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Judge:

Navy's Hawaii, California training plan inadequate

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A federal judge on Tuesday said the National Marine Fisheries Service violated environmental laws when it approved the Navy's plans for training in waters off Hawaii and Southern California.

The agency failed to support its finding that the training would have a "negligible impact" on marine life, U.S. District Court Judge Susan Oki Mollway wrote in her ruling.

The Navy, she said, also failed to take a hard look at alternatives such as training in different areas or at different times to avoid potentially harming dolphins, whales and other species.

Environmental groups, including the Natural Resources Defense Council and the Conservation Council for Hawaii, filed the lawsuit in federal court in Honolulu.

The Navy's plans estimate it could inadvertently kill 155 whales and dolphins off Hawaii and Southern California, mostly from explosives.



Pilot whales surface near the NATO research vessel Alliance during a marine mammal study in the western Mediterranean Sea in this photo from August 2009. Researchers affixed monitoring tags to 2 pilot whales and acoustically monitored beaked whales and other marine mammals to learn more about their biology. The multinational study was primarily sponsored by the U.S. Navy and the Strategic Environmental Research and Development Program. U.S. Navy

It estimated it could cause more than 11,000 serious injuries off the East Coast and 2,000 off Hawaii and Southern California.

Mollway said the National Marine Fisheries Service was allowing the Navy to kill certain populations at rates that would affect their ability to survive. For example, it authorized the killing of eight bottlenose dolphins around Hawaii Island each year when this population can only sustain less than one death per year.

On avoiding certain geographic areas, Mollway said the Navy failed to explain why it could accommodate restrictions for humpback whales, which are classified as an endangered species, but not for any other species.

U.S. Pacific Fleet spokesman Mark Matsunaga said the Navy was reviewing the order and couldn't comment on specifics.

But he said it's essential for sailors to have realistic training that fully prepares them and to have equipment that has been thoroughly tested.

"The Navy has been training and testing in the Hawaii and Southern California ranges for more than 60 years without causing the harm alleged by the plaintiffs in this case," Matsunaga said in a statement.

Earthjustice attorney David Henkin, who represented several of the plaintiff groups, said the court's ruling recognizes the Navy doesn't need to train in "every square inch" of an ocean area that's larger than all 50 U.S. states combined.

"The Navy can fulfill its mission and, at the same time, avoid the most severe harm to dolphins, whales, and countless other marine animals by simply limiting training and testing in a small number of biologically sensitive areas," Henkin said in a statement.

Zak Smith, an attorney for the Natural Resources Defense Council, said the government should be trying to protect marine mammals instead of downplaying how military training will affect them.

"The Navy has solutions at its disposal to ensure it limits the harm to these animals during its exercises. It's time to stop making excuses and embrace those safety measures," he said in a statement.