionable given that most of these are not public knowledge and represent many small pieces of an enormous expansion of functionally and geographically related activities.

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[7] US Navy Region Northwest. *NRNW In Water Construction Projects. XL spreadsheet*, http://westcoastactionalliance.org/wp-content/uploads/2015/09/1in9w2atr3con8stru4ct5ion6pr7oj.xlsx

[8] U.S. Navy, NW-NEPA-Report-12-15-2015. View at: http://westcoastactionalliance.org/wp-content/uploads/2016/11/NW-NEPA-Report-12.15.15-4.xlsx

[9] US Navy – Goodman, Layna. Proposed NEPA Approach for Planned Waterfront Projects Which May Require Environmental Impact Statements, Naval Base Kitsap Bangor. http://westcoastactionalliance.org/wp-content/uploads/2015/09/re1ci2pe34ne5pa6.docx

We are not calling for the closure of Naval Air Station Whidbey Island, the grounding of Growler jets, or complete cessation of at-sea activity. We support the need for adequate military training and we support fair and open public processes that will assist the Navy to meet its mission and protect public health and the environment. We cannot accept the abuses of public process that we have witnessed and been subjected to, nor the endless segmented and piecemealed proposals that are impossible to follow, if and even when we get notice or the chance to comment. We do not accept the unprecedented encroachment by the military on public lands and waters without justification, and in the airspace over our communities, without a fair chance for the public to be heard and heeded as provided by law. Our request is for an honest dialogue that has the potential to create solutions that work for communities and the environment, and not just for the Navy's activities.

We thank you in advance for your careful consideration and action in furtherance of our requests. A response is requested, please contact Darlene Schanfald, Olympic Environmental Council, darlenes@olympus.net, 360-681-7565. She will share your response with the following contributors to this letter.

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