

HONOLULU

# CIVIL BEAT

## Environmentalists Sue to Restrict Navy's Undersea Sonar and Explosive Use

By Sophie Cocke

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Environmental groups are suing the National Marine Fisheries Service for allowing the U.S. Navy to ramp up sonar testing and live-fire training off the coasts of Hawaii and southern California even though millions of marine mammals, including whales, dolphins and seals, are expected to be hurt or displaced, even for short periods.

Some of the affected species are classified as endangered under federal law.

NMFS approved a permit for the Navy's five-year testing and training plan on Friday. Environmental groups, anticipating the move, filed suit in federal court in Hawaii on Monday.

"Our position is that there is no need to harm that many marine mammals, including whales and seals," said Miyoko Sakashita, oceans director at the Center for Biological Diversity.

The Navy and NMFS should have explored less environmentally destructive alternatives to the military exercises, according to the lawsuit filed by the Center for Biological Diversity, the Conservation Council for Hawaii, the Animal Welfare Institute and Ocean Mammal Institute.

Earthjustice, a Honolulu environmental law firm, is representing the groups.

The Navy has tested sonar and explosives in the Pacific for decades. But in recent years, the Navy's own studies have shown what environmentalists have long feared: that high-pitched sonar and blasts from underwater detonations are more harmful to marine mammals than previously believed. The noise can rupture eardrums, damage internal organs, cause whales to beach themselves, change migration patterns and disrupt feeding and mating activities.

Recent studies of whales off the coast of California also show blue and beaked whales stopped feeding and fled from sounds that mimicked military sonar.

Connie Barclay, a spokeswoman for NMFS, declined to comment on the lawsuit. "We don't normally discuss ongoing litigation," she said.

The Navy's permit application says that the exercises are important to protecting national security.

A previous Navy analysis for 2009 to 2013, estimated that its activities around Hawaii and southern California significantly hurt or killed about 100 marine mammals.

But the Navy's new environmental assessment for its five-year training activities anticipates more extensive harm to marine life.

Under the federal permit, some 140 marine mammals are expected to be killed by sonar and explosives, in addition to 15 whales that may die from ship collisions.

The exercises will cause permanent injury to 2,000 marine mammals off the coasts of Southern California and Hawaii, according to the Navy's analysis.

Particularly troubling are the less severe impacts, which can include temporary hearing loss and disruptions to breeding, eating and resting activities, according to Earthjustice attorney David Henkin.

The Navy plans to detonate 260,000 explosives between December 2013 and December 2018. During that time, the Navy also plans to emit more than 500,000 hours of sonar. Overall, this will cause an estimated 9.6 million instances in which marine mammals are disturbed, according to the lawsuit.

For instance, Hawaii's endangered monk seals, which number about 1,100, will be disturbed 8,124 times, according to the lawsuit.

There are only about 150 false killer whales left, but the mammals are expected to be disturbed by detonations and sonar 240 times.

The noise "harasses a species to the point that it causes some serious longterm population effects," said Henkin. "Marine life is repeatedly barraged with piercing levels of noise and explosions from sonar and live fire."

In 2004, Navy sonar was implicated in a mass stranding of up to 200 melon-headed whales in Hanalei Bay on Kauai.

Navy spokesman Kenneth Hess said by email that the Navy "goes to great lengths" to minimize harm to marine mammals during training and testing activities.

"The best available scientific information indicates that the vast majority of impacts to marine mammals will be behavioral responses which do not result in any physical injury," he wrote.

Even though the NMFS permit anticipates beaked whales to be killed from use of sonar, Hess said that the estimate was made out of an "abundance of caution."

"There are zero mortalities predicted by our computer modeling for sonar use off California and Hawaii," he said.

Still, the environmental groups argue that the military hasn't adjusted its mitigation activities accordingly.

As in the past, the Navy will halt explosions or sonar use if whales, dolphins or seals are in the area. But Sakashita of the Center for Biological Diversity said that plan is inadequate. "That is just not an effective measure," she said, noting that that advances in technology such as acoustical monitoring could better protect the presence of marine life.

The environmental groups also want the federal agency to close off biologically sensitive areas from testing.

Henkin said the Navy continues to use the "same playbook" that it has in the past.

"We believe that in response to the new science and understanding, that you need to increase the protections," he said.