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Naval Facilities Engineering Command Northwest
Attention: NWTT Supplemental EIS/OEIS Project Manager
3730 N. Charles Porter Ave., Building 385
Oak Harbor, WA 98278-3500

Re: National Parks Conservation Association Comments on the Navy's NWTT Final SEIS,
submitted electronically via ProjectManager@nwtteis.com
and via U.S. Certified Mail # 7011 3500 0001 7187 4722, with Attachments

Dear NWTT Supplemental EIS/OEIS Project Manager:

The National Parks Conservation Association ("NPCA") submits the following comments on the United States Department of the Navy's ("Navy") Final Supplemental Environmental Impact Statement ("FSEIS").¹ See 40 C.F.R. § 1503.1 (b).² The mission of NPCA is to "protect and enhance America's National Park System for present and future generations." For over 100 years, NPCA has been the leading citizen voice for national parks. We are a national non-profit with headquarters in Washington, D.C. and 27 regional and field offices across the country, including our Northwest regional office in Seattle, WA. NPCA represents nearly 1.4 million members and supporters who care deeply about America's shared natural and cultural heritage preserved by our National Park System. NPCA has many members who visit Olympic National Park (the "Park" or "ONP"), and their use of the Park would be and is directly and/or indirectly affected by the Navy's actions in the region. Because of its mission and its membership's direct interest in the Park, the focus of NPCA's comments will, not surprisingly, be the adverse impacts of the Navy's activities on Olympic National Park and visitors to that Park and the continued abject failure of the FSEIS to fully acknowledge, disclose and

¹ NPCA is submitting its comments both electronically and in hard-copy via U.S. Certified mail. NPCA's comment includes multiple exhibits. Because of limitations of the size of attachments imposed by most email systems, the electronic version of NPCA's comment will include only selected exhibits. The hard-copy of NPCA's comment will include hard copies of selected exhibits and digital copies of all exhibits on a thumb drive.

² NPCA cites to the 2019 CEQ regulations throughout this comment because those are the regulations in place when the Navy began this NEPA process in 2017 and when it issued its DSEIS for public comment in 2019. The FSEIS also continues to cite to those 2019 CEQ. See NWTT FSEIS at 4-1. NPCA thus relies on the Navy's use of the 2019 regulations throughout the NEPA process when preparing this comment on the FSEIS and will suffer significant prejudice if the Navy attempts to retroactively apply the very recently adopted, revised 2020 CEQ regulations to this NEPA process or to its ROD.

comprehensively analyze those impacts, and to correct the numerous errors and omissions in the March 2019 Draft SEIS (“DSEIS”), as it is legally required to do.

The Navy’s prior environmental disclosure documents, including the DSEIS, have completely failed to adequately address the adverse impacts of the Navy’s jet overflights on the Park. The Navy has produced multiple environmental analyses regarding the impacts of its Navy jet training activities over and around the Olympic Peninsula. There can be no dispute that many of those activities occur directly over Olympic National Park and have direct, indirect and cumulative impacts on the Park’s resources and visitors to the Park. One of the Park’s most cherished resources is its natural quiet, which can be and in fact is degraded by the noise caused by Navy jet overflights of the Park. In fact, Gordon Hempton, an acoustic biologist, believes that the “quietest square inch in the United States” is located within the Park.³ But nowhere in the tens of thousands of pages of environmental analysis produced by the Navy over the past decade, including the Draft SEIS and this FSEIS, is there anything like a comprehensive analysis and disclosure of those adverse impacts to the Park’s natural quiet or any discussion of ways that the Navy could mitigate or avoid those impacts. The Navy’s 2010 and 2014 analyses do not even mention the Park, but that is not because the public was not asking about impacts to the Park. *See* Exhibit A. The 2015 analysis for the first time contains a map, in an appendix, identifying the Park as an area where Navy jet overflights occur and cause impacts, but it falls far short of the type of comprehensive, “hard look” that is legally required for a resource as important as Olympic National Park. The 2019 DSEIS contained some cursory discussion of impacts to the Park and for the first time included a map indirectly showing that Navy jets in transit to the Military Operations Areas (“MOAs”) fly directly over the Park. The DSEIS however contained numerous other errors and omissions as set out in NPCA’s June 12, 2019 Comment. As discussed below, the FSEIS however fails to correct or even acknowledge many of NPCA’s comments. As is also discussed below, the FSEIS includes a “corrected” map that somewhat more clearly shows the Navy’s overflights of the Park and shows that they are much more widespread than the DSEIS acknowledged. The FSEIS, also for the first time, includes some analysis of the impacts to the Park from those extensive overflights. These additions and “corrections” however actually create far more problems than they solve, and require the Navy to put this revised SEIS out for an additional public comment period so the public can review and comment on these significant, but seriously flawed changes to the SEIS. *See* 40 C.F.R. § 1509(c).

None of the Navy’s NEPA documents consider alternative actions that could avoid or at least mitigate impacts to the Park. Because of these prior lapses, NPCA’s 2017 scoping comments, submitted in response to the Navy’s Federal Register Notice announcing its intent to prepare its SEIS, specifically asked the Navy to remedy its prior, inadequate treatment of impacts to the Park and to include much more information about impacts to the Park in its forthcoming SEIS.⁴ In particular, NPCA asked the Navy to include within its analysis alternatives that could

³ *See* Samantha Larson, *Sound Check: The Quietest Place in the U.S.*, CROSSCUT, <http://features.crosscut.com/sound-check-the-quietest-place-in-the-us> (Attached as Exhibit B); *see also One Square Inch*, GOOGLE MAPS, <https://www.google.com/maps/place/One+Square+Inch/@47.8654936,-123.8727267,692m/data=!3m1!1e3!4m5!3m4!1s0x0:0x7aee17bb3fcfb184!8m2!3d47.8659833!4d-123.87035?hl=en-US>, (last accessed October 16, 2020) (Attached as Exhibit C).

⁴ *See* NPCA’s 2017 SEIS Scoping Comments (Attached as Exhibit D).

mitigate or avoid adverse impacts to the Park. Inexplicably, the DSEIS did not do so. The DSEIS considers only two action alternatives, which either continue or actually increase the very same Navy jet overflights that are currently harming the Park. The FSEIS does not correct this error and offers legally improper excuses for failing to do so, insisting that the Federal Aviation Administration (FAA) controls where its jets may fly. Assuming that is correct, NEPA expressly requires the Navy to consider “alternatives not within the jurisdiction of the lead agency.” 40 C.F.R. §1502.14(c).

This FSEIS comment will not reiterate every point made in NPCA’s prior comments; however, for purposes of clarity, and sometimes to illustrate just how much the Navy ignored when responding to NPCA’s comments, some of NPCA’s prior comments are repeated verbatim. Generally the purpose of this FSEIS comment is to note the inadequacies of the Navy’s responses to NPCA’s prior comments, the continuing flaws with even the parts of the FSEIS that the Navy revised, to provide relevant information that was not available when NPCA submitted its prior comments, and, finally, to document the Navy’s continuing refusal to fully respond to NPCA’s timely and legitimate requests for information underlying the Navy’s NEPA analysis and documents. This comment supplements but does not supersede the comments and issues raised and evidence presented in NPCA’s prior comments on the NEPA process and analysis that lead to and is included in the FSEIS.

For all of the reasons set out below, and in NPCA’s 2017 Scoping Comment, June 12, 2019 DSEIS Comment and November 15, 2019 Supplemental DSEIS Comment, the Navy should withdraw its FSEIS, reissue it as a revised Draft SEIS after it has fully responded to NPCA’s requests for information underlying this NEPA process, and allow for a second, complete public comment process on the revised document.

I. The Navy’s Continuing Failure to Provide Requested Documents to Both the General Public and NPCA Violates NEPA.

A theme running through all of NPCA’s prior comments is the Navy’s continuing failure to meet its legal obligations that require it to provide the public, including NPCA, with requested records containing information about its activities and their environmental impacts. See generally Ex. H, Doc. 17. Without these highly relevant records it has been and still is impossible for NPCA and other members of the public to offer fully informed comments on the Navy’s NEPA documents and their analysis contained therein. NPCA began asking for these records from the Navy, pursuant to the Freedom of Information Act (“FOIA”), in 2016. Since then NPCA pursued two administrative appeals, both of which the Navy upheld, but the Navy still failed to produce all of the responsive records. NPCA’s 2017 scoping comment clearly noted that NPCA needed the requested records in order to comment on any DSEIS. NPCA submitted a supplemental FOIA request in 2018 and once again has successfully administratively appealed the Navy’s wholly inadequate response to this second supplemental FOIA request. But despite that successful appeal, NPCA still did not receive most of the records that are responsive to its 2018 FOIA request before it had to comment on the DSEIS. NPCA formally requested an extension of the comment period so it can submit its comments after the Navy fully responds to its FOIA requests, but that request was effectively denied.

Central to the NEPA review process are NEPA's public comment procedures.⁵ After preparing a draft EIS, an agency shall request comments from the public.⁶ NEPA requires that environmental information be available to citizens before decisions are made and actions are taken; despite this, the Navy failed to provide information to the public before and during the draft SEIS comment period.⁷ Even though NPCA made multiple attempts to access information referenced in the draft SEIS, it found it extremely difficult and ultimately impossible to obtain the information necessary for it to submit fully informed comments, and NPCA still does not have all of this information.

When an agency prepares an EIS, it shall incorporate information by reference and/or prepare an appendix.⁸ Information that is incorporated by reference includes materials that are not directly related to preparing an EIS, such as other EISs, research papers in the general literature, or technical background papers.⁹ Information incorporated by reference "must be made available, either by citing the literature, furnishing copies to central locations, or sending copies directly to commenters upon request."¹⁰ A significant amount of material seems to be incorporated by reference in this draft SEIS yet, although the Navy has an extensive website regarding this DSEIS, NPCA and other members of the public were unable to find the material on that specific website or other Navy websites. During a public meeting held for the draft SEIS, NPCA's counsel asked several Navy personnel where information referenced in the draft SEIS could be found, but no one was able to answer this question. NPCA's counsel sent an email on April 30, 2019 again seeking access to this referenced material.¹¹ NPCA's subsequent efforts to obtain these materials are documented in its November 2019 Supplemental Comment.¹² Only months later in 2020 did the Navy finally produce all of these incorporated materials, but that was long after the comment period for the DSEIS was closed.

In addition to incorporating material by reference, agencies may also prepare an appendix.¹³ This appendix shall consist of all materials prepared in connection with the EIS, such as research papers directly relevant to the proposal, lists of affected species, or discussions of the methodology of models used in the analysis of impacts.¹⁴ Importantly that appendix and related information must be circulated with the EIS, or be readily available upon request.¹⁵ NPCA, again, had great difficulty obtaining any information related to preparing the draft SEIS—this information was not circulated with the EIS nor was it available on the NWTW Project website. In an effort to receive information necessary for its comment, NPCA's counsel sent another email to the Navy requesting information and underlying data and technical information used

⁵ *State of California v. Block*, 690 F.2d 753, 770 (9th Cir. 1982).

⁶ 40 C.F.R. § 1503.1(a)(4).

⁷ 40 C.F.R. § 1500.1(b).

⁸ *See* 40 C.F.R. § 1502.21 and 1502.18

⁹ *See* Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 46 Fed. Reg. 18,026 (March 23, 1981).

¹⁰ *See id.*

¹¹ *See* Emails Between Tom Buchele and NWTW Project Manager re: Request for Incorporated by Reference Materials (Attached as Exhibit E).

¹² *See* Exhibit F.

¹³ *See* 40 C.F.R. § 1502.18

¹⁴ *See* 40 C.F.R. § 1502.18(a); *see also* Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 46 Fed. Reg. 18,026 (March 23, 1981).

¹⁵ 40 C.F.R. § 1502.18(d) (2019)

specifically in the Navy's noise analysis and modeling.¹⁶ It has been impossible for NPCA to fully evaluate or replicate the Navy's noise modeling, as it is entitled to do under NEPA, without this information. Several months after receiving this request the Navy "converted" this request into a FOIA request. However, the Navy still did not actually respond to that request.

Despite requests from NPCA, the only information that was publicly available during the draft SEIS comment period was reference material from one section of the draft SEIS. A vast majority of incorporated materials and other materials/data used in preparing the draft SEIS were unavailable to NPCA and the public during the comment period. The Navy's failure to provide necessary information to the public during this time explicitly violates one of NEPA's core purposes of ensuring that environmental information be available to citizens before decisions are made.¹⁷

NPCA also sought to obtain Environmental Protection Agency (EPA) comments on drafts of the SEIS from the EPA in 2019 using a FOIA request. The EPA however improperly referred that request for EPA records to the Navy and the Navy denied it in principal part.

Frustrated by the Navy's failure to respond to its FOIA requests, NPCA was forced to file suit against the Navy.¹⁸ This lawsuit initially focused only on the 2016 FOIA request. Only after filing this lawsuit did the Navy, during the second half of 2019, finally produce thousands of records responsive to NPCA's 2016 and 2018 FOIA requests. However, NPCA's review of those records indicated that the Navy was still improperly withholding responsive records and NPCA amended its complaint to reflect those facts and add claims based on the Navy's failures to fully respond to the 2016, 2018, May 2019 and EPA Referral FOIA requests. *See* Exhibit H, Doc. 17. After the Navy unsuccessfully attempted to delay for many months a summary judgment briefing regarding NPCA's FOIA claims, the Court on April 8, 2020 ordered the Navy to produce all responsive records by May 8, 2020 and ordered an expedited summary judgment briefing schedule during May and June of 2020. Exhibit H, Doc. 20, 21 and 23. During April, May and June the Navy produced thousands of pages of additional responsive records; however, as NPCA's attached summary judgment briefs establish, the Navy still continues to withhold or improperly redact thousands of pages of responsive records. Exhibit H, Doc. 32, 39, and 42. Significantly, before the Navy produced these additional responsive records in 2020, in November of 2019, the Navy insisted that it had fully responded to NPCA's requests and demanded that NPCA submit any supplemental comment it had on the DSEIS by November 15, 2019. *See* Exhibit F. Because NPCA believed, correctly, that the Navy had not in fact fully responded to its requests, NPCA's November 15, 2019 Supplemental Comment set forth in detail how the Navy had and was still refusing to produce relevant, requested records underlying the analysis in the DSEIS. *Id.* As noted above the Navy's obstruction of NPCA's efforts to obtain all material and responsive records that it requested from the Navy continued long after November 15, 2019 and continues until today, almost one year later.

¹⁶ *See* May 31 Email from Tom Buchele to NWTT PM and Navy Counsel, with Attachment re: Request for Underlying Data (Attached as Exhibit G).

¹⁷ *See* 40 C.F.R. § 1500.1(b)

¹⁸ *See* Exhibit H (Folder of FOIA litigation documents)

One record in particular, that the Navy did not produce to NPCA until April of 2020¹⁹, illustrates and underscores how the Navy's lengthy efforts to obstruct NPCA's access to highly material records has significantly prejudiced NPCA's efforts to submit fully informed comments while the Navy was evaluating the impacts of its proposal and before it made any decision. NPCA's comments have understandably focused on the impacts from the Navy's flights over Olympic National Park. The DSEIS downplayed the significance of those impacts and included a map indicating that those overflights were restricted to two transit corridors. However, an FAA document produced by the Navy in April of 2020 directly contradicts the DSEIS in this regard. Although this FAA document was in the Navy's possession and clearly responsive to NPCA's 2016 FOIA request, the Navy delayed producing it until almost four years after receiving that FOIA request.²⁰ Obviously this document would have been very useful to have had when NPCA prepared its DSEIS comment in 2019, but the Navy intentionally and illegally withheld it and is still illegally withholding similar documents.²¹

As is set forth in the attached expert report from the Noise Pollution Clearinghouse, the Navy also continues to illegally withhold most of the data and other information underlying the noise modeling that supposedly supports many of the SEIS's numerous assertions of minimal or limited noise impacts from its military jets. NPCA cannot fully evaluate or replicate this modeling without this information that it first requested in May of 2019. NEPA requires that the Navy produce the data underlying the assertions and any expert opinions in its SEIS. *ONRC v. Goodman*, 505 F.3d 884, 893 (9th Cir. 2007); *Ecology Center v. Castaneda*, 574 F.3d 652, 667-68 (9th Cir. 2009); 40 C.F.R. §1506.6(f). It was the Navy's choice to rely almost exclusively on modeling rather than noise monitoring to establish the environmental baseline and to project future impacts in terms of the noise produced by its jets. The Navy however cannot, consistent with NEPA's public disclosure and participation requirements, choose to rely on such modeling and at the same time deny the public the data underlying that modeling. This data would also show exactly where its jet fly, at what altitudes and at what speeds when they fly over Olympic National Park. The Navy has already misrepresented that information in the DSEIS and NPCA is entitled to see the actual data to verify whether its revised representations in the FSEIS are any more accurate. Until the Navy provides NPCA with this information and allows it to comment based on that information, the Navy cannot legally finalize its SEIS or issue its Record of Decision (ROD).

Despite its best efforts—filing multiple FOIA requests and seeking documents directly from the NWTT Project Manager—NPCA has not had access to documents necessary for it to

¹⁹ See Exhibit I see also Exhibit H.

²⁰ NPCA believes the Navy has many similar FAA documents but the Navy has either failed to produce them or has produced them in an unusable format (Black & white) or with heavy redactions of the most relevant information. See Exhibit H, Doc. 35 and 40. NPCA has also sought these records directly from the FAA, but it too has illegally denied NPCA relevant records in its possession. (See Exhibit J, Exhibit K, Exhibit L, Exhibit M, Exhibit N.)

²¹ The fact that NPCA has it now and can use it for this comment on the FSEIS does not cure the Navy's NEPA violations. NEPA requires that the public receive relevant environmental information and be allowed to meaningfully participate in the Navy's analysis and decision-making process. That process is now virtually complete. The Navy also illegally denied NPCA's request in 2019 for all public comments on the DSEIS, in direct violation of 40 C.F.R. §1506.6(f). (See Exhibit O, Exhibit P, Exhibit Q.) Although the Navy has now posted those comments on its website, a year after NPCA's request, this does not cure the fact that NPCA was illegally denied meaningful access to them during the Navy's decision-making process.

fully comment on the draft SEIS of FSEIS. Public scrutiny is essential to the NEPA process, and the Navy's improper withholding of environmental information related to its decision-making process directly violates NEPA.²²

II. The Final SEIS Still Fails to Adequately Consider Impacts Relating to the Noise Emitted by the Navy's Aircraft Activities, particularly to Olympic National Park.

This section discusses general comments on the inadequacy of the environmental analysis contained in the 2020 FSEIS, as well as specific discussion of the Navy's response to NPCA's comments submitted on the 2019 DSEIS. This section supplements the attached expert reports from the Noise Pollution Clearinghouse, dated August 14, 2020 and October 17, 2020, attached as Exhibits R, S-1, and S-2, which are NPCA's primary source for its comments on the still seriously flawed and incomplete analysis and discussion of noise impacts in the FSEIS.

The introduction to the October 17, 2020 expert report clearly lays out the myriad issues and concerns raised by the Navy's noise analyses:

Part 1 concerns the Navy's insistence on the critical importance of the DNL²³ noise metric and **the Navy's failure to use the DNL metric to analyze the transit routes**. Part 2 highlights an important **contradiction in the Navy's analysis of the transit routes between its 2019 DSEIS and 2020 FSEIS**. Certain claims about the transit routes in both the 2019 and 2020 documents cannot both be true. Moreover, it is very likely that neither is true. The Navy has not provided the underlying data supporting these claims, and neither I nor the public can know the veracity of the transit route analyses without the underlying data, which we have requested but been denied access to. Part 3 shows that **the "audibility" and "Lmax" analyses in the 2020 FSEIS are meaningless**, both in terms of identifying impacts on the National Park, and also from a scientific perspective. Part 4 concerns **the Navy's unjustifiable rejection of noise monitoring in Olympic National Park**. Noise measurement is the foundation of noise assessment, and the Navy's argument against noise measurement lacks credibility and scientific support. Part 5 presents a matrix that shows **the Navy's responses to comments and requests for data are inadequate**. The matrix lists the data requested from the Navy and faults in the Navy's DSEIS noise analysis, whether those data were provided or that faults addressed in the FSEIS, and if so, whether the Navy's response was adequate. Of 44 requests or comments described in the matrix, the Navy's response was adequate in only 2 cases. Finally, since the FSEIS seems to rely on data and modeling that was not part of the DSEIS analysis, Part 6 provides **a supplement to our previous data requests that are needed to evaluate the FSEIS**. The data requested is required to assess the veracity of the Navy's claims and the accuracy of its analysis. That the Navy continues to refuse to provide the previously requested data suggests that the data likely does not support the veracity of the claims or the accuracy of the analysis. Both the past and new requests should be provided immediately.

²² See 40 C.F.R. § 1500.1(b); see also *LOWD*, 2014 WL 69977611, *14-20.

²³ The DNL metric refers to the Day-Night Average Sound Level, which is described in Section J.4.1 of Appendix J of the FSEIS.

Specific additional failings are addressed in the comments below.²⁴

a. The Final SEIS Noise Analysis use of Day-Night Average²⁵

The Navy attempted to meet its NEPA obligation to analyze impacts, created here by its jet aircraft noise, by almost exclusively using Day-Night Average Sound Level (DNL) and supplemental metrics. Relying almost exclusively on modeling, the Navy provided no reasonable alternatives that eliminate or mitigate Navy jet aircraft noise impacts and did not address all noise effects and cumulative impacts with the required specificity. Additionally, the modeling the Navy uses is deficient for the following reasons:

- The Navy has not explained, in any meaningful way that allows the public to clearly understand, how the Navy modeled noise in the Olympic MOAs or Transit Areas.
- The Navy has not provided any underlying data sets that show the data inputs for the model used by the Navy.
- Because of the Navy’s obfuscation regarding the underlying modeling data, the public is unable to understand why the Navy reached its conclusion, based almost exclusively on modeling, that an increase in high-amplitude aircraft noise will have no effects on wildlife and park visitors.
- The Navy openly discusses multiple EIS documents for this project spanning many years. The Navy must finalize a single NEPA document that is comprehensive and reasonably within public understanding.
- The FSEIS fails to include updated and current maps that show specifically where aircraft overflights are happening within Olympic National Park. The Navy has this data, but has failed to provide even basic, non-mission transit flight paths to show specifically where military aircraft are flying over Olympic National Park. Although the Navy created “Figures” for both the DSEIS and FSEIS, DSEIS Figure 2.3.1 and FSEIS Figure 2.3.1, that purport to show where the Navy’s jet fly transit across the Park, neither document appears to be accurate when compared to the 2016 FAA document that the Navy finally produced to NPCA in April of 2020. Exhibit I. That document contains color-coded maps that appear to provide much more, and much more accurate, information than the Navy’s “Figures.” The Navy does not explain why it needed to create these “Figures” when it easily could have used the much more informative FAA maps in its DSEIS and FSEIS.
- The limited data inputs that the Navy does provide show that the Navy chose to use different speeds and engine power metrics for different modeling applications. This choice is not explained and is concerning because changing the data inputs will change the modeling noise outputs.
- Regarding the EA-18G [also known as the “Growler”], the Navy referenced its use of various aircraft speeds at 250, 298, and 342 knots, respectively, across its models. (SEIS

²⁴ See Exhibit S-1.

²⁵ The DNL metric refers to the Day-Night Average Sound Level, which is described in Section J.4.1 of Appendix J of the FSEIS.

J-28–29). However, the Navy fails to explain why different speed inputs would be necessary for different modeling. Additionally, Table J-3 contemplates Suppression of Enemy Air Defenses, Air to Air Counter Tactics and indicates that 342 knots seems to be the highest speed considered. NPCA’s research shows that the Growler has a top speed of 1058 knots, under 44,000 lbs of thrust.²⁶ The Navy must explain the reasoning for its choice in ground speed, because the result of changing inputs is different modeling outputs.

- The Navy is explicit that transit from MOA to YETII will involve decent to 10,000 ft and an airspeed of 250 knots. FAA documents indicate a groundspeed of 350 – 450 knots. The Navy fails to discuss in full these discrepancies and oversimplifies descent as a “lower power” operation.
- The Navy’s modeling is based on “the loudest available variants of these aircraft for noise modeling” (FSEIS J-9) and the 2020 FSEIS says the following about its data sources: “[t]he reference activities for the EA-18G [“Growler], the P-3C, the P-8, and the F-15 were derived from a three-year average of actual aircraft flight information derived from 2015–2017 Sierra Hotel Aviation Readiness Program (SHARP) and Data Collection and Scheduling Tool (DCAST) data.” (J-2). There is no discussion of the various electronic warfare and weapons packages and pods that may decrease the aerodynamics, increase turbulence and wake, and increase the noise of aircraft.
- The Navy’s choice for airspeed inputs do not match the FAA documents the Navy provided to NPCA in 2020 that show transit flights travel between 350 – 450 knots groundspeed. The Navy must provide an accurate accounting of aircraft speed, differentiating between airspeed and groundspeed when traveling in both the Olympic MOA and all Transit Areas across the Olympic National Park.
- $\text{Airspeed} = \text{groundspeed} - \text{windspeed}$. There is no discussion of groundspeed and the effects of changing wind conditions or turbulence due to weather conditions in mountainous terrain of Olympic National Park on noise and noise modeling.
- Modeling transparency is essential for public understanding of the project within the scope of NEPA. This is especially pertinent because the Navy is claiming a negligible effect on Olympic National Park’s wildlife and the human environment. (FSEIS K-59, H-685).
- The Navy acknowledges that the model “does not have the capability to model complex terrain,” but also claims its choice of noise model MRNMAP “uses the best available science to calculate noise.” FSEIS J-19. Olympic National Park presents significant elevation and complex terrain and there are better and more supported scientific models that take these considerations into account. However, let us be clear, the Navy can make all the statements in its defense that it wants citing recommendations and guidance but it *cannot* avoid the fact that the model it chose to use is incapable of addressing elevation and complex terrain. Thus, the Navy’s FSEIS is deficient in providing an accurate and

²⁶ <https://www.naval-technology.com/projects/ea-18g-growler/>; see also <https://www.boeing.com/defense/ea-18g-growler/#/technical-specifications>. Attached as Exhibits T and U.

rigorous noise analysis anywhere that the Navy models conditions which are not within the models limiting parameters.

- For example, if a thermometer has a measuring limit of temperatures between 0 degrees Fahrenheit and 110 degrees Fahrenheit, then the thermometer is unable to provide accurate and precise information for temperatures below 0 degrees and above 110 degrees. The Navy may attempt to explain away this simple example as dealing with measurement while the Navy's data set deals with modeling. However, while extrapolation in modeling can be a useful tool, it is incorrect to extrapolate on a data set that in its entirety has not been taken into account, i.e., elevation and terrain. Here the Navy is unable to properly extrapolate because their model does not account for terrain and elevation as a dataset. Instead, they assert that the best science available allows for terrain and elevation data inputs to be excluded from their noise analysis.
- The Navy discounts any discussion of monitoring, even though the burden for monitoring is incredibly low and could corroborate (or contradict) the Navy's findings through its singular reliance on modeling.

b. The DSEIS and FSEIS both Articulate an Unduly Narrow Scope.

i. NPCA's Original Comment²⁷ (NPCA-2)

Here, the Navy's DSEIS fails to properly identify the scope of its environmental impacts. The very first page of the DSEIS limits the scope of the analysis to the "study area" which it repeatedly discusses in the context of activities "conducted at sea." Only by referencing Figure 1.1-1 can someone understand that, despite these repeated "at sea" references, the Study Area in fact includes large areas of land within its Military Operations Areas (MOAs). Only much later in the DSEIS, in Figure 3.12-10, do we learn that these MOAs also include a large part, over 25%, of Olympic National Park. However, another map, in another part of the DSEIS, Figure 2.3-1, shows that the Navy's activities actually impact far more than just those parts of the Park in the MOAs. The Navy jet transit routes used to access the MOAs require the Navy jets to fly over much larger sections of the Park where they also cause direct, indirect and cumulative impacts.

Unfortunately, the analysis undertaken by the Navy only assesses impacts resulting from its training and testing activities within the MOAs and Warning Areas. The Navy provides no explanation for this arbitrary limitation on the scope of its analysis and fails to acknowledge that the Navy jets operating in the MOAs do not just magically appear in that area. They fly over the Park to get to the MOAs, and they make a lot of unnatural noise, directly, and adversely impacting the Park and its visitors when they do so. This limitation is one of the many reasons why the DSEIS is inadequate, because it leads to the Navy's failure to fully consider its impacts on the entire Olympic National Park generally and recreation within the Park specifically, as well as hinders its cumulative impact analysis.

²⁷ From page 4 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-2 on page H-98 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

ii. Inadequacy of the Navy's Response to NPCA-2

The Navy responds both that the Navy had properly identified the scope of impacts in the DSEIS, but also that for the FSEIS, “the Navy has expanded the analysis of impacts of aircraft overflights to include transits to and from the Olympic MOA.”²⁸ While the inclusion of transit overflights is a step in the right direction, it fails to meet the requirements of NEPA. First, Navy’s NEPA review stretches across multiple NEPA documents over multiple years. The public should not have to parse the language of these documents.²⁹ The Navy must complete a comprehensive NEPA document that stands alone for the public to adequately review.

Second, the “expanded [] analysis of impacts of aircraft overflights to include transits to and from the Olympic MOA” is deficient for the reasons discussed below. All parts of the Navy’s proposed action must be clearly stated at the outset of the NEPA document and the document must present a reasonable range of alternatives including a no-action alternative. These alternatives must be rigorously and objectively evaluated.³⁰ A determination of significant impact must be discussed, and if significant impacts are found, mitigation measures must be presented. Additionally, the Transit Area overflights must be discussed with actual analysis looking at the direct, indirect, and cumulative impacts of the flights. The Navy says that this discussion of transit overflights happens in J.6.2. However, this section only mentions historic FAA radar tracks and does not offer any discussion of indirect or cumulative effects of multiple flights over the transit area over a period of time, nor the cumulative effects of aircraft noise when combined with noise from private and commercial aircraft overflights. Why are these FAA radar tracks, which likely are what is represented on the 2016 FAA Document, Exhibit I, not included in the FSEIS? Why is there no discussion of cumulative impacts over the Park?

Based on the updated map of the YETII transit area provided in the FSEIS at J-27, Figure J-4, it is clear that the Navy needs to expand its modeling to address this area as it extends beyond the Olympic MOA. As discussed throughout, any attempted modeling of this area with the Navy’s selected noise metrics would be deficient because the Navy chose to use modeling that cannot account for terrain or elevation. The only thing that is clear here is that the Navy failed to undertake a full analysis of the Transit Area to and from the Olympic MOA. Each step of the Navy’s noise analysis is deficient under NEPA.

²⁸ U.S. DEP’T OF THE NAVY, NORTHWEST TRAINING AND TESTING: FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT/OVERSEAS ENVIRONMENTAL IMPACT STATEMENT (Sep. 2020) at H-98, hereinafter referred to as “NWTT FSEIS.”

²⁹ *See League of Wilderness Defs./Blue Mountains Biodiversity Project v. Connaughton*, 752 F.3d 755, 761 (9th Cir. 2014) (“When the public reviews an EIS to assess the environmental harms a project will cause and weighs them against the benefits of that project, the public should not be required to parse the agency’s statements to determine how an area will be impacted, and particularly to determine which portions of the agency’s analysis rely on accurate and up-to-date information, and which portions are no longer relevant.”)

³⁰ 40 C.F.R. § 1502.14(a) (2019)

iii. NPCA's Original Comment Unaddressed by the Navy³¹

When the Navy accesses the MOAs, it departs from the Naval Air Station Whidbey Island, located to the northeast of the Park, and flies directly over the Park to the MOAs.³² Interestingly, when discussing the transit routes, the Navy conveniently fails to mention that the routes take the Navy's jets directly over the Park.³³

iv. Inadequacy of the Navy's Response

The inclusion of Figure J-4 (identical to Figure 2.3.1 in the main body of the FSEIS) remains deficient in its failure to provide clarity as to where exactly the transit aircraft overflights will occur. The map in Figure J-4 on page J-27 modifies maps included in previous DSEIS document by adding a large yellow triangle titled: *Olympic MOA – YETII Transit Area*. NPCA is left to conclude that transit overflights will affect a substantial area in the heart of Olympic National Park. This area is significant, and the level of detail provided by the Navy at such a late stage in the NEPA process raises significant concerns that the Navy's FSEIS lacks meaningful and adequate evaluation of the effects of transit overflights in the Olympic National Forest. Additionally, Figure J-4 only addresses Growler flights. As the Navy is flying multiple types of aircraft over this area, the NEPA document must include discussion of all aircraft types and flight paths.³⁴

v. NPCA'S Original Comment³⁵ (NPCA-3)

During transits to and from the MOA, Park visitors and wildlife are directly impacted by the deafening noise of the Growler jets passing nearby.³⁶ In the National Park Services' ("NPS" or "Service") Acoustic Monitoring study within the Park, in areas outside of the MOAs—Hurricane Ridge and Lake Crescent—"other aircraft sounds," meaning military jets, were heard more frequently than in areas within the MOAs; military jets were heard 8.3% and 7.2% of the time at Hurricane Ridge and Lake Crescent, respectively.³⁷ Further, numerous Park visitors, including NPCA members, visit areas of the Park outside the MOAs and witness and/or hear Growler jets overhead, resulting in complaints and impacts to their park experience.³⁸ The Olympic National Park is one of the most visited National Parks, with nearly 3 million annual

³¹ From page 5 of NPCA Comments on 2019 NWTT DSEIS, not responded to in Appendix H of the 2020 NWTT FSEIS.

³² NWTT 2019 DSEIS at 2-17; *see also* 2-18, Figure 2.3-1: Aircraft Transit to and from Olympic MOA and 3.12-21, Figure 3.12-10: Recreational Areas in the Inland Waters Portion of the Study Area

³³ *See* NWTT 2019 DSEIS at 2-17.

³⁴ NWTT FSEIS at J-1.

³⁵ From page 6 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-3 on page H-98 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

³⁶ *See* Section II(e) of NPCA Comments on 2019 NWTT DSEIS for a more in-depth discussion regarding impacts to Park visitors and Section II(b) for a more in-depth discussion regarding noise impacts from Navy aircrafts.

³⁷ *See* National Park Service, Olympic National Park: Acoustic Monitoring Winter 2010 viii (Nov. 2016), "NPS Noise Monitoring Study", (Attached as Exhibit 1 to NPCA Comments on 2019 NWTT DSEIS).

³⁸ *See* Testimonials from Olympic National Park Visitors (Attached as Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.); *see also*, National Park Service's October 5, 2017 DSEIS Scoping Comment at 2, "NPS Scoping Comment" (Attached as Exhibit 3 to NPCA Comments on 2019 NWTT DSEIS.).

visitors.³⁹ Importantly, a number of visitors seek to visit the Park to enjoy its serene natural soundscape; in fact, the Park's Hoh Rainforest is known for containing the "quietest one square inch in the United States."⁴⁰ Thus, it is very likely that visitors who seek to experience the Park's tranquil natural sounds will be negatively impacted by the Navy's increased use of Growler jets. By limiting the scope of the DSEIS to the MOAs, the Navy improperly eliminated the entire Park from its analysis, as well as the impacts the Growlers may have on the Park's recreational visitors and wildlife.

vi. Inadequacy of the Navy's Response to NPCA-3

The Navy's comment states that "[i]t is incorrect to assume that 'other aircraft sounds' means 'military jets.'"⁴¹ The Navy states that "the FAA determined that over the Olympic National Park, Navy aircraft account for only 25 percent of all flights below 35,000 ft. altitude and 38 percent of all flights below 18,000 ft. altitude."⁴² NPCA would like to know why this information was not clearly included in Appendix J. It appears to come from documents like the 2016 FAA Document, Exhibit I. Perhaps more importantly, there is absolutely no actual analysis of the cumulative impacts of the aircraft noise from the overflights by other types of aircraft. There is no question that the noise from Navy jets and from other aircraft could cumulatively have much greater impacts. The Navy's noise modeling does not include noise from non-Navy aircraft.

Additionally, the Navy appears to discount the National Park Service's Acoustic Monitoring Study which revealed that in some areas of the Park outside of the MOAs, Navy jets are heard by visitors more frequently than in portions of the Park which are directly under the MOAs. If the Navy is going to disregard the National Park Service's study, then the Navy must provide the data it relies upon to rebut this study, and must discuss the impacts of these flights over the Park.

The Navy's comment mentions the serene soundscape of Olympic National Park, but fails to have a meaningful discussion as required by NEPA to consider all the effects and cumulative impacts on that soundscape. The Navy must address the impacts of military aircraft to the Park in its analysis. The Navy must include a comprehensive analysis of aircraft overflights such that the effects on Olympic National Park are reasonably and completely evaluated. Stating in the comment that "[a]ircraft flights over the Olympic Peninsula are not new," does not provide the level of detailed discussion required of the Navy's NEPA analysis. This FSEIS must address the impacts of existing flights, the recent steady increase in Navy sorties and airspace utilization hours over the MOA,⁴³ and the proposal to increase flights. That the Navy has trained over the Olympic Peninsula since World War II (WWII) does not excuse the Navy of its obligation to perform a rigorous and thorough analysis.

³⁹ See Jennifer Errick, *Park Service Releases Most-Visited National Park Data for 2012*, NATIONAL PARKS CONSERVATION ASSOCIATION (Apr. 3, 2013) (Attached as Exhibit 4 to NPCA Comments on 2019 NWTT DSEIS.); see also NWTT DSEIS at 3.12-19.

⁴⁰ See Larson, *Sound Check: The Quietest Place in the U.S.*, Exhibit 5 to NPCA Comments on 2019 NWTT DSEIS.; see also *One Square Inch*, GOOGLE MAPS, Exhibit 6 to NPCA Comments on 2019 NWTT DSEIS.

⁴¹ NWTT FSEIS at H-98.

⁴² *Id.*

⁴³ See Exhibits V, W, X, and Y.

Lastly, the Navy states that “[v]isitation data to the park does not suggest that the aircraft overflights are impacting tourism, with steady growth over 4 of the last 5 years of data (2013-2018).” Here, the Navy obfuscates the point by not addressing the impact to the significant number (3 million) of annual visitors who will be affected by current and increasing aircraft overflights in the Olympic MOA and Transit Areas. A number of commenters have raised concerns that although visitation numbers may be increasing, visitors are actually leaving earlier as a direct effect of disruptive Growler noise in the park.⁴⁴ 40 C.F.R § 1508.14 requires that the Navy adequately discuss all these effects on the human environment.

vii. NPCA’S Original Comment (NPCA-4)⁴⁵

An agency is required to perform an environmental analysis when it is reasonably possible to analyze the environmental consequences.⁴⁶ There is no basis for the Navy to exclude the entire Park from its environmental analysis. In the NPS’s 2017 Scoping Comments for this DSEIS, the Service explicitly stated it receives complaints from visitors about “low flying military aircrafts within the wilderness areas but outside of the Olympic MOA.”⁴⁷ The Navy knows its transit routes are directly over the Park and that people are being negatively impacted by the Growler traffic, yet it failed, without explanation, to analyze these impacts.

Further, as discussed in detail above, the Navy’s decision to narrow the scope of this DSEIS to only its training and testing activities within the MOAs and Warning Areas improperly segments the NEPA analysis. The Navy has been conducting activities, including both aircraft and vessel training, in the Pacific Northwest and Olympic Peninsula for decades.⁴⁸ Despite its long and impending presence in the area, the Navy has continually failed to conduct a programmatic NEPA review to cumulatively assess the environmental impacts of all of its activities.

The Navy’s analysis of impacts within only the MOAs and Warning Areas unduly narrowed the scope of the DSEIS, which caused the Navy to fail to adequately consider the environmental impacts of the its activities. Thus, the DSEIS fails to comply with NEPA.

viii. Inadequacy of the Navy’s Response to NPCA-4

Here, the Navy refers to its response to Comment NPCA-02 to assert that the Navy “did analyze aircraft transits to and from the Olympic MOA” and that this “complies with requirements of NEPA.”⁴⁹ The response to Comment NPCA-02 identified Section J.6.2 as

⁴⁴ Jefferson County Board of Commissioners, comment on 2019 NWTT Draft SEIS/OEIS, June 12, 2019 at 5, hereinafter referred to as “Jefferson County Comment”; Port Townsend Mayor, comment on 2019 NWTT Draft SEIS/OEIS, June 12, 2019 at 4-5, hereinafter referred to as “Port Townsend Comment.”

⁴⁵ From page 6 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-4 on page H-99 of Navy’s Response to Comments in Appendix H of the 2020 NWTT FSEIS.

⁴⁶ *Kern*, 284 F.3d at 1072.

⁴⁷ See NPS Scoping Comment at 2, Exhibit 3 to NPCA Comments on 2019 NWTT DSEIS.

⁴⁸ NWTT DSEIS at 2-8

⁴⁹ NWTT FSEIS at H-99

providing information about the analysis of transits.⁵⁰ Section J.6.2 does not provide any analysis of environmental impacts or impacts to park visitors. And yet, the Navy says it has “taken a hard look at the cumulative effects of the incremental impact of its proposed action when added to other past, present, and future actions, against the appropriate resources and regulatory baselines.”⁵¹ There is zero support for this statement in the record. This is a willful disregard of the requirements of NEPA. The Navy seems to think NPCA is asking for the world. The Navy cites guidance from the Council on Environmental Quality which states it “is not practical to analyze cumulative effects of an action on the universe; the list of environmental effects must focus on those that are truly meaningful.”⁵² However, NPCA simply requests the Navy evaluate what is reasonable and required under an adequate NEPA review. The Navy’s analysis of impacts within only the MOAs and Warning Areas unduly narrowed the scope of the DSEIS, which caused the Navy to fail to adequately consider the environmental impacts of its activities.

c. The DSEIS and FSEIS Fail to Adequately Consider Impacts Relating to the Noise Emitted by the Navy’s Aircraft Activities, particularly to Olympic National Park.

i. NPCA’s Original Comment (NPCA-5)⁵³

The Draft SEIS Fails to Adequately Consider Impacts Relating to the Noise Emitted by the Navy’s Aircraft Activities, particularly to the Olympic National Park. As the DSEIS states, “[n]oise is one of the most prominent environmental issues associated with military training activities.”⁵⁴ Therefore, NPCA is greatly concerned by the Navy’s failure to both properly assess the noise impacts associated with the proposed action and to include relevant and commonplace figures illustrating noise impacts. Such illustrations would allow public comprehension of the impacts of the proposed action as required by NEPA.⁵⁵ The DSEIS almost exclusively analyzes noise impacts to marine species. While we believe these impacts are important, the absence of further noise analysis regarding the acoustic effects of the proposed action on the terrestrial environment, especially impacts to Olympic National Park and its visitors is a serious flaw and illegal under NEPA. NPCA is further astounded by the vast discrepancies between the DSEIS and the Whidbey Island FEIS which was published less than a year ago.^{56,57} In order to comply

⁵⁰ NWTT FSEIS at H-98.

⁵¹ NWTT FSEIS at H-99.

⁵² NWTT FSEIS at H-99.

⁵³ From page 7 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-5 on page H-99 & H-100 of Navy’s Response to Comments in Appendix H of the 2020 NWTT FSEIS.

⁵⁴ NWTT 2019 DSEIS at J-3.

⁵⁵ See 40 C.F.R. §§ 1500.2(b), (d) (2019)

⁵⁶ U.S. DEPT. OF THE NAVY, ENVIRONMENTAL IMPACT STATEMENT FOR EA-18G “GROWLER” AIRFIELD OPERATIONS AT NAVAL AIR STATION WHIDBEY ISLAND COMPLEX, “Whidbey Island FEIS” (2018).

⁵⁷ In September 2018, the Navy published the Whidbey Island Complex Growler FEIS. The proposed action of the 2018 FEIS was the expansion of Growler operations at Naval Air Station Whidbey Island complex including the addition of 35-36 aircraft to increase the electronic attack capabilities of the Navy. Discussed in more detail below, the Whidbey Island FEIS is a much more complete document with significant differences between it and the DSEIS at issue in this comment. Further, as described in Section IV of NPCA’s comments to the 2019 NWTT DSEIS, the Navy improperly segmented its analysis of impacts within the Olympic Peninsula, resulting in these two vastly different EISs. Thus, the Navy must complete a comprehensive EIS focusing on all of its impacts in the Olympic Peninsula to comply with NEPA.

with NEPA, the final SEIS must include a rigorous and factually accurate analysis of the noise impacts associated with Navy's military training to the MOAs and the surrounding area, particularly all of Olympic National Park.

ii. Inadequacy of the Navy's Response to NPCA-5

Here, the Navy responds by stating that “[s]ome figures requested by this commenter are not helpful when conducting a noise analysis of special use airspace, which is vastly different from analyzing predictable, repeatable aircraft tracks as was the case in the EA-18G Growler Airfield Operations Final EIS referenced in the comment.”⁵⁸ Is the Navy suggesting they don't know where they fly their planes? The Navy knows where, when, and under what conditions they fly their planes. See, e.g., Exhibit. I. Failure to adequately engage in noise analysis regarding acoustic effects of the proposed action in general, and especially over Olympic National Park, is a serious flaw and illegal under NEPA.

d. The DSEIS and FSEIS Noise Modeling and analyses are scientifically and technically flawed.

i. NPCA's Original Comment (NPCA-6)⁵⁹

The DSEIS Noise Modeling and analysis is scientifically and technically flawed. Because the DSEIS relies heavily on noise modeling to predict the impacts of its Navy jets, NPCA asked Les Blomberg, a noise pollution expert and Executive Director of the Noise Pollution Clearinghouse, to review that modeling and other relevant parts of the DSEIS. Mr. Blomberg found serious scientific and technical defects and omissions in that analysis as is outlined in his attached comment.⁶⁰ Perhaps more importantly, Mr. Blomberg explains that he was unable to conduct a more comprehensive evaluation of the Navy's noise modeling because the Navy failed to provide the public with the underlying data and other necessary information. NPCA specifically requested that the Navy make this underlying data available, but the Navy did not respond to this request.

Les Blomberg created a report detailing the inadequacy of the DSEIS' acoustic analysis. His twenty-page report concluded that the DSEIS is “not a serious or hard look at the impacts of military aircraft overflights on Olympic National Park”⁶¹ due to seven distinct reasons. First, the sound analysis within the DSEIS is incomplete due primarily to a failure to assess impacts to Olympic National Park. A particularly egregious error is the complete absence of noise maps, a commonplace tool used to assess auditory impacts, within the document. This absence serves to “obscure the noise impacts of aircraft in Olympic National Park.”⁶² Second, the document's transit analysis is “fatally flawed” because it again fails to assess impacts to Olympic National Park and is otherwise highly disjointed. Third, the DSEIS does not properly assess cumulative

⁵⁸ NWTT FSEIS at H-99, 100.

⁵⁹ From page 7–8 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-6 on page H-100 & H-101 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

⁶⁰ See generally Noise Expert Report by Les Blomberg, “Noise Expert Report”, June 11, 2019 (Attached as Exhibit 7 to NPCA Comments on 2019 NWTT DSEIS).

⁶¹ *Id.*

⁶² *Id.* at 3

impacts of noise regarding these transit routes. Fourth, the DSEIS does not include vital acoustic monitoring or “actual noise measurements.”⁶³ Fifth, the noise metrics employed by the DSEIS are not well-suited to assess auditory impacts, particularly those to Olympic National Park. Sixth, the DSEIS does not include “two very obvious alternatives” which would minimize auditory impacts to the national park. Seventh and finally, the document misrepresents data from a 2010 NPS sound report on Olympic National Park which is relied on heavily throughout the DSEIS.⁶⁴ In combination, these seven errors culminate in a noise impact analysis that is akin to “a park visitor looking at park scenery and wildlife through blurry and unfocused binoculars backwards” and fails to provide the “hard look” required by NEPA.⁶⁵

ii. Inadequacy of the Navy’s Response to NPCA-6

The Navy’s response directs the reader to its reply to comments from Noise Pollution Clearinghouse (NPC), which were submitted as an Exhibit to NPCA’s comments on the 2019 DSEIS. These comments outline how the noise impacts analysis and subsequent outcomes in the DSEIS are inconsistent. The FSEIS did not address or correct any of the serious scientific and technical defects and omissions raised by the NPC comments. Additionally, NPCA specifically requested on multiple occasions (including within its comment on the DSEIS) that the Navy make the underlying data used in the Navy’s noise modeling available to the public. The Navy has not addressed NPC’s or NPCA’s concerns regarding the modeling, nor has it made the underlying data available. These serious concerns are either not addressed or addressed in a deficient manner.

e. The importance of Olympic National Park’s natural soundscape must be considered throughout the NEPA process.

i. NPCA’s Original Comment Unaddressed by the Navy⁶⁶

The importance of Olympic National Park’s natural soundscape must be considered throughout the NEPA process. Gordon Hempton, an acoustic ecologist with decades of experience recording natural sounds within wilderness spaces, believes he has located the “quietest square inch in the United States” within Olympic National Park.⁶⁷ To Hempton, a quiet place is defined as a place where one can experience at least 15 minutes uninterrupted by human-made sound.⁶⁸ Within the United States, these “quiet places” are increasingly hard to find due to anthropogenic noise pollution, which includes noises caused by overhead aircraft.

⁶³ *Id.* at 14

⁶⁴ *Id.* at 18

⁶⁵ *Id.* at 20

⁶⁶ From page 5 of NPCA Comments on 2019 NWTT DSEIS, not responded to in Appendix H of the 2020 NWTT FSEIS.

⁶⁷ Melissa Locker, *Is this the Quietest Square Inch in the U.S.?: An acoustic ecologist reveals his findings*, SMITHSONIAN (Apr. 5, 2016), <https://www.smithsonianmag.com/travel/hoh-rainforest-quietest-spot-us-180958654/>, (Attached as Exhibit 8 to NPCA Comments on 2019 NWTT DSEIS).; *see also* Larson, *Sound Check: The Quietest Place in the U.S.*, Exhibit 5 to NPCA Comments on 2019 NWTT DSEIS.

⁶⁸ Samir S. Patel, *Are You Listening? Hear What Uninterrupted Silence Sounds Like*, NPR (Aug. 10, 2018) <https://www.npr.org/2018/08/10/633201540/are-you-listening-hear-what-uninterrupted-silence-sounds-like>, (Attached as Exhibit 9 to NPCA Comments on 2019 NWTT DSEIS).

The word “noise” refers to “any sound that is undesired or interferes with one’s hearing of something.”⁶⁹ A “sound” is defined as a “a particular auditory impression.”⁷⁰ The combination of many sounds commonly observed together in regular patterns is called a “soundscape.”⁷¹ Wilderness spaces, such as national parks, offer visitors opportunities to not only experience the area’s visible qualities but additionally interact with their respective “soundscapes.” Noise pollution, such as those noises associated with overhead aircraft, disrupts these natural soundscapes: “many people visit national parks with the hope and expectation of experiencing natural sounds, and noise degrades their chance to experience the cultural, historical, and natural features that parks offer.”⁷² Like Hempton, many organizations and private citizens are dedicated to preserving natural soundscapes as common-pool resources available to the public. NPCA believes that the preservation of Olympic National Park’s natural soundscape is of the utmost importance and must be reflected in the Navy’s NEPA analysis.

Olympic National Park, a World Heritage Site, is renowned for the peaceful serenity it offers to its visitors. The most recent survey of Olympic National Park visitors conducted by the National Park Service,⁷³ reflected the immense value park visitors place on this quality: 73% of visitors listed “enjoying wilderness, solitude, quiet” as the primary activity of their visit to the national park. 61% of visitors rated the “importance of solitude” as extremely important to the national park. Likewise, 67% of visitors indicated that “quiet/sounds of nature” were extremely important to their experience at the Park. In fact, enjoying “the wilderness, solitude, [or] quiet” offered at Olympic National Park was the third most common activity of the park’s visitors. These sounds of nature are unique to Olympic National Park and compose a natural soundscape that must be protected: “At sites in Olympic National Park...ambient sound levels are naturally high because of the sounds of waves or cascading streams...In this sense, the term “natural quiet” offers an incomplete image of desired conditions because the powerful sounds of water are quintessential to the character of these places.”⁷⁴

Community testimonials cite to the quiet natural soundscape of Olympic National Park as a driving motivator for their visits:

“As someone who uses cochlear implants to hear, I do not like the noisy nature of humans. All human noises to me, without exception, are not pleasant... So I escape to the mountains as often as I can. It’s a place that brings me joy and QUIET so that I can be at true peace...There is nowhere left that is truly quiet. The Olympics should be one of the last remaining places. After all, it is a National Park, a uniquely special one at that, and it is way out on the edge of the country.

⁶⁹ *Noise*, Merriam-Webster.com Dictionary, 2019.

⁷⁰ *Sound*, Merriam-Webster.com Dictionary, 2019.

⁷¹ See Marinna Guzy, *The Sound of Life: What is a Soundscape?*, FOLKLIFE (May 4, 2017) (Attached as Exhibit 10 to NPCA Comments on 2019 NWTT DSEIS).

⁷² Emma Lynch et al., *An assessment of noise audibility and sound levels in U.S. National Parks*, 26 LANDSCAPE ECOL. 1297, 1298 (2011). (Attached as Exhibit 11 to NPCA Comments on 2019 NWTT DSEIS).

⁷³ National Parks Service, *Olympic National Park Visitor Study 27* (2001). (Attached as Exhibit 12 to NPCA Comments on 2019 NWTT DSEIS.)

⁷⁴ Lynch, at 1306.

Why can't it be left quiet? The quiet was one of the most endearing things about this Park.”⁷⁵ Rebecca Wanagel

“Roughly at the onset of the Growler flyovers, we began to notice the peace and quiet we come here to seek was a threatened privilege.”⁷⁶ Dawna Lahiti

“The soundscape of the Olympic Peninsula and the National Park is critical. The park offers a wide range of beautiful experiences. We can get lost in. The sounds of wildlife. And the incredible sounds of the roaring rivers. All of that I believe speaks to us because we're seeking the natural sounds that are so absent in cities.”⁷⁷ Connie Gallant

Eighty-four percent of respondents to the NPCA's "Growler Tracker"⁷⁸ indicated that "growler jet noise kept [them] from hearing some natural sounds." Due to the immense value many park visitors place on the natural soundscape of Olympic National Park as evidenced by the visitor testimonials and the NPS Park Visitor Survey cited above, the noise associated with the Navy's military trainings clearly affects visitor enjoyment of the National Park. Recreational impacts are discussed further in Section II(e) below.

ii. Response to Unaddressed Comment

The Navy chose not to respond to the importance of natural sounds in Olympic National Park and therefore has not adequately considered the human environment. 40 C.F.R. § 1508.8. The Navy's own analysis tells us nothing of the human experience. There is no monitoring, no survey, and no attempt to show anything but modeling data. Regarding the entirety of the above unaddressed comment, the Navy is deficient under NEPA.

iii. Original Comment (NPCA-7)⁷⁹

⁷⁵ Testimonials from Olympic National Park Visitors from R.Wanagel, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.

⁷⁶ Testimonials from Olympic National Park Visitors from D.Lahiti, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.

⁷⁷ National Parks Conservation Association & Spruce Tone Films, *Hear Our Olympics* video. <https://vimeo.com/262826579> (Also submitted via CD as part of NPCA's June 12, 2019 Comment and Exhibits); see also NPCA's Hear Our Olympics Video Transcript, from C.Gallant (Attached as Exhibit 13 to NPCA Comments on 2019 NWTT DSEIS).

⁷⁸ National Parks Conservation Association, *Hear Our Olympics*, <https://survey123.arcgis.com/share/4ebe5a44413043d4ad84b57a871da779>; see also National Parks Conservation Association Growler Tracker Data (Attached as Exhibit 14 to NPCA Comments on 2019 NWTT DSEIS)

⁷⁹ From page 10–11 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-7 on page H-101 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

The DSEIS fails to adequately consider the importance of Olympic National Park’s natural soundscape.⁸⁰ As initially stated in our scoping comments, NPCA again requests that the Navy account for this public value through comprehensive analysis, including on-the-ground noise monitoring, to provide accurate scientific information as required by NEPA. Federal regulations require that the “[u]nique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas” must be considered when evaluating the intensity of an action.⁸¹

iv. Inadequacy of the Navy’s Response to NPCA-7

The NPCA has established that the modeling used by the Navy is flawed. The Navy continues to dismiss ground noise monitoring as having limited value, claiming “[i]t can provide information gathered at the selected site(s) for historical purposes, but has no value as a predictive tool.”⁸² Why is the Navy so dismissive of ground noise monitoring? It certainly can help establish baseline noise data which is an essential part of any NEPA impacts analysis. The Navy’s failure to provide the raw data inputs to their modeling is also beyond concerning. As a predictive tool, the Navy knows when and where they will fly planes. The modeling they use is less predictive and more obfuscating. The Navy could easily set up monitoring stations at popular visitor sites to determine the actual noise impacts on those critical areas. Because the Navy is proposing to increase the number of planes taking part in its training exercises and therefore the number of flights over the Park, future impacts would almost certainly be higher than those detected by monitoring to establish current, baseline impacts.

f. The DSEIS does not include an adequate analysis of noise impacts to residents and visitors of the Olympic Peninsula.

i. NPCA’s Original Comment (NPCA-8)⁸³

The DSEIS does not include an adequate analysis of noise impacts to residents and visitors of the Olympic Peninsula. Since the Navy’s transition from Northrup Gunman EA-6B “Prowler” jets to Boeing EA-186 “Growler” jets, residents and visitors of Olympic National Park and its surrounding area have reported increased incidents of noise disturbances. The noise pollution associated with the Navy’s military training disrupts these individuals’ daily activities and occasionally the “groaning and shrieking” sounds associated with the jets wakes individuals in the middle of the night.⁸⁴ If the number of military training flights increases as proposed in the DSEIS, these noise disturbance events will be more frequent and felt more

⁸⁰ Navy jets produce primarily very loud, low frequency noise, which is noticeably different than the higher frequency sound that occur naturally in the Park. The DSEIS’s attempt to argue that similar levels of low and high frequency noise, in terms of loudness, have the same impact on recreational users ignores this critical distinction.

⁸¹ 40 C.F.R. § 1508.27 (2019)

⁸² NWTTFSEIS at H-101.

⁸³ From page 10–11 of NPCA Comments on 2019 NWTTFSEIS, listed as comment NPCA-8 on page H-101 & H-102 of Navy’s Response to Comments in Appendix H of the 2020 NWTTFSEIS.

⁸⁴ Gundars Rudzitis, *Opinion: Military Planes are Ruining Olympic National Park and Violating the Wilderness Act*, HIGH COUNTRY NEWS (Aug. 2, 2018) <https://www.adventure-journal.com/2018/08/opinion-military-planes-ruining-olympic-national-park-violating-wilderness-act/>. (Attached as Exhibit 15 to NPCA Comments on 2019 NWTTFSEIS).

prevalently in day-to-day life. In addition to the impacts to wildlife as discussed below, NPCA believes the DSEIS did not properly account for noise impacts to human life.

The DSEIS states that acoustic disturbances related to military activity noise will be limited to the exact “moment it is heard”⁸⁵ and would not cause a significant impact on offshore tourism as a socioeconomic resource, while ignoring the clear adverse impacts to “onshore” tourism in the Park.⁸⁶ This is simply untrue for two distinct reasons. First, the noise pollution associated with military jets is more than a simple auditory sensation. These auditory disturbances have negatively impacted individuals’ daily activities, volunteer and professional pursuits, and tourism opportunities in the area. Second, the actual auditory sensation associated with the Growler jets lasts far longer than a “moment.” Visitor testimonials cite these noise disturbances as exceeding multiple minutes in duration.⁸⁷

ii. Inadequacy of the Navy’s Response to NPCA-8

For the audibility analysis in J.6.1.4, the Navy looks only at the EA-18G and assumes that it is flying at 298 knots straight and level with an engine NC of 82 percent.⁸⁸ This shows that the audibility of the EA-18g is 11.5 to 15.6 nautical miles between the above ground levels (AGL) of 2,000 ft. and 40,000 ft.⁸⁹ Notably, at 10,000ft., the altitude commonly traveled, the audibility distance is 15.5 NM (17.8 miles).⁹⁰ The Navy suggests that this is a rough estimate because it does not include local terrain, local ambient noise level, or weather conditions.⁹¹ Curiously, the Navy suggests that they cannot do further calculations because they would need more detailed tracking information and data on the aircraft’s operating state.⁹² The flight data are information the Navy has, but has not used and has not produced in spite of our requests to do so. This is exactly the data the EIS should provide so that analysis of noise impacts can occur. Moreover, the ambient sound data is exactly the data the Navy should collect for an EIS, but has not done so because it refuses to make noise measurements in Olympic National Park.

The Navy’s assumptions used in the audibility analysis are contradicted by the FAA flight path data in FAA’s April 2016 “Olympic National Park Areas of Concern” document, Exhibit I, and the Navy’s FSEIS Lmax analysis. In the FAA document, airspeeds are clearly in the 350 to 450 knot range, yet the Navy developed a “rough estimate” for the distance to audibility for an airspeed of 298 knots. (*See* Exhibit S-1.) In the Lmax analysis, the Navy used an airspeed of 342 knots (*see* Section J.6.2.2). As can be seen from the Lmax data, the audibility data uses a quieter source level. Moreover, neither the audibility data nor the Lmax data are in the 350 and 450 knots range reported in the FAA data. The Navy document is internally inconsistent, and also contradicted by the FAA flight paths indicated on Exhibit I.

⁸⁵ NWTT DSEIS at 3.12-28.

⁸⁶ *Id.* at 3.12-29.

⁸⁷ Testimonials from Olympic National Park Visitors from Matt Mikkelson, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.

⁸⁸ NWTT FSEIS at J-25. *See* NWTT FSEIS at J-22 for information regarding the NC measurement.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

The Navy essentially curtails its noise analysis of the MOA at a distance of 3 NM from the edge of the MOA by use of a “boundary offset.” The Navy claims this is justified. “For modeling purposes, a 3 NM offset was applied to the Warning Area and to the north, south, and east borders of the Olympic MOA, effectively restricting the modeled aircraft from flying within 3 NM of the edges of the airspace when conducting training activities. This offset is used to represent how the aircraft actually fly within the MOA.”⁹³ But every aircraft uses the offset at least twice on each flight, coming and going. This impact is not reflected in the MOA analysis and is not part of the transit analysis.⁹⁴ Impacts within the boundary offset are unanalyzed in the FSEIS.

The Navy failed to evaluate the impact cause by every flight as it crosses the boundary offset. It is clearly not true as the Navy claims that “aircraft seldom fly” there.⁹⁵ Moreover the Navy failed to do an analysis on the Cumulative Noise effects for flights within the MOA on parts of the park outside the MOA, but exposed to the transit flights. Given the Navy’s use of the DNL noise metric in the MOA and the Lmax metric for the transit routes, it is clear that no combined or cumulative analysis occurred.

The Navy does not explain if the noise modeling considers the effect on aerodynamics and noise with various weapons packages and electronic warfare pods. Lastly, the models, figures, and discussion of audibility and Lmax are careful not to mention that more than one plane may be flying overhead at any given time. The Navy must provide an analysis that examines cumulative noise in its Lmax and audibility noise analysis with the maximum number of aircraft traveling together.

iii. NPCA’s Original Comment Unaddressed by the Navy⁹⁶

The type of noise associated with aircraft military activities can be particularly unpleasant to park visitors and residents of the area due to its “intermittent, unpredictable nature.” Unlike the constant hum of a nearby highway, park visitors cannot grow habituated to the loud overhead disturbances of the Navy’s aircraft. Therefore, each disturbance event will be jarring to a park visitor.⁹⁷ Studies show that individuals are the most annoyed by noise pollution associated with air travel when compared to road traffic and rail traffic noise.⁹⁸

iv. Inadequacy of the Navy’s Response

The Navy failed to respond to this important point, ignoring the impacts of Navy jet noise on park visitors and nearby residents alike.

⁹³ NWTT FSEIS at J-4.

⁹⁴ See Exhibit S-1 at 8, FN6.

⁹⁵ NWTT FSEIS at J-21.

⁹⁶ From page 11 of NPCA Comments on 2019 NWTT DSEIS, not responded to in Appendix H of the 2020 NWTT FSEIS.

⁹⁷ Christopher B. Pepper et al., A Review of the Effects of Aircraft Noise on Wildlife and Humans, Current Control Mechanisms, and the Need for Further Study 420 (2003). (Attached as Exhibit 16 to NPCA Comments on 2019 NWTT DSEIS).

⁹⁸ Mathias Basner et al., Single and Combined Effects of Air, Road, and Rail Traffic Noise on Sleep and Recuperation 34 SLEEP 11, 11 (2011) (Attached as Exhibit 17 to NPCA Comments on 2019 NWTT DSEIS)

v. NPCA's Original Comment (NPCA-9)⁹⁹

Noise pollution associated with Growler jets impacts both residents and tourists to Olympic National Park and the surrounding area. In contrast, the DSEIS states that the noise will not greatly impact tourism: "The disturbance from a single aircraft transiting over land or nearshore areas to conduct a training or testing activity in the Offshore Area would...have no lasting impact on socioeconomic resources."¹⁰⁰ This is blatantly false. Multiple individuals state that the noise pollution associated with military training created such a large disturbance to their trips to the Olympic National Park and its surrounding areas that they do not plan on returning: [testimonials omitted by Navy in response document]

The noise pollution associated with the Growlers makes tourists feel unsafe in the national park. This greatly inhibits their recreational experience, as discussed in Section II(e), and may further negatively impact their desire to return to the national park and its surrounding area: [testimonials omitted by Navy in response document]

From these testimonials, it is clear that the Navy's military training over Olympic National Park already has a profound impact on tourism in the area. An increased number of overhead flights, as proposed by the DSEIS, will inevitably exacerbate the negative impacts on tourists listed above and lead to fewer tourists utilizing the natural spaces in the area, including the national park.

vi. Inadequacy of the Navy's Response to NPCA-9

The Navy's response is to reduce the very real and very serious impacts to individuals within and around the park to mere unimportant anecdotes. It does this while assuming, without detailed analysis of "effects" and through faulty modeling, that "the NWTT Supplemental EIS/OEIS point[s] to a conclusion that the proposed increase in activities would have a negligible impact on the vast majority people living near or visiting Olympic National Park and surrounding areas."¹⁰¹ This extrapolation of negligible impact on the majority of people without detailed analysis is faulty and the analysis is deficient under NEPA.

vii. NPCA's Original Comment Unaddressed by the Navy¹⁰²

Noise pollution associated with Growler jets affects the very mindset for which individuals visit Olympic National Park or impacts their primary reason for choosing to settle in the area. Many residents state that the growling noise of the Navy's jet's overhead impacts their daily lives:

⁹⁹ From page 11–12 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-9 on page H-102 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

¹⁰⁰ NWTT DSEIS at 3.12-29.

¹⁰¹ NWTT FSEIS at H-102.

¹⁰² From page 12–14 of NPCA Comments on 2019 NWTT DSEIS, not responded to in Appendix H of the 2020 NWTT FSEIS.

"I choose to live off the grid near wilderness territory after years in Tacoma near McChord AFB where jet noise was daily. I understand the need for Navy training, to a point. When I moved to Forks twenty years ago, jet noise was non-existent. Then the Prowlers arrived, which I never heard in ONP. But now the Growlers. Not only do the flights over Forks wake me from sleep, they agitate my dog and cause me stress." Shele Kinkead

"I live in the foothills south of Sequim, and I frequently hear and see growler jets flying north over the Dungeness River valley on their return to Whidbey Island. The jet noise can be heard from inside my house. It is an unwelcome disturbance whenever it occurs." Tim McNulty

"Out here it's...you come out here to relax and if you live here it's easy to relax. The effects of the Growlers it's intrusive. If you're sitting next to a person you can't hear each other...You're out here enjoying the view listening to nature and this war machine just comes blasting over."¹⁰³ David Youngberg

Moreover, individuals state that the noise pollution associated with the Navy impacts their ability to perform in volunteer or professional settings:

"I am a deaf person who functions with cochlear implants. My cochlear implants put me back in the hearing world, allowing me to do my paid job as well as volunteer to lead those crews on trails all over the Olympics. They allow me to function. The cochlear implant processors have an automated compression when noise gets too loud. Obviously, someone who has cochlear implants does not have natural hearing to protect, but the compression serves the purpose of making the noise more comfortable. It takes an extremely loud sound to make the processors go into compression mode. A sound that will set off the compression, for example, is a chain saw at close proximity. Your Growlers, many frustrating times per day, make my processors go into compression mode. That is loud! You know what happens then? I cannot communicate with the other volunteers in my crew. We will be working on a project or sawing out a large tree, where safety is critical, but I cannot hear what they are saying. The compression mode clamps down on the loudness of the Growlers, but makes it so I cannot function until the noise abates and my processors go back to normal mode. Even in compression mode, I can still hear them (and they are still loud), but the sound quality of the processors goes all weird and it's disconcerting, to say the least. I can no longer judge the loudness of my voice and I cannot tell how much I need to project my voice so my crew members can hear me over the jets. Mostly we just stop what we're doing until the Growler noise has passed, which is never fast. Many times per day. It is aggravating beyond belief."¹⁰⁴ Rebecca Wanagel

¹⁰³ See Hear Our Olympics Video and Video Transcript, from D.Youngberg, Exhibit 13 to NPCA Comments on 2019 NWT DSEIS.

¹⁰⁴ Testimonials from Olympic National Park Visitors from R.Wanagel, Exhibit 2 to NPCA Comments on 2019 NWT DSEIS.

“My wife and I took a few days ‘retreat’ at Sol Duc Hot Springs in Olympic National Park on April 9 -11, 2019...

Much of the time we spent in the hot springs was disturbed by flyovers of the Growlers. They were extremely [loud] and flying at a relatively low elevation. We did not expect nor pay for the opportunity to experience a ‘war zone’ in Olympic National Park. They violate the serene nature of the park which up until now has been deemed one of the quietest places in the world.

*Because of this experience we will not return to Sol Doc Hot Springs.”¹⁰⁵
Francesco Tortorici*

“My husband, Francesco Tortorici, and I took a few days ‘retreat’ at Sol Duc Hot Springs in Olympic National Park on April 9 -11, 2019... We will not go back there again.

Much of the time we spent in the hot springs was disturbed by flyovers of the Growlers. It was loud, interrupted the otherwise serene nature around us and went on much of the day. It introduced elements of a war zone to the park and certainly not what we wanted or expected in our sorely needed retreat.”¹⁰⁶ Joan Cole.

“My guests couldn’t comprehend how this was allowed, and severely distracted them from enjoying the silence of the forest. Some of them even thought it was a landslide or avalanche up in the mountains and asked if we were still safe.” Matt Mikelson.

“I was at a friend's house and all of a sudden the entire house shook and the windows shook and I thought earthquake! And it was a Growler. The Growlers affect the experience that all of us feel in a way that truly is unprecedented. They destroy everything that we love about this area because the sound just shatters and it rocks you to your foundation.”¹⁰⁷ Connie Gallant

viii. Response to Comment Unaddressed by the Navy

¹⁰⁵ Testimonials from Olympic National Park Visitors from F.Tortorici, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.

¹⁰⁶ Testimonials from Olympic National Park Visitors from J.Cole, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.

¹⁰⁷ See Hear Our Olympics Video and Video Transcript, from C.Gallant, Exhibit 13 to NPCA Comments on 2019 NWTT DSEIS.

The Navy failed to address on-the-ground experiences while continuing to suggest that modeling is the only way to understand the effects of aircraft overflights. A serious and reasonable NEPA analysis must involve monitoring to adequately address the public's concerns and verify the Navy's modeling outcomes which purports to show almost no effect on the Olympic MOA and fails to undertake analysis of the Transit Areas.

g. The noise pollution associated with Growler jets lasts far longer than a “moment.”

i. NPCA's Original Comment (NPCA-10)¹⁰⁸

The noise pollution associated with Growler jets lasts far longer than a “moment.” The DSEIS states that disturbances from overhead aircraft in the Offshore area would be limited to the “moment it is heard”¹⁰⁹ and would “be brief (seconds).”¹¹⁰ The recent experiences of tourists and residents to the area, clearly contradict these statements.

As discussed below, the noise pollution associated with the Navy's aircraft inhibits individuals' ability to participate in professional and volunteer settings as the growling noise deafens the surrounding area. Recent visitors to the Olympic National Park reaffirm these sentiments:

The Navy's attempt to downplay the deafening noise pollution associated with military overflights as lasting mere seconds is absurd on its face and not supported by any documentation. As demonstrated above, these “momentary” interruptions occur multiple times a day and last minutes each.

ii. Inadequacy of the Navy's Response to NPCA-10

The Navy has admitted that the models they use do not account for elevation, so the Navy is unable to determine how sound will echo or amplify during an overflight based on its chosen model. The Navy must provide monitoring to establish on the ground conditions. For example, the Department of the Interior noted in its comment on the 2019 DSEIS that noise from Growlers flying over is readily detectible for a minimum of three minutes, as heard through an open window of the Olympic National Park Headquarters building in Port Angeles.¹¹¹ This is despite the already relatively loud soundscape of the area including nearby traffic, a high school, and residential area. This illustrates not only the length of individual noise events, but also the impact and volume required in order for the aircraft to be heard over a bustling cityscape. Monitoring

¹⁰⁸ From page 14 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-10 on page H-102–103 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

¹⁰⁹ NWTT DSEIS at 3.12-28.

¹¹⁰ *Id.* at 3.12-29.

¹¹¹ United States Department of the Interior, comment on 2019 NWTT Draft SEIS/OEIS, June 12, 2019 at 4, hereinafter referred to as “DOI Comment”

would allow the Navy to fully understand its actual noise impacts not only on such urban centers, but on the Park and surrounding areas as well.

iii. NPCA’s Original Comment Unaddressed by the Navy¹¹²

“The noise was alarming, loud enough to stop our conversation and caused us to put our hands over our ears. It lasted for two to three minutes. Other hikers stopped and looked up as well. Our elevation was close to 5,000 feet and the noise was searing.”¹¹³ Tim McNulty.

In a single day, May 8th, 2019, one individual heard six overhead flights while staying at Lake Quinault Lodge. Their records indicate that five of these flights lasted far more than mere “seconds.”¹¹⁴

Time	Duration of Noise Impact
12:57 pm	2 minutes, 10 seconds
3:27 pm	1 minute, 20 seconds
3:40 pm	3 minutes, but continues in distance double that
3:52 pm	1 minute
4:00 pm	2 minutes
4:05 pm	-

h. The FSEIS should have included acoustic monitoring to portray the most accurate data available.

i. NPCA’s Original Comment (NPCA-11)¹¹⁵

The final SEIS should include acoustic monitoring to portray the most accurate data available. The DSEIS fails to include updated acoustic monitoring and instead relies on a 2010 report from the National Park Service. This NPS report is significantly outdated and should not be relied upon to establish a baseline acoustic level within the MOAs. Recent more accurate research by Lauren Kuehne, a research scientist at the University of Washington, demonstrates the “feasibility and utility of on-the-ground monitoring.”¹¹⁶ Additionally, Kuehne’s research

¹¹² From page 14 of NPCA Comments on 2019 NWTT DSEIS, not responded to in Appendix H of the 2020 NWTT FSEIS.

¹¹³ Testimonials from Olympic National Park Visitors from T.McNulty, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.

¹¹⁴ Testimonials from Olympic National Park Visitors from D.Lahiti, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.

¹¹⁵ From page 15 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-11 on page H-103 of Navy’s Response to Comments in Appendix H of the 2020 NWTT FSEIS.

¹¹⁶ Lauren Kuehne, *Impact of military flights on Olympic Peninsula soundscapes: Final Report* 1 (Attached as Exhibit 18 to NPCA Comments on 2019 NWTT DSEIS).

*disputes many of the facts stated in the DSEIS. These factual discrepancies underscore the importance of including acoustic monitoring in the final SEIS in order to provide an accurate assessment of the effects of the proposed action as required by NEPA.*¹¹⁷

These noise measurements are “critical to determining the existing baseline (soundscape) as well as to confirm and modify noise modeling assumptions.”¹¹⁸ Furthermore, the very fact that the Navy relied on data from the 2010 NPS Report suggests that the agency believes noise monitoring is relevant to the analysis of the proposed action. There is no justification for the Navy not undertaking such monitoring to create an updated acoustic baseline for analysis within the DSEIS.

ii. Inadequacy of the Navy’s Response to NPCA-11

The Navy addresses why they value modeling by listing various inputs and operating conditions the Navy considers that allows them to model an “accurate prediction of noise levels.”¹¹⁹ For all of these considerations the model is deficient because it is unable to account for elevation and terrain, and thus unable to accurately predict noise levels in Olympic National Park. A failure to accurately predict noise levels in Olympic National Park means that the direct, indirect, and cumulative effects have not been thoroughly and reasonably analyzed.

In Table J-11 the Navy discusses Cumulative Noise Metrics based on modeling alone. In this discussion the Navy models these cumulative noise metrics up to 4,500 ft.¹²⁰ This is deficient under NEPA for a number of reasons. First, as the Navy states; “[t]his reduced cumulative noise exposure is because those higher elevations occur near the boundaries of the MOA, where aircraft seldom fly and noise events are less likely to occur.”¹²¹ This statement by the Navy cannot be true based on Figure J-4, which illustrates that the transit areas to YETII extend to the east of the Olympic MOA.¹²² Second, in order to evaluate cumulative effects, Table J-11 must provide noise metric values that correspond to all terrain heights found in the Transit Area.

iii. NPCA’s Original Comment (NPCA-12)¹²³

Kuehne’s report established that military aircraft are “dominant contributor[s] to the soundscape of the Olympic Peninsula, representing 85% of the total time aircraft are audible.” Across the sampling days, military noise pollution was audible an average of 6-17%¹²⁴ during the daylight hours. This time period routinely approached 20%,¹²⁵ or a total of 1 hour and 36

¹¹⁷ See 40 C.F.R. § 1500.1(b) (high quality information and scientific accuracy); § 1502.24 (scientific integrity).

¹¹⁸ Noise Pollution Clearinghouse Expert Report, at 14. Attached as Exhibit Z.

¹¹⁹ NWTT FSEIS at H-100.

¹²⁰ NWTT FSEIS at J-19.

¹²¹ NWTT FSEIS at J-21.

¹²² NWTT FSEIS at J-27.

¹²³ From page 15 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-12 on page H-104 of Navy’s Response to Comments in Appendix H of the 2020 NWTT FSEIS.

¹²⁴ Kuehne, *supra* note 116, at 1.

¹²⁵ *Id.*

minutes, of daylight hours. As discussed above, these impacts are deafening. Many individuals cannot adequately perform in professional capacities during noise disturbance occasions.

Therefore, the time lost to noise pollution may severely hinder the productivity of those in the nearby area. Furthermore, individual locations can expect to receive 80-100 military noise disturbance events in a single day.¹²⁶ With numbers such as these, it is highly unlikely that any visitors to the Olympic National Park “may not register [noise disturbance] event[s].”¹²⁷

iv. Inadequacy of the Navy’s Response to NPCA-12

The Navy brushes off noise impacts to park visitors by noting that “military aircraft flights have coexisted for decades within the Olympic National Park,” and that the noise is not at a level that will cause hearing damage.¹²⁸ However, the Navy cannot use past flights as a reason to not seriously consider the impacts of existing and increasing aircraft flights over the Park. Additionally, just because the noise will not cause hearing damage does not mean the impact of the noise on the Park and its visitors is not significant, or that other impacts from exposure to noise cannot be harmful. As noted by Lauren Kuehne, a research scientist at the University of Washington’s College of the Environment, School of Aquatic and Fishery Sciences, noise impacts can lead to the manifestation of negative health impacts such as annoyance and related stress responses; impacted cognition, concentration, memory and mental health status; and may ultimately lead to more serious health impacts.¹²⁹ In addition, noise can also have negative impacts on animals such as “changes in behavior, increases in physiological stress, reductions in reproductive success, declines in abundance and occupancy of sites, and changes in species communities and interactions.”¹³⁰ These are all examples of harms that may be suffered by individuals and wildlife even if they do not result in actual hearing damage.

v. NPCA’s Original Comment (NPCA-13)¹³¹

NPCA is not alone in our request for updated noise monitoring. In addition to private entities, many federal agencies, including the U.S. Forest Service and the National Park Service (“NPS”), requested that the Navy include this vital scientific analysis throughout the NEPA Process.¹³² In previous phases of the NEPA procedure, the Navy failed to comply with these requests due to flawed and inaccurate rationale.

In an October 5, 2017 letter to the Navy regarding the Notice of Intent to produce an SEIS, the National Park Service requested that the DSEIS include “baseline ambient acoustic

¹²⁶ *Id.* at 6.

¹²⁷ NWTT DSEIS at 3.12-29.

¹²⁸ NWTT FSEIS at H-104.

¹²⁹ Kuehne, L.M., and J.D. Olden. 2020. Military Flights Threaten the Wilderness Soundscapes of the Olympic Peninsula, Washington. Northwest Science Vol 94 at 3, in press. Attached as Exhibit AA.

¹³⁰ *Id.*

¹³¹ From page 16 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-13 on page H-104 & H-105 of Navy’s Response to Comments in Appendix H of the 2020 NWTT FSEIS.

¹³² U.S. Forest Service July 19, 2017 Email Re: SUP Noise Monitoring, (Attached as Exhibit 19 to NPCA Comments on 2019 NWTT DSEIS); NPS Scoping Comment, Exhibit 3 to NPCA Comments on 2019 NWTT DSEIS.

data in the Olympic NP” and then continue to collect data via soundscape monitoring within both the MOAs and Olympic National Park for two years.¹³³ NPS claimed that this data was necessary “to ensure that noise from increased military overflights does not have an appreciable effect on the natural sounds, wilderness character, visitor experience, and on federally-threatened species within Olympic NP.”¹³⁴ The agency suggested that the two agencies, NPS and the Navy, consult and review the subsequent monitoring data “to address impacts to these important soundscapes and other resources within affected NPS units.” As discussed above, the Navy did not heed this request and instead chose not to pursue any noise monitoring within Olympic National Park and therefore failed to establish a factually accurate acoustic baseline of the area for analysis purposes.

vi. Inadequacy of the Navy’s Response to NPCA-13

The Navy again defers to DoD’s position to “utilize modeling over monitoring for activities in the MOA.”¹³⁵ Consequently, the Navy’s NEPA analysis remains deficient for not establishing an accurate acoustic baseline which would be necessary for the models it uses.

vii. NPCA’s Original Comment Unaddressed by the Navy¹³⁶

Furthermore, Kuehne’s research as well as visitor testimonials firmly establish that the noise effects of the Navy’s military training extend well beyond the boundaries of the MOAs and Warning Areas. The DSEIS failed to include an analysis of impacts outside of the MOAs or Warning Areas, and therefore did not include a proper scope of analysis (as discussed in Section II(a). According to Appendix J: Airspace Noise Analysis for the Olympic Military Operation Areas, the area assessed for noise impacts only included the Olympic MOAs and the Warning Areas.¹³⁷ Kuehne’s report indicates that one location outside of the MOAs experienced audible military noise pollution an average 9-12% of daytime hours.¹³⁸ Daytime hours are defined as the time period between 9am – 5pm. This means that locations outside of the MOAs experience audible jet noise roughly 43 to 57 minutes of a day.

A visitor testimonial indicated that growler noise can be heard as far east as Grand Valley, well beyond the MOAs and Warning Area boundaries:

“I [was] backpacking at Grand Valley July 24-26, 2017 and heard (before we saw them) Growlers on approach, watched them fly over (there were 2), and continued to hear them after they were out of sight. I did not time it but I do recall it as it was the afternoon of July 24th while we were setting up camp, then after we went into our tents for the evening they flew back over heading back to NASWI. Then, on the 25th (which was my birthday) we heard and saw them yet

¹³³ NPS Scoping Comment at 3, Exhibit 3 to NPCA Comments on 2019 NWTT DSEIS.

¹³⁴ It should be noted that the NPS has a statutorily prescribed duty to protect natural soundscapes pursuant to the Organic Act of 1916. See Lynch, *supra* note 72, Exhibit 11 to NPCA Comments on 2019 NWTT DSEIS.

¹³⁵ NWTT FSEIS at H-103, 104

¹³⁶ From page 16–18 of NPCA Comments on 2019 NWTT DSEIS, not responded to in Appendix H of the 2020 NWTT FSEIS.

¹³⁷ NWTT DSEIS at J-1.

¹³⁸ Kuehne, *supra* note 116, at 1.

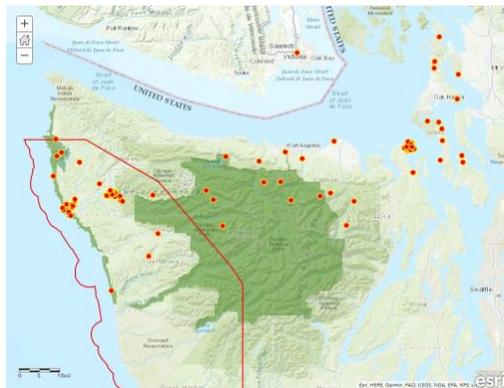
again. I don't recall seeing them on the 26th while hiking out, but did hear them again.”¹³⁹ Christina Miller.

Other visitor testimonials indicated that the Growlers could be heard at multiple areas well beyond the boundaries of the MOAs and Warning Areas:

“On July 7 and July 9, 2018, I was disturbed by loud Growler jet noise at jets flew over areas in the Daniel J. Evans Wilderness of Olympic National Park. On July 7, I was hiking with my family in the Klahhane Ridge area of Hurricane Ridge in Olympic National Park...Two days later, I was hiking the Grand Ridge trail near Deer Park when another Growler jet split the sky with earth-rattling noise.”¹⁴⁰ Tim McNulty

“Also the Bailey Range. The very heart of the Olympic National Park, that runs in a semi-circle around Mt. Olympus. I've heard them there.”¹⁴¹ Rebecca Wanagel

As the figure below illustrates, results from the NPCA’s “Growler Tracker App” additionally indicate that the noise from the Navy’s military trainings are often heard beyond the boundaries of the project’s MOAs (delineated by the red borders) and Warning Areas:



viii. Response to Unaddressed Comment

The Navy fails to address the public’s concern for noise or acknowledge that the public and individuals were affected by noise from military aircraft overflights. NPCA renews the concerns it raised above. The Navy must complete a thorough analysis of impacts to visitors and populations located within and near the MOAs and Transit Areas.

¹³⁹ Testimonials from Olympic National Park Visitors from C.Miller, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.

¹⁴⁰ Testimonials from Olympic National Park Visitors from T.McNulty, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.

¹⁴¹ Testimonials from Olympic National Park Visitors from R.Wanagel, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.

ix. NPCA's Original Comment (NPCA-14)¹⁴²

Further, during the Special Use Permit application process, the Forest Service requested “that the Navy fund a noise monitoring effort related to aircraft noise in the Olympic National Forest.”^{143, 144} Also during this application process the Forest Service requested information from the Navy regarding noise monitoring that was “currently underway” or would be completed in the future, the Navy responded that the agency did not plan on completing noise monitoring due to the previous NPS report and “significant limitations and difficulties with noise monitoring in an area like the Olympic NP.”¹⁴⁵ The Navy further stated that it would be “very difficult” to differentiate military aircraft from other types of flights, including commercial and general aviation, as well as from other types of noise. As demonstrated by Lauren Kuehne’s research, this is simply false. Kuehne was able to establish that 85% of flights in the area of a total of 4,644 were classified as military operations.¹⁴⁶ The audio samplings used for the report were processed using “widely available software.”¹⁴⁷ The Navy’s explanation as to why it neither conducted monitoring studies nor planned to monitor the area in the future, is therefore robustly false and without merit.

x. Inadequacy of the Navy’s Response to NPCA-14

The Navy discounts Lauren Kuehne’s research as having “limited applicability,” providing only that the research does not apply to the FAA-recommended methodology for analyzing aircraft noise.¹⁴⁸ This response does not adequately explain the reasons for discounting her research. Additionally, while the Navy may claim it is difficult to differentiate military from commercial aircraft from Ms. Kuehne’s research alone, the Navy is in possession of flight tracks and time stamps for all of its aircraft operations.

xi. NPCA's Original Comment (NPCA-15)¹⁴⁹

Due to these clear examples of noise impacts reaching beyond the MOAs and Warning Areas, the Navy must broaden the scope of their environmental analysis. In a new DSEIS, noise monitoring must be included to ensure accurate discussion of environmental consequences of the proposed action. Additionally, this analysis must include the entirety of Olympic National Park to encapsulate all of the areas potentially affected by the Navy’s increased military training.

¹⁴² From page 18 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-4 on page H-105 of Navy’s Response to Comments in Appendix H of the 2020 NWTT FSEIS.

¹⁴³ See USFS July 19, 2017 Email Re: SUP Noise Monitoring, Exhibit 19 to NPCA Comments on 2019 NWTT DSEIS.

¹⁴⁴ For reasons unknown to NPCA, the Forest Service never required monitoring as a condition for the SUP. However, NPCA submitted a FOIA request to the Forest Service in hopes of learning more about this decision. At the time of submitting the NPCA comment on the 2019 NWTT DSEIS, the request remained pending.

¹⁴⁵ Navy November 21st, 2016 Email to USFS re: Navy Permit Noise Monitoring Status (Attached as Exhibit 20 to NPCA Comments on 2019 NWTT DSEIS).

¹⁴⁶ Kuehne, *supra* note 116, at 5.

¹⁴⁷ Kuehne, *supra* note 116, at 7.

¹⁴⁸ NWTT FSEIS at J-8.

¹⁴⁹ From page 18 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-15 on page H-105 & H-106 of Navy’s Response to Comments in Appendix H of the 2020 NWTT FSEIS.

xii. Inadequacy of the Navy’s Response to NPCA-15

The Navy maintains that its analysis was not limited to the MOA and Warning Area. As discussed above, however, this purported analysis remains deficient under NEPA.

i. The DSEIS and FSEIS fail to consider public health implications associated with Growler jet noise pollution.

i. NPCA’s Original Comment (NPCA-16)¹⁵⁰

The DSEIS Fails to Consider Public Health Implications Associated with Growler Jet Noise Pollution. The DSEIS does not include an analysis of any of these effects on local residents or visiting tourists. The DSEIS instead states that “increases in noise levels from the baseline would...not have a noticeable impact on public health and safety.”¹⁵¹ As discussed above, the mental health of residents is already impacted by Growler flights overhead through increased stress levels and negative emotions. The DSEIS includes no mention of these well-documented and thoroughly studied public health implications of military noise pollution. The DSEIS therefore fails to comply with the NEPA requirement that public health implications of a proposed action are adequately assessed and disclosed.¹⁵²

ii. Inadequacy of the Navy’s Response to NPCA-16

The FSEIS does not address or elaborate upon the concerns raised in the comment above, but merely states incorrectly that it already addressed this issue and that its prior analysis was correct.¹⁵³

iii. NPCA’s Original Comment Unaddressed by the Navy¹⁵⁴

Quiet soundscapes are important for more than simple recreational enjoyment. Noise interruptions, such as aviation-related disturbances from overhead flights, can have serious public health implications. For example, aviation noise pollution can even impact sleeping individuals: In 2008, a study found that the heart rate and blood pressure of sleeping individuals increased when exposed to aircraft noise.¹⁵⁵ These involuntary physiological responses are similar to those that people experience when undergoing a “fight or flight” reaction to a stressful situation. Multiple individuals have reported being awoken by the sounds of jets

¹⁵⁰ From page 18–20 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-4 on page H-99 & H-100 of Navy’s Response to Comments in Appendix H of the 2020 NWTT FSEIS.

¹⁵¹ NWTT DSEIS at 3.13-8

¹⁵² See 40 C.F.R. § 1508.8 (2019)

¹⁵³ NWTT FSEIS at H-106.

¹⁵⁴ From page 18–19 of NPCA Comments on 2019 NWTT DSEIS, not responded to in Appendix H of the 2020 NWTT FSEIS.

¹⁵⁵ Haralabidis et al., Acute Effects of Night-Time Noise Exposure on Blood Pressure in Populations Living Near Airports, 29 EUROPEAN HEART J. 658 (2008). (Attached as Exhibit 21 to NPCA Comments on 2019 NWTT DSEIS)

overhead when camping at Olympic National Park.¹⁵⁶ This would happen more frequently as the number of military aircraft flying overhead increases. In addition, individuals participating in sleep studies regarding the impacts of noise pollution from various vehicle types rated nights when their sleep was disturbed by air traffic noise pollution subjectively more disturbing than when their sleep was disturbed by the sounds of road traffic.¹⁵⁷

Noise pollution also leads to “aftereffects” or the psychological impacts that occur after large disturbance or periods of large disturbances. Research on school children in Germany found that children exposed to air traffic noise had a lower self-reported quality of life. Furthermore, the individuals exposed to the noise of air traffic had greater levels of stress hormones, difficulty with memory and reading performances, and lower motivation levels than children who were not exposed.¹⁵⁸

Multiple visitor testimonials cited to the fear, stress, and anger that result from the Navy’s “war zone-like” noise pollution:

“And I forgot to answer your question about how they make me feel. Frustrated, angry and full of despair. It's like they are stabbing at the very heart of part of what makes the Olympics so very uniquely special.”¹⁵⁹ Rebecca Wanagel

“Not only do the flights over Forks wake me from sleep, they agitate my dog and cause me stress.”¹⁶⁰ Shele Kincaid

“Sounds have always been a way to trigger certain memories for me. The first time I heard a Growler it felt like I was back in Iraq as a gunship flying overhead spraying down in front of us. It's a easy trigger.”¹⁶¹ Brandon Kuehn, a veteran.

Furthermore, of the 333 total individuals providing information on the NPCA’s “Growler Tracker” roughly 60% indicated that the noise from growler jets “caused them anxiety.”¹⁶² Interestingly, the Whidbey Island 2018 FEIS, in its noise analysis section explicitly discusses public health impacts, including non-auditory impacts and mental health issues.¹⁶³

iv. Response to Comment Unaddressed by the Navy

¹⁵⁶ Testimonials from Olympic National Park Visitors from S.Kincaid, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS; see also Rudzitis, Exhibit 15 to NPCA Comments on 2019 NWTT DSEIS.

¹⁵⁷ Basner et al., at 20. Exhibit 17 to NPCA Comments on 2019 NWTT DSEIS.

¹⁵⁸ Britton L. Mace et al., *Visibility and Natural Quiet in Natural Parks and Wilderness Areas: Psychological Considerations*, 36 ENV. AND BEHAVIOR 5, 7 (2004) (Attached as Exhibit 22 to NPCA Comments on 2019 NWTT DSEIS).

¹⁵⁹ Testimonials from Olympic National Park Visitors from R.Wanagel, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.

¹⁶⁰ Testimonials from Olympic National Park Visitors from S.Kincaid, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.

¹⁶¹ See Hear Our Olympics Video and Video Transcript, from B.Kuehn, Exhibit 2 to NPCA Comments on 2019 NWTT DSEIS.

¹⁶² See National Parks Conservation Association Growler Tracker Data, Exhibit 14 to NPCA Comments on 2019 NWTT DSEIS.

¹⁶³ See Whidbey Island FEIS at A1-41–A1-54

The Navy fails to properly evaluate the “human environment” as required by NEPA¹⁶⁴ by failing to address the effect of military overflights on visitors to Olympic National Park.

j. The DSEIS failed to include noise contour maps.

i. NPCA’s Original Comment (NPCA-17)¹⁶⁵

The DSEIS Fails to Include Noise Contour Maps. Further underscoring the legal insufficiency of both the DSEIS and the 2015 final EIS, neither document included noise contour maps of the data modeling the Navy completed. Noise contour maps “are generated by a computer model that draws from a library of actual aircraft noise measurements. Noise contours produced by the model allow a comparison of existing conditions and proposed changes or alternative actions that do not currently exist or operate at the installation.”¹⁶⁶ Les Blomberg, a noise pollution expert and Executive Director of the Noise Pollution Clearinghouse, describes the following: “Noise maps allow experts and the public to visualize, through color coded contour lines, the noise levels at various locations. They provide the noise footprint of the proposed action. Since people can’t hear the noise at each location while reading the DEIS, noise maps are an invaluable evaluation tool, providing both the noise level and the location of resources of concern.”¹⁶⁷ The primary purposes of NEPA is “to insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken.”¹⁶⁸ There is no justification for the DSEIS not including such illustrations as a means by which to provide data regarding the impacts of the proposed action that can be easily comprehended by the public.¹⁶⁹

Noise contour maps are commonplace for NEPA documents that assess the noise impacts of a proposed action.¹⁷⁰ Many military agencies include these illustrations in their environmental

¹⁶⁴ 40 C.F.R. §§ 1508.14 (2019)

¹⁶⁵ From page 20–21 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-17 on page H-106 & H-107 of Navy’s Response to Comments in Appendix H of the 2020 NWTT FSEIS.

¹⁶⁶ Whidbey Island FEIS at 4-26.

¹⁶⁷ Noise Expert Report at 2, Exhibit 7 to NPCA Comments on 2019 NWTT DSEIS.

¹⁶⁸ 40 C.F.R. § 1500.1.

¹⁶⁹ Furthermore, it appears as though NOISEMAP (the program used by the DOD and its respective departments to model noise impacts) easily creates these illustrations. Given this ease of production, NPCA is further confused and disappointed by the complete absence of noise contour maps in both the SEIS and the 2015 FEIS: “Noise is modeled using a computer program called NOISEMAP, which is the primary noise-modeling program used by the DOD to predict cumulative noise around airfields. The NOISEMAP modeling program calculates noise contours resulting from aircraft operations and illustrates where aircraft noise occurs and its sound level.” U.S. Dept. of the Navy, *Growler Aircraft Operations at NAS Whidbey Island and OLF Coupeville* “Whidbey Island Brochure” (Attached as Exhibit 23 to NPCA Comments on 2019 NWTT DSEIS).

¹⁷⁰ See National Park Service, *Special Flight Rules Area in the Vicinity of Grand Canyon National Park: Actions to Sustainably Restore Natural Quiet*, Draft EIS Vol. 1, Feb. 2011; State of California Public Utilities Commission, *Monterey Peninsula Water Supply Project: Draft Environmental Impact Report/Environmental Impact Statement*, § 4.12, Jan. 2017; U.S. Air Force, *Presidential Aircraft Recapitalization Program at Joint Base Andrews-Naval Air Facility Washington, MD, Final Environmental Impact Statement*, Vol. 1, 2017; U.S. Air Force, *F-35A Training Basing Environmental Impact Statement*, Final Executive Summary, June 2012; North Wind, Inc., *Technical Report Noise and Vibration Assessment: Port of Gulfport Expansion Project Environmental Impact Statement*, Appx. J, Mar. 2017; Ecology and Environment, Inc., *Noise Analysis in Support of the Environmental Impact Statement for*

impact statements.¹⁷¹ In fact, many environmental assessments (a less detailed NEPA document) include noise contour maps.¹⁷²

ii. Inadequacy of the Navy's Response to NPCA-17

the Proposed Modernization and Expansion of Townsend Bombing Range, Georgia, Appx. D: Noise Analysis, Feb. 2012; Federal Aviation Administration, *Tucson International Airport Environmental Impact Statement*, Ch. 3, Ch. 4, Appx. G, Aug. 2018; Federal Aviation Administration, *Denver International Airport Environmental Assessment*, May 2018; Miami-Dade Aviation Dept., *Operational Noise Mitigation Procedures Final Environmental Assessment*, Feb. 2006; U.S. Air Force, *Final United States Air Force F-35A Operational Basing Environmental Impact Statement*, Vol. 1, Sept. 2013; U.S. Dept. of the Navy, *Final Environmental Impact Statement US Navy F-35C West Coast Homebasing*, Vol. 1, May 2014; Commander, U.S. Pacific Fleet, *Gulf of Alaska Navy Training Activities Preliminary Final Environmental Impact Statement/Overseas Environmental Impact Statement*, Vol. 2, Mar. 2011; Dept. of the Air Force, Pacific Air Forces, *Final Environmental Impact Statement: Establishment and Operation of an Intelligence, Surveillance, Reconnaissance, and Strike Capability Andersen Air Force Base, Guam*, Vol. 1, Nov. 2006; Colorado Dept. of Transportation, *I-70 East Final Environmental Impact Statement: Noise Technical Report*, Jan. 2016; King County Dept. of Natural Resources and Parks Solid Waste Division, *Cedar Hills Regional Landfill, 2010 Site Development Plan: Final Environmental Impact Statement*, Ch. 8, July 2010; U.S. Dept. of the Navy, *Final Environmental Impact Statement/Overseas Environmental Impact Statement: Hawaii-Southern California Training and Testing*, Oct. 2018; U.S. Dept. of the Navy, *Final Naval Base Coronado Coastal Campus Environmental Impact Statement*, Vol. 2, Mar. 2015; FirstNet First Responder Network Authority, *Nationwide Public Safety Broadband Network Final Programmatic Environmental Impact Statement for the Non-Contiguous United States*, Vol. 2, May 2017; U.S. Dept. of the Navy, *Final Supplemental Environmental Impact Statement to the Final Environmental Impact Statement for Renewal of Authorization to Use Pinecastle Range, Ocala National Forest, Florida*, June 2010; Federal Highway Administration, *T.F. Green Airport Improvement Program: Final Environmental Impact Statement, Final Section 4(f) Evaluation*, Vol. 1, July 2011; Westover Metropolitan Development Corporation, *Draft NEPA Environmental Assessment: Westover Metropolitan Airport—Modifications to Civil Aviation Operations*, July 2018; City of Seattle Office of Planning & Community Development, *Final Environmental Impact Statement for the Seattle Comprehensive Plan Update*, May 2016; Federal Aviation Administration, *Chicago O'Hare International Airport Final Environmental Impact Statement*, § 5.1, July 2005; U.S. Dept. of the Navy, *Record of Decision for the Introduction of 12 P-8A Multi-Mission Maritime Aircraft (MMA) squadrons and one Fleet Replacement Squadron (FRS) into the U.S. Navy Fleet: Final SEIS*, Apr. 2014.

¹⁷¹ U.S. Air Force, *Presidential Aircraft Recapitalization Program at Joint Base Andrews-Naval Air Facility Washington, MD, Final Environmental Impact Statement*, Vol. 1, 2017; U.S. Air Force, *F-35A Training Basing Environmental Impact Statement*, Final Executive Summary, Jun. 2012; U.S. Air Force, *Final United States Air Force F-35A Operational Basing Environmental Impact Statement*, Vol. 1, Sept. 2013; U.S. Dept. of the Navy, *Final Environmental Impact Statement US Navy F-35C West Coast Homebasing*, Vol. 1, May 2014; Commander, U.S. Pacific Fleet, *Gulf of Alaska Navy Training Activities Preliminary Final Environmental Impact Statement/Overseas Environmental Impact Statement*, Vol. 2, Mar. 2011; Dept. of the Air Force, Pacific Air Forces, *Final Environmental Impact Statement: Establishment and Operation of an Intelligence, Surveillance, Reconnaissance, and Strike Capability Andersen Air Force Base, Guam*, Vol. 1, Nov. 2006; U.S. Dept. of the Navy, *Final Environmental Impact Statement/Overseas Environmental Impact Statement: Hawaii-Southern California Training and Testing*, Oct. 2018; U.S. Dept. of the Navy, *Final Naval Base Coronado Coastal Campus Environmental Impact Statement*, Vol. 2, Mar. 2015; U.S. Dept. of the Navy, *Final Supplemental Environmental Impact Statement to the Final Environmental Impact Statement for Renewal of Authorization to Use Pinecastle Range, Ocala National Forest, Florida*, June 2010; U.S. Dept. of the Navy, *Record of Decision for the Introduction of 12 P-8A Multi-Mission Maritime Aircraft (MMA) squadrons and one Fleet Replacement Squadron (FRS) into the U.S. Navy Fleet: Final SEIS*, Apr. 2014.

¹⁷² Federal Aviation Administration, *Denver International Airport Environmental Assessment*, May 2018; Miami-Dade Aviation Dept., *Operational Noise Mitigation Procedures Final Environmental Assessment*, Feb. 2006; Westover Metropolitan Development Corporation, *Draft NEPA Environmental Assessment: Westover Metropolitan Airport—Modifications to Civil Aviation Operations*, July 2018.

The Navy does not address NPCA’s comment, but merely concludes that noise contour maps are not applicable to the noise modeling conducted in the Olympic MOA. As discussed above, this modeling is inadequate, and controversy exists over the relevancy of such noise contour maps. “Noise maps allow experts and the public to visualize, through color coded contour lines, the noise levels at various locations. They provide the noise footprint of the proposed action. Since people cannot hear the noise at each location while reading the DSEIS, noise maps are an invaluable evaluation tool, providing both the noise level and the location of resources of concern.”¹⁷³

k. Additional Comments on the FSEIS Noise analysis

i. Northern Spotted Owls dismissed from analysis

The Navy states “[t]he activities would occur in the same locations and in a similar manner as were analyzed previously. Therefore, the impacts on birds would be the same.”¹⁷⁴ The Navy does not explain how this proposal for increased flights from aircraft leads to the conclusion that impacts on bird remains the same. “Additionally, in this Final Supplemental EIS/OEIS, the Navy dismissed the northern spotted owl from further analysis due to the lack of changes in activities that could result in impacts on the owl and conclusions from previous U.S. Fish and Wildlife Service (USFWS) Biological Opinions regarding impacts.” (Section 3.6 (Birds)). The 2016 Biological Opinion states:

3.3.1 Potential Disturbance to Nesting Spotted Owls from Aircraft Overflights
Jet aircraft flights over the Olympic MOAs will cause increased levels of aircraft sound throughout the year, inclusive of the spotted owl nesting season. The sound level emitted by jet aircraft can be extremely loud at close distances. Because jet aircraft fly at high rates of speed (≥ 250 km/hr), the onset of exposure to loud noise from a jet overflight can be rapid –i.e., in some situations a jet can be flying so fast that a person or animal on the ground will not hear the jet approaching until the jet is passing directly overhead. The rapid onset of the sound can be startling, and the combined auditory and visual stimuli of a low altitude jet overflight have the potential to disturb or disrupt spotted owl nesting behaviors. Navy jets flying over land areas within the Olympic MOAs will potentially expose spotted owls on the Olympic Peninsula to various levels of aircraft noise, ranging from low-intensity, ambient-level sounds from distant overflights to high amplitude sounds associated with low altitude flights.¹⁷⁵

“Because the sound level of the jets used in the proposed training activities have a 92 dBA SEL sound contour with a radius of 2,000 to 6,000 ft (depending on the power level), the area exposed to high-level noise by even a minute of low elevation flight can encompass

¹⁷³ Noise Pollution Clearinghouse, June 12, 2019, comments on NWTT FSEIS, at 2. Submitted with NPCA’s comments on the 2019 NWTT DSEIS.

¹⁷⁴ NWTT FSEIS at 3.6-43

¹⁷⁵ U.S. Fish and Wildlife Service, *Biological Opinion: Navy’s Northwest Training and Testing Activities: Offshore Waters of Northern California, Oregon, and Washington, the Inland Waters of Puget Sound, and Portions of the Olympic Peninsula* (July 21, 2016), at 6. (Attached as Exhibit BB)

thousands of acres.”¹⁷⁶ The Navy’s reliance on the USFWS Biological Opinion (2016 BiOp) raises some questions. First, while the 2016 BiOp looks at impacts that will lead to jeopardy, the FSEIS must look at all potential impacts. Second, the 2016 BiOp uses F-16 data and discusses 92 dBA SEL sound contours. The 2016 BiOp ends up concluding that there will be no significant impact on spotted owls, but that does not excuse the Navy from evaluating impacts altogether. Further, the 2016 BiOp states that “[i]f the Navy aircraft adhere to the proposed flight altitudes of 6,000 ft. above mean sea level, the closest approach of an aircraft to a potential spotted owl pair would be 3,200 ft. At this distance, spotted owls are likely to be intermittently exposed to high-amplitude aircraft noise (e.g., in excess of 90 dBA SEL).”¹⁷⁷

The Navy’s justification for not addressing impacts to the northern spotted owl are that there have been no updates to regulatory statutes, life history information, or species-specific threats that would alter the analysis found in the 2015 NWTT Final EIS/OEIS.¹⁷⁸ The FSEIS goes on to say that “in addition, while the current Proposed Action includes aircraft overflights of spotted owl habitat underlying the Olympic MOA, these aircraft overflights are not expected to adversely affect spotted owls.”¹⁷⁹ The Navy bases its support on 2016 and 2018¹⁸⁰ Biological Opinions issued by the United States Fish and Wildlife Service. Reliance on this BiOp alone without consideration or discussion of direct or indirect effects is deficient. The ESA and NEPA impose completely separate and different obligations regarding the scope of impacts that must be disclosed and considered, with NEPA requiring a much broader analysis. The BiOp only considered the altitude of aircraft overflights, and as the Navy writes, the BiOp concluded that there would be an affect, just not an adverse effect under the ESA. Missing from the BiOp and the Navy’s FSEIS is the number or frequency of overflights and this potential magnification of relevant affects under NEPA. Additionally, a key missing feature is any discussion of transit overflights which extend the range of effects and magnify the potential impacts under NEPA.

ii. Inaccurate figures

The Navy indicates that it updated Figure 3.0-1 to more accurately portray typical aircraft routes as they exit the Olympic MOA.¹⁸¹ This statement is incorrect. Figure 3.0-1 is a picture of Gun Blast and does not accurately portray typical aircraft routes as they exit the Olympic MOA. Figure 2.3-1 attempts to do this, but fails to portray typical aircraft routes with any specificity.

iii. Alternatives

The Navy fails to consider alternatives to traveling and training over Olympic National Park, or alternatives that reduce or eliminate the Navy’s training exercises over and around the Park by conducting them elsewhere, as it has done in the past, or any mitigation measures. The FSEIS is deficient because it fails to consider an alternative or mitigation measures to minimize

¹⁷⁶ *Id.* at 13.

¹⁷⁷ *Id.*

¹⁷⁸ NWTT FSEIS at 3.6-2.

¹⁷⁹ NWTT FSEIS at 3.6-2.

¹⁸⁰ U.S. Fish and Wildlife Service, *Biological Opinion: Navy’s Northwest Training and Testing Activities: Offshore Waters of Northern California, Oregon, and Washington, the Inland Waters of Puget Sound, and Portions of the Olympic Peninsula* (December 11, 2018) (Attached as Exhibit CC)

¹⁸¹ NWTT FSEIS at F-ii.

transit times across the Olympic MOA, a clearly significant impact to Olympic National Park. The Navy should consider a return flightpath that does not cross Olympic National Park or at the very least and better explain their reasoning.

iv. Effects of low-frequency vibrations

The Navy describes that complaints associated with low-frequency vibrations depend on the individual perceiving the noise, but that effects could include annoyance/fright, concerns about structural effects on homes, or potential health effects. (J.4.1). Not only does the Navy inadequately address these effects on those living within or near the MOA and transit areas, but it also neglects to include any serious discussion or analysis of these effects on animals, and serenity and enjoyment of the national park.

v. Audibility and noise impacts

Due to the relatively long range of audibility of the Growler, and the potential for aircraft to maneuver (as opposed to flying in a straight line), it is likely that an aircraft could be audible for a minute or more in a single event.¹⁸² The Navy admits that aircraft will be audible for one minute or more, but fails to discuss how that would effect visitors enjoying the solitude and silence of Olympic National Park. The Navy used specific speeds and engine powers to calculate audibility. The reason that the Navy is not exact and does not supply a maximum duration is likely because the Navy does not want to admit the speed, engine power, or altitude at which its planes actually fly. This is partially confirmed by the FAA documents that refute some of the data points the Navy used in its modeling. The Navy forgets that the area they are affecting is a National Park. The Navy has a burden of demonstrating why their aircraft overflights will have negligible impacts. The Navy's actions and failure to conduct a reasonable analysis of noise effects in Olympic National Park is disheartening and illegal under NEPA.

vi. Vague terms

Table 3.0-4 discusses Airborne Noise Level in multiple situations in which an individual is 13 meters from the source and the airborne noise level that individual would experience. These noise levels are discussed as 143 dBA "Under Military Power" and 146 dBA "Under Afterburner." (3-20). These terms are vague when matched to Appendix J which describes different engine power measurements. Additionally, they do not take into account wake and turbulence from weather conditions, weapons pods, and other potential variables.

III. The FSEIS Fails to Correct or Even Acknowledge Almost all the other Errors and Omissions Identified in NPCA's DSEIS Comments.

a. The Draft SEIS Fails to Adequately Consider the Navy's Impact on Environmental Justice Communities.

¹⁸² NWTT FSEIS at J-26.

i. NPCA's Original Comment (NPCA-19)¹⁸³

The proposed action will inevitably affect residents of Native American reservations along the Washington coast and low-income communities in the area. The boundaries of reservations overlap with the project's MOAs and Warning Areas. As discussed in Section II(b)(v), the project will have serious public health implications for residents and visitors to the Olympic Peninsula. Due to their proximity to the project's location, environmental justice communities, specifically several tribes, will face the brunt of the impacts associated with the Navy's military Growler jet training. NPCA is disappointed and shocked by the disparity between the DSEIS and the Whidbey Island FEIS, 107 published less than a year ago, with regard to environmental justice analysis.

The DSEIS's failure to account for disproportionate impacts on minority and low-income populations is in opposition to CEQ guidance and DOD strategy as well as Executive Order 12898. The DSEIS is void of any information regarding environmental justice and instead relies on a tenuously-related and flawed socioeconomic analysis as a substitute for any real analysis regarding the impacts on environmental justice communities (low income and minority populations) will face if the proposed project is approved. Instead of dedicating a separate and distinct segment to environmental justice analysis, the DSEIS uses a broad disclaimer that environmental justice is incorporated within the document's socioeconomic analysis section:

Human resources considered in this Supplemental include cultural resources (Section 3.10), American Indian and Alaska Native traditional resources (Section 3.11), socioeconomic resources and environmental justice (Section 3.12), public health and safety (Section 3.13), and cumulative impacts (Chapter 4).

This wording seems to suggest that Section 3.12 addresses both socioeconomic and environmental justice effects of the proposed action. However, Section 3.12 does not detail the environmental justice implications of the proposed action. In fact, the words "environmental justice" are never used in Section 3.12 of the DSEIS. The Navy cannot conflate socioeconomics with environmental justice; the two topics are separate fields of study entailing different concerns and areas of focus.

In a blanket statement regarding socioeconomic impacts within the DSEIS's Executive Summary, the Navy states that the Preferred Alternative will have "no disproportionately high impacts or adverse effects on any low-income populations or minority populations." As discussed below, this is blatantly false.

Additionally, the DSEIS does contain a section about tribal treaty rights, but this section is not sufficient from an environmental justice standpoint. Treaty rights are an important component when analyzing environmental justice concerns, but analysis does not and cannot stop there. Treaty rights relate to tribal sovereignty and tribe's status as wholly separate governments, but they do not address disproportionate health and environmental impacts on the tribal members or tribal land. Further, the consultation with the tribes appears sufficient in the

¹⁸³ From page 23-29 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-19 on page H-107 through H-109 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

DSEIS, but the impact analysis on various treaty rights, such as traditional fishing areas, seems dismissive of the tribe's concerns about impacts on their cultural resources.

Due to these inaccuracies and omissions, we request that the final SEIS includes a thorough analysis and description of the environmental justice implications of the Navy's increased military training in order to comply with federal NEPA guidelines and regulations.

The land of four Native American tribes are in close proximity to or fall within the boundaries of the project's MOAs: the Makah Indian Tribe, the Quileute Tribe, the Hoh Indian Tribe, and the Quinault Indian Nation. As demonstrated in the figures below, the land of three of these tribes lies directly within the boundaries of the Navy's MOAs. Although the Makah Indian Tribe Reservation is not directly within the project's MOAs residents of the area will experience the impacts of the proposed action. As discussed above, the noise pollution associated with the Navy's military training reaches far beyond the boundaries of the MOAs and Warning Areas.

The DSEIS does not include any figures that highlight the proximity of these areas to the Navy's MOAs. Accordingly, members of the public may not be aware of these minority communities in the area and cannot utilize the procedures afforded by NEPA to communicate their concerns over the disproportionate impacts the action may have. This is in opposition to NEPA's goal to allow informed public participation in the comment process and CEQ guidance to provide the public with sufficient information to understand environmental justice issues.

ii. Inadequacy of the Navy's Response to NPCA-19

The Navy's response to this comment does not even address the extent to which these communities will be affected or recognize the at-risk groups we have identified; instead it entirely dismisses the issue, claiming that "the increased activities would have a negligible effect on the soundscape over the Olympic peninsula."¹⁸⁴ By continuing to grossly downplay the actual noise harms as discussed previously, the Navy is not fulfilling its statutory obligations to account for disproportionate impacts on minority and low income populations. In *Hausrath v. US Air Force*,¹⁸⁵ the court found that the Air Force's noise impact analysis was flawed. By extension, the court also found that the Air Force's conclusion that its actions would not have negative impacts on Environmental Justice communities was also flawed, because it relied on that flawed noise impact analysis. The Navy's noise impacts analysis here is similarly flawed, and thus the Navy needs to reconsider and more fully address its Environmental Justice assessment.

The Navy also responds by noting that the "airspace where the activities would occur has been in use for decades by the same type activities,"¹⁸⁶ and, there had not been any changes that would change the results of the 2015 NWTT Final EIS/OEIS. However, in this context, the fact that these activities have been occurring for decades is irrelevant. This just highlights that these activities have been happening for decades, at the expense of Environmental Justice

¹⁸⁴ NWTT FSEIS at H-107.

¹⁸⁵ ANNE HAUSRATH, JOHN WHEATON, JOANIE FAUCI, MEG FEREDAY, ROGER ROSENTRETTER, KATHRYN RAILSBACK, DALE REYNOLDS, & GREAT OLD BROADS FOR WILDERNESS, Plaintiffs, v. UNITED STATES DEPARTMENT OF THE AIR FORCE, Defendant, No. 1:19-CV-00103-CWD, 2020 WL 5848094 (D. Idaho Oct. 1, 2020), hereinafter referred to as *Hausrath v. US Air Force*

¹⁸⁶ NWTT FSEIS at H-107.

communities.

iii. NPCA's Original Comment (NPCA-20)¹⁸⁷

Looking to the treaty rights analysis section of the DSEIS, the tribes have various concerns regarding impacts on their traditional fishing grounds, loss of fishing gear and changes in availability of marine resources/habitat. These concerns are seemingly glossed over, and the conclusions by the agency do not adequately address how these impacts would amplify the negative effects of the proposed action. For instance, loss of fishing gear, while not a huge loss economically, would have a great cultural impact on the tribes and on their traditional fishing practices, and this impact is not addressed in the treaty rights analysis section. This should be a component of the environmental justice analysis.

By omitting any true environmental justice analysis, the Navy blatantly failed to uphold this responsibility.

iv. Inadequacy of the Navy's Response to NPCA-20

The Navy responded that it has already addressed the issues described in this comment in the DSEIS,¹⁸⁸ specifically in Section 3.11.2 (Environmental Consequences). Indeed, Section 3.11.2 analyzed how training stressors may impact Tribal traditional resources: impeding access to Tribal Usual & Accustomed fishing grounds or other traditional fishing areas in co-use navigable waters, changes to the availability of marine resources or habitat, and loss or damage to Tribal fishing gear.

However, the analysis in the DSEIS then erroneously found that the Navy's actions and proposed increased action would not have a negative impact on these issues, since these "traditional fishing and harvesting areas are outside the Study Area, and access to these areas would not be affected by the Proposed Action."¹⁸⁹ The Navy also suggests that because it uses standard navigational practices, it will not affect Native fixed-gear fishing practices. But this is not a guarantee, and the Navy does not explain how the increase in training would not also increase the chance of unintended entanglement with Native fishing gear or equipment.

Finally, the FSEIS does not provide any new analysis to bolster its assertions in this section of the DSEIS and the Navy has still not completed a true Environmental Justice analysis.

v. NPCA's Original Comment (NPCA-21)¹⁹⁰

The DSEIS includes no mention of low-income communities nor the effects that the proposed increase in military operations will have on these individuals. Due to the prevalence of

¹⁸⁷ From page 30 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-20 on page H-109 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

¹⁸⁸ NWTT FSEIS at H-109.

¹⁸⁹ NWTT FSEIS at 3.11-16

¹⁹⁰ From page 31-32 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-21 on page H-109 to H-110 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

low-income communities in the project area, this is a serious omission by the Navy, and contravenes guidelines on environmental justice analysis throughout the NEPA process, which require that low-income communities be identified.

Similarly, the DOD strategy requires that the DOD identify and address “disproportionately high and adverse human health or environmental effects of DoD programs, policies, and activities on minority and low-income populations at DoD U.S. sites and facilities.” DOD also is required to collect and analyze information to “identify any opportunities to avoid or mitigate disproportionately high and adverse human health and environmental impacts” on minority and low-income communities, as well as “identify and undertake new or existing model demonstration programs to reduce such effects.” DOD has never identified an alternative that would comply with this regulation.

The Draft SEIS’ Environmental Justice Analysis Pales in Comparison to that of the Whidbey Island FEIS. As discussed previously, the Department of the Navy released the Whidbey Island FEIS less than a year ago. The Growler jets at the heart of the DSEIS will originate and return to the Navy’s Whidbey Island Complex. Despite the strong connection between these actions, there is a vast, and unexplained, discrepancy between the quality of analysis within the DSEIS and the Whidbey Island FEIS. We request that the disparities between these two documents be addressed in the Navy’s final NWTT SEIS.

vi. Inadequacy of the Navy’s Response to NPCA-21

The Navy’s response to this comment is that it, “considered environmental justice issues in Section 3.12 (Socioeconomic Resources and Environmental Justice) and Section 3.13 (Public Health and Safety) in both the 2015 NWTT Final EIS/OEIS and this Supplemental EIS/OEIS.”¹⁹¹ Our analysis of the 2015 NWTT Final EIS/OEIS has previously revealed that its Environmental Justice discussion was inadequate. Looking at the sections the Navy has cited in the Final SEIS, 3.12 and 3.13, the Navy has still failed to adequately consider Environmental Justice concerns.

First, Section 3.12 still erroneously groups Socioeconomic Resources and Environmental Justice in the same section, when, as mentioned above in our 2019 comment, this conflates these two very separate issues that require independent sections and separate analyses from another. The Environmental Justice considerations are still just a secondary point following the economic discussions in this section. Second, this final edition of the SEIS reveals that the Navy’s training impacts on accessibility are more involved than previously realized. For example, in section 3.12 of this Final SEIS, the Navy states that under both Alternatives 1 & 2, “the number of proposed testing activities involving the movement of vessels or the use of in-water devices would increase compared with totals in the 2015 NWTT Final EIS/OEIS.”¹⁹² Then, without a clear explanation of how this admission does not even further impact Environmental Justice communities, the Navy concludes that the potential impacts on accessibility from the proposed training activities under either Alternative would remain negligible and thus there would be no disproportionately high and adverse human health or environmental effects on any minority

¹⁹¹ NWTT FSEIS at H-109.

¹⁹² NWTT FSEIS at 3.12-29

populations and low-income populations or disproportionately high environmental health risks or safety risks to children.

Furthermore, Section 3.13 of the Final SEIS provides no analysis of Environmental Justice concerns and does not rectify section 3.12's shortcomings. The only manner in which the subject of Environmental Justice is discussed in this section is as one of many factors that can impact Public Health & Safety under each of the alternatives. The issues and concerns outlined in our comment are not analyzed or even mentioned in this section.

Finally, it is inappropriate for the Navy to acknowledge an important detail from this comment in NPCA-21 and not address it in the corresponding response. In the table of comments and responses, the Navy includes the language from our comment asking why the DSEIS' Environmental Justice analysis paled in comparison to that of the Whidbey Island FEIS, but in its response, it does not address this question.

The Navy must properly consider these Environmental Justice communities before making decisions that historically disproportionately affect them, as well as acknowledge the public's reasonable concerns.

b. The Draft SEIS's Unduly Narrow Statement of Purpose and Need Improperly Limited the Range of Alternatives Analysis.

i. NPCA's Original Comment (NPCA-22)¹⁹³

The Draft SEIS's Unduly Narrow Statement of Purpose and Need Improperly Limited the Range of Alternatives Analysis. NEPA requires that an EIS shall "specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." This purpose and need inquiry is crucial for a sufficient EIS because "[t]he stated goal of a project necessarily dictates the range of reasonable alternatives." The agency cannot define its objectives in unreasonably narrow terms such that the outcome is preordained. Courts evaluate a purpose and need statement under a reasonableness standard and will overturn a statement that is arbitrary and capricious. Here, the Navy interpreted its purpose and need for preparing this supplemental EIS so narrowly that it failed to include the Navy's obligation to consider ways to eliminate, minimize, and/or mitigate impacts, especially to unique places like the Park.

Moreover, the Purpose and Need statement and subsequent analysis of alternatives makes it clear that the Navy has no intention of considering changes to the Study area or

¹⁹³ From page 33 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-22 on page H-110 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

changes in how it conducts its training, except for possible increases in the frequency of that training or the number of planes involved.

ii. Inadequacy of the Navy's Response to NPCA-22

The Navy has failed to supply proper reasoning for its unduly narrow statement of Purpose and Need in the Final SEIS. The Navy's response to our comment is that it did properly develop its Purpose and Need to ensure that proposed training and testing would allow the Navy to meet its Title 10 requirements.¹⁹⁴ However, this does not address the specific concerns noted in our comment; it merely repeats itself from the DSEIS.

The Navy also responds by explaining it did, in fact, consider other training and testing locations. However, looking at the cited Section 2.4.1.1 (Alternative Training and Testing Locations), it is not clear if any other locations ever stood even a slight chance for selection. Since the Purpose and Need was so narrowly tailored, no other site could ever meet the specified size, proximity, special capabilities, and capacity criteria as specified in this section. The Navy reaffirmed this position by explaining that "an alternative that would eliminate or reduce training in currently used areas has been eliminated from further consideration in this Supplemental because it does not meet the purpose of and need for the Proposed Action."¹⁹⁵ The whole point of considering other locations for training would be to mitigate negative impacts in and around Olympic National Park and the Olympic Peninsula, but the Navy's decision here would not make any place suitable enough for this to ever happen.

The Navy responds to the last part of NPCA-22, asserting that it did also consider, but not mitigate, for "aircraft overflights, such as shifting transit routes, relocating aircrew training activities, or modifying flight altitudes, because such mitigation would not be practical to implement due to implications for safety and mission requirements."¹⁹⁶ The Navy cites Section K.3.4.6 of the FSEIS to substantiate its decision.

However, a review of this section of Appendix K reveals the many flaws in the Navy's reasoning for not implementing any mitigation measures. First, the Navy transfers blame to the FAA for rejecting the Navy's proposal to move transit routes further north, because of safety concerns and potential Canadian airspace conflicts. However, the Navy should have just proposed an alternative that utilized a different airspace in the first place and not gone to the FAA in this manner. We discuss this issue more thoroughly in the following comment/response analysis below (response to NPCA-26). Second, the Navy attributes the impracticability of relocating training to alternate locations outside the Olympic MOA with the priority of military readiness. Instead of attempting to come up with a tiered plan for relocating, the Navy unilaterally dismisses this idea since equipment is already established in the area. Third, the Navy dismisses mitigation measures involving changing flight altitudes when over the Olympic MOA, again falsely asserting that passing aircraft noises are relatively low and only have a negligible impact on socioeconomic and biological resources. In sum, the Navy has not given mitigation measures good enough consideration. If the purpose and need were not so narrowly

¹⁹⁴ NWTT FSEIS at H-110.

¹⁹⁵ See NWTT FSEIS at 2-24.

¹⁹⁶ NWTT FSEIS at H-110.

written, the many initiatives aimed at mitigating environmental damage in Appendix K could actually be implemented.

iii. NPCA's Original Comment (NPCA-23)¹⁹⁷

The alternatives analyzed in this DSEIS include the no action alternative¹⁹⁸, the preferred alternative, and an alternative that focuses on adding even more training and testing activities than those considered in the preferred alternative (referred to by NPCA as the "preferred plus alternative"). Analyzing only these few alternatives is inadequate as it fails to constitute a reasonable range and fails to consider alternatives with less environmentally damaging impacts. Essentially the Navy improperly interpreted its purpose and need to mean that it would do exactly what it was already doing, in the same way and in the same place, but maybe more often and with more aircraft. This defeats and undermines NEPA's core purpose of requiring federal agencies to fully evaluate all reasonable alternatives, including in particular alternatives that mitigate or decrease environmental impacts.

By limiting its analysis to essentially only the preferred and preferred plus alternative, the Navy failed to fully consider other important and feasible alternatives including an alternative with reduced activities and an alternative that involves the Navy avoiding areas of Olympic National Park outside of the MOAs. The Navy did consider in appendix K "geographic mitigation," but only regarding impacts from its at sea activities on marine species. That however is not substitute for an alternative that focuses on mitigating all types of adverse impacts, including those caused by noise from its Navy jet overflights. In fact by choosing to use a "no action" alternative that is such a drastic departure from its past and ongoing actions, the Navy, to be consistent, must consider alternatives that fall in the middle between no training, and the increased training that the Navy proposes to do. Such "middle ground" alternatives would include fewer, or even no Navy jet overflights of the Park and alternatives that focus generally on mitigating all adverse impacts from both at sea and in the air Navy actions.

iv. Inadequacy of the Navy's Response to NPCA-23

Instead of addressing the additional issues discussed in the comment, the Navy responds by stating, "see response to NPCA-22."¹⁹⁹ Even if we do defer to the Navy's comments from NPCA-22 (and subsequently Appendix K and response to NPCA-26), the Navy has still not addressed the specific issue regarding its limited alternative analysis. With the no action alternative being essentially a non-option, the Navy has given itself only choices to fully consider. The Navy needs to explain how the short list of alternatives comports with NEPA, because neither of the only two actual options, the preferred or preferred plus alternative, mitigate or decrease environmental impacts. Analyzing only these few alternatives is inadequate

¹⁹⁷ From page 34 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-23 on page H-110 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

¹⁹⁸ Oddly, the Navy defined the no action alternative as no training in the Study area. For activities that have been ongoing for many years, the no action alternative is usually defined as not changing the status quo. The primary purpose served by this odd framing of the no action alternative was to create an unusually stark and unnecessary choice between two extremes, which is also inconsistent with NEPA's requirement to examine a broad range of alternatives.

¹⁹⁹ NWTT FSEIS at H-110.

as it fails to constitute a reasonable range and fails to consider alternatives with less environmentally damaging impacts.

v. NPCA's Original Comment (NPCA-24)²⁰⁰

The Navy's use of its "no action" alternative when it compares the impacts of alternatives on specific resources is also very problematic. How the Navy discusses impacts from "airborne acoustics" on recreation generally and in the Park specifically illustrates this. First, in the general impacts discussion, the DSEIS recognizes that the Navy jet overflights cause at least some adverse impacts to recreation and to recreation in the Park, although, as NPCA discusses elsewhere, this "analysis" itself has serious flaws. However, when the DSEIS discusses the impacts to this same resource under the "no action" alternative all references to land-based recreation generally and to the Park specifically disappear. This discussion begins by asserting that even under the "no action alternative" "other military activities not associated with this Proposed Action would continue to occur." This cryptic reference is never defined or explained in this part of the DSEIS or in its analysis of cumulative impacts. If Navy jet overflights of the Park would in fact continue under the "no action" alternative the Navy needs to clearly say that and explain under what Navy program or action such overflights would continue. But then the DSEIS discussion of impacts to airborne acoustics/recreation continues without any mention of the Park or benefits to the Park and recreation use there if there are no, or at least far fewer navy jet overflights. The Navy has a lengthy discussion on the supposed adverse effects on the local economy if training exercises cease under the "no action" alternative, but its summary of benefits is limited to saying that "environmental conditions would either remain unchanged or improve slightly." Then the DSEIS discussion of no action impacts adds, confusingly, that "discontinuing training and testing under the No Action Alternative would lessen the potential for disturbance from airborne acoustics, but would not measurably change the frequency of severity of disturbance from airborne acoustics experienced by the public in the Study area. This assertion simply makes no sense, but it is clearly designed to create the impression that, while stopping training activity would cause significant harm, it would have little or no environmental benefit.

This is not the "rigorous" and "objective" evaluation of alternatives required by NEPA. Instead it is a biased and incomplete comparison of alternatives that directly violates NEPA. The Navy is essentially using the "no action" alternative" to showcase what it believes is a "parade of horrors" if training and testing in the planning area were to stop. However, when the Navy does that, at the same time it refuses to acknowledge, and balance against any such detriments, the significant environmental benefits and public health and quality of life benefits that would occur. Without question beneficial impacts to terrestrial wildlife and recreation, especially recreation in the Park, and public health and quality of life for the people who live in the study area, including environmental justice communities, would occur if Navy jet overflights do not occur in the future. NEPA requires an EIS to acknowledge both adverse impacts and benefits when comparing alternatives.

²⁰⁰ From page 35 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-24 on page H-111 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

vi. Inadequacy of the Navy’s Response to NPCA-24

The Navy responds to this comment by explaining that in the FSEIS, the Navy has revised the No Action Alternative analysis, eliminated the statement “[o]ther military activities not associated with this Proposed Action would continue to occur”²⁰¹ and clarified that some environmental benefits to the Olympic Peninsula could result. This change is found in Section 3.12.3.2.3 (Impacts of Airborne Acoustics Under the No Action Alternative). However, the Navy downplays this clarification, noting that, “existing environmental conditions would either remain unchanged or would improve slightly after cessation of ongoing training and testing activities.”²⁰² By only conceding to slight environmental improvement, the Navy is still not acting in accordance with NEPA, as it fails to compare alternatives in an accurate manner or consider a broad range of alternatives.

vii. NPCA’s Original Comment (NPCA-25)²⁰³

In terms of analyzing an alternative that seeks to reduce Navy activities, while the Navy lists this alternative in the DSEIS, it quickly and in conclusory fashion eliminated it from further consideration. The Navy claims, without explanation that a reduction of training and testing would prevent it from meeting its statutory requirements. NEPA requires agencies to rigorously explore alternatives and these conclusory statements offered by the Navy are insufficient to eliminate this alternative from further analysis. The Navy should re-evaluate this alternative in the final EIS and consider the environmental impacts resulting from fewer Navy activities. By analyzing a “reduced activities” alternative, the Navy’s alternatives analysis would better resemble a “range” by including a more environmentally friendly alternative.

viii. Inadequacy of the Navy’s Response to NPCA-25

Without specifying exactly where, the Navy responds by pointing out it has added further explanation in the Final Supplemental EIS/OEIS as to why a reduction of training or testing would prevent meeting statutory requirements.²⁰⁴ However, as previously discussed above in “Inadequacy of the Navy Response to NPCA-22,” the Navy’s unduly narrow scope on its purpose and need confines the Navy’s ability to properly consider other alternatives. The Navy’s FSEIS does not provide any legal reasons for not considering a “reduced activities” alternative; it merely parrots the language of the DSEIS.

ix. NPCA’s Original Comment (NPCA-26)²⁰⁵

The Navy also fails to consider an alternative that eliminates impacts to areas of Olympic National Park that lie outside of the MOAs. While a portion of the Park lies within the MOAs, the Navy’s transit flights to and from the MOAs pass directly over areas of the ONP that lie

²⁰¹ NWTT FSEIS at H-11.

²⁰² See NWTT FSEIS at 3.12-44.

²⁰³ From page 36 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-25 on page H-112 of Navy’s Response to Comments in Appendix H of the 2020 NWTT FSEIS.

²⁰⁴ NWTT FSEIS at H-112.

²⁰⁵ From page 36 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-26 on page H-113 of Navy’s Response to Comments in Appendix H of the 2020 NWTT FSEIS.

outside of the MOAs, directly impacting the Park’s visitors and wildlife. These transit flights produce significant noise and annoy Park visitors who seek out the area for its natural sounds; despite these impacts, the Navy’s DSEIS fails to ever evaluate and consider impacts to the entire ONP, see Section II(e) for further discussion. The DSEIS is unclear as to why the Navy utilizes transit routes over a National Park; when discussing these routes with Navy personnel at a public meeting, the Navy stated that the Federal Aviation Administration (“FAA”) determined its flight route. It remains unclear to NPCA why the Navy failed to consider an alternative analyzing different transit routes, which would eliminate a significant portion of the impacts within the ONP. The Strait of Juan De Fuca, which lies just north of the Park and MOAs currently routes air carriers to SEATAC and it is likely that military aircrafts could be brought onto that route or a similar route. The Navy failed to consider alternatives that would avoid or minimize adverse effects when it neglected to analyze alternative transit routes.

x. Inadequacy of the Navy’s Response to NPCA-26

The Navy responds by repeating that it considered but did not implement mitigation measures such as shifting routes, relocating training activity, and modifying flight altitudes.²⁰⁶

The Navy admits that changing the flight route could result in decreased noise over the Park.²⁰⁷ However, the Navy then attempts to avoid blame for not considering an alternative that eliminates impacts to areas of the Park that lie outside the MOA by saying shifts in air routes are up to the FAA. This response does not address why an alternative could not have been proposed that relocated the training activity or modified the flight altitudes.

The biggest flaw in the Navy’s response is the fact that it is statutorily required to consider alternatives beyond its jurisdiction.²⁰⁸ An alternative that is outside the legal jurisdiction of the lead agency must still be analyzed in the EIS if it is reasonable, and any potential conflicts with federal law does not necessarily render an alternative unreasonable.²⁰⁹

Courts have required a broad interpretation of what is considered “reasonable.” For instance, it was reasonable for the Army Corps of Engineers to consider an alternative that would require it to acquire land to mitigate loss of other land from a river channel project, even though that acquisition would require legislative action.²¹⁰ In another instance, despite legislation indicating an urgent need for offshore leasing and mandating import quotas, the Department of Interior was required to consider reasonable alternatives to an offshore oil lease which would reduce or eliminate the need for offshore exploration. This was even so where those alternatives, such as increased nuclear energy development, required Congressional action.²¹¹ If those alternatives were considered reasonable even when Congressional action was required to enact

²⁰⁶ NWTT FSEIS at H-113.

²⁰⁷ NWTT FSEIS at H-113.

²⁰⁸ See 40 C.F.R. 1502.14(c) (2019); *Muckleshoot Indian Tribe v. U.S. Forest Serv.*, 177 F.3d 800, 814 (9th Cir. 1999) (This alternative [purchasing land outright with funds from the Federal Land and Water Conservation Fund] clearly falls within the range of such reasonable alternatives, and should have been considered.)

²⁰⁹ See Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations, 46 Fed. Reg. 18,026 (March 23, 1981).

²¹⁰ *Environmental Defense Fund v. Froehlke*, 473 F.2d 346 (8th Cir. 1974)

²¹¹ *Natural Resources Defense Council v. Morton*, 458 F.2d 827, 834-36 (D.C. Cir. 1972)

the alternative, then the Navy is certainly required to consider alternatives that reduce aircraft noise even if they may eventually need FAA approval for such an alternative to move forward.

xi. NPCA's Original Comment (NPCA-27)²¹²

The Navy used the stated purpose and need to develop only one true "alternative," which happened to be an increase in proposed flight and vessel activity. The Navy cannot define its objectives in such a way that its desired outcome is the only reasonable alternative. Here, the Navy's purpose and need was interpreted in such a way that they Navy only looked at alternatives that the Navy desired. The Navy needs to train, NPCA is not disputing that, however, there is no reason that it must train in this way, with these many flights, and in this particular area. There is also no reason at all for why the Navy needs to fly over any, or at least most, of Olympic National Park in order to conduct its necessary training.

The Navy's failure to properly define the DSEIS's purpose and need to include the Navy's obligation to consider ways to eliminate, minimize, and/or mitigate impacts to unique places lead to the Navy failing to consider a reasonable range of alternatives. Thus, the Navy's DSIES's statement of purpose and need and range of alternatives analysis is inadequate and illegal under NEPA.

xii. Inadequacy of the Navy's Response to NPCA-27

The Navy responds by saying:

As stated above in NPCA-22, the Navy properly developed its Purpose and Need to ensure that proposed training and testing would allow the Navy to meet its statutory requirements. And, as stated in Section 2.4.1.2 (Reduced Training and Testing) of the Final Supplemental EIS/OEIS, Alternative 1 represents "the minimum training for the appropriate number of Naval forces to gain the necessary levels of readiness for the commander to be confident of meeting 10 U.S.C. 8062 requirements."²¹³

However, again, the Navy's scope is too limited. As the Navy has already stated in prior responses, the No-Action Alternative would provide environmental benefits and changing flight routes would as well. Then, if the Navy has already entertained these possibilities, why can it not create a reasonable alternative that allows it to meet its training purposes while honoring the wishes of the public to reduce noise? The Navy causes confusion in the FSEIS by saying both that (1) mitigation measures are not feasible or they contradict the purpose and need of the project; and (2) the Navy is currently in discussions with the FAA with the purpose of exploring the possibility of shifting the FAA-established transit routes for military aircraft transiting to and from the Olympic MOA from Naval Air Station Whidbey Island to the north of the Olympic

²¹² From page 37 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-27 on page H-113 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

²¹³ NWTT FSEIS at H-113.

Peninsula.²¹⁴ This second point flatly contradicts the Navy's repeated assertion for not fully considering such alternatives in the FSEIS. The Navy had an obligation to fully consider such alternatives now, in this NEPA document. NPCA specifically requested such consideration in 2017 in its scoping comment. The Navy does not have to wait for the FAA to formally approve such changes before it evaluates them under NEPA. The Navy's failure to do so is a significant violation of NEPA's central requirement to fully disclose and evaluate a wide-range of alternatives, including in particular alternatives that eliminate or mitigate adverse impacts.

Furthermore, the Navy's response here is merely parroting its prior responses. It does not actually clarify why it did not consider more alternatives than what are listed in the DSEIS.

c. The Final SEIS Fails to Protect Scenic, Aesthetic, and Recreational Values.

i. NPCA's Original Comment (NPCA-28)²¹⁵

The Draft SEIS Fails to Protect Scenic, Aesthetic, and Recreational Values. An EIS must include a detailed statement regarding any adverse environmental effects which cannot be avoided should the proposal be implemented. Effects include impacts to aesthetic and social values, such as recreation, whether direct or indirect. The draft SEIS fails to properly consider the impacts the Navy's activities will have on the Park, particularly those areas outside of the MOAs.

The Navy's training and testing activities have an extremely negative impact on visitor's experiences at the Park, both in areas within and outside the MOAs. The draft SEIS fails to fully realize these impacts and thus fails to take a hard look at adverse environmental effects resulting from the increased Navy flights.

ii. Inadequacy of the Navy's Response to NPCA-28

The Navy responds by saying it did, in fact, consider potential effects to activities both within and outside the area beneath the Olympic MOA.²¹⁶ The Navy further explains that in the FSEIS, the Navy included additional analysis of aircraft transits to and from the Olympic MOA, which could have impacts beyond the borders of the Olympic MOA. However, the Navy still refuses to take a holistic approach and consider effects to the entire park, not just the MOA and areas right outside it. This segmented analysis fails to provide an accurate account for the scenic, actual aesthetic, and recreational impacts described in this section of our comment. For example, the Navy continues to split up the analysis between impacts to cultural resources and socio-economic resources.

²¹⁴ NWTT FSEIS at H-113.

²¹⁵ From page 37-38 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-28 on page H-114 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

²¹⁶ NWTT FSEIS at H-114.

It is also interesting that the Navy seems to understand that many people in the NWTT Study Area and surrounding area are dependent on the travel and tourism industry for employment and income, and that they are being hit particularly hard right now due to Covid-19.²¹⁷ The Navy even understands that loud noises generated from military training and testing activities have the potential to disrupt recreational activities for both locals and tourists.²¹⁸ Furthermore, the Navy then goes on to explain that “airborne acoustics generated by aircraft overflights are the type of acoustic disturbance most likely to be encountered by those participating in activities related to socioeconomic resources, because military aircraft transiting to and from training and testing airspace areas often need to fly near populated areas, including the Olympic Peninsula, or need to conduct activities in the Olympic MOA.”²¹⁹ Despite this understanding, the Navy appears to ignore the negative impacts that Growler noise has on travel and tourism, and has not provided an adequate analysis of impacts to those affected by reductions in visitor stays (see Section IV(c) for more details.)

All of this knowledge culminated in the analysis presented in the 2015 NWTT Final EIS/OEIS which concluded that training and testing activities could have moderate, intermittent impacts from airborne noise on socioeconomic resources, depending on the proximity of the Navy activity to the resource participant. But just a couple paragraphs later, the Navy tries to convince us that airborne acoustics from aircraft overflights only generate an acoustic disturbance at the moment it is heard, and noise from an overflight disturbance would only accumulate for the duration of a specific event, in an effort to discount the true harm of its noise. Once again, it appears the Navy is making conclusions contradictory to what it previously said.

Despite these noise, accessibility, and disturbance admissions detailed in section 3.12 (Socioeconomic Resources and Environmental Justice) the Navy does not specify in its reply answer why more deference was not given to the known scenic and recreational values of the park.

d. The Final SEIS Fails to Adequately Consider the Impacts Facing Wildlife in the Olympic Peninsula in General, and Particularly Birds.

i. NPCA’s Original Comment (NPCA-29)²²⁰

One of the main concerns with the Navy’s analysis of impacts to species is the Navy’s unduly narrow scope of review. While discussed in more detail above in Section II(a), because the Navy improperly decided to narrow its review to only the MOAs and Warning Areas, a significant amount of a species’ range and habitat was eliminated from the analysis. In fact, both the marbled murrelet and northern spotted owl, have designated critical habitat in the Olympic National Park in areas that are outside of the MOAs but still directly impacted by the Navy’s transit flights. To properly consider the impacts species face due to the Navy’s training and

²¹⁷ See NWTT FSEIS at 3.12-21.

²¹⁸ See NWTT FSEIS at 3.12-34.

²¹⁹ See NWTT FSEIS at 3.12-35.

²²⁰ From page 40 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-29 on page H-114 of Navy’s Response to Comments in Appendix H of the 2020 NWTT FSEIS.

testing activities, the Navy must prepare an EIS that, at a minimum, looks at impacts to species within the entire Olympic National Park, as opposed to species that only occur within the MOAs.

The Navy's training and testing activities will have numerous negative impacts on wildlife within the Park, particularly to bird species. The draft SEIS fails to fully realize these impacts and thus fails to take a hard look at adverse environmental effects resulting from the increased Navy flights.

ii. Inadequacy of the Navy's Response to NPCA-29

The Navy responded to our comment explaining that it had already adequately analyzed potential impacts to wildlife in general and birds in the 2015 NWTT Final EIS/OEIS, and that analysis was supplemented with updated research and in consideration of changes to the proposed activities.²²¹ The Navy further noted that, because no new research on the northern spotted owl had come out, nor were there any change in activities that would change the analysis of impacts to the owl from the 2015 NWTT Final EIS/OEIS, the focus in the final SEIS was on the marbled murrelet and short-tailed albatross. Additionally, the Navy contends, the "majority of proposed activities would occur within the marine environment well offshore of terrestrial habitat that would support spotted owls."²²²

The Navy further purports to have fulfilled its duty to the northern spotted owl by pointing out that it has consulted with USFWS on potential impacts to ESA-listed species. However, an ESA Bi-Op does not substitute for a proper NEPA analysis.²²³ As such, the Navy must conform to NEPA guidelines to determine what impacts must be disclosed, such as what impacts are adverse but would not immediately cause jeopardy to the species, as there can still be a finding of significant impact on a species even if its existence is not jeopardized.²²⁴ If studies show that even simulated off-highway vehicle noise on the northern spotted owl correlated with increased physiological stress and reduced fledging²²⁵, then the Navy should be concerned with how loud noise from jets is impacting this threatened bird.

The Navy has erred in not preparing an EIS that, at a minimum, looked at impacts to species within the entire Olympic National Park, as opposed to species that only occur within the MOAs. As a result of the FSEIS's unduly narrow scope, the Navy has not properly considered impacts that species, such as the northern spotted owl, face due to the Navy's training and testing activities.

²²¹ NWTT FSEIS at H-114.

²²² NWTT FSEIS at 3.6-2.

²²³ *Portland Audubon Society v. Lujan*, 795 F. Supp. 1489, 1509 (D. Or. 1992) (rejecting agency's request for the court to "accept that its consultation with [FWS under the ESA] constitutes a substitute for compliance with NEPA.")

²²⁴ *Makua v. Rumsfeld*, 163 F. Supp. 2d 1202, 1218 (D. Haw. 2001) ("A FONSI . . . must be based on a review of the potential for significant impact, including impact short of extinction. Clearly, there can be a significant impact on a species even if its existence is not jeopardized.")

²²⁵ Hayward, et al. 2011. Impacts of acute and long-term vehicle exposure on physiology and reproductive success of the northern spotted owl. *Ecosphere* 2:1-20. (Attached as Exhibit 35 to NPCA 2019 Comments on NWTT DSEIS).

iii. NPCA's Original Comment Unaddressed by the Navy²²⁶

Another impact that birds may face is stress. The SEIS notes that chronic stress may compromise the health and reproductive success of birds, but a physiological stress response is not necessarily indicative of negative consequences to individual birds or populations.²²⁷ While discrete stress responses may not be detrimental to an individual, chronic stress can cause elevated heart rates, changes in hormone levels, and weight loss, as well as impair the individual's ability to resist diseases.²²⁸ One study has already linked loud habitats to decreased reproductive success for northern spotted owls; while the study was focusing on road traffic, it is highly likely that similar decreased reproductive success would result from aircraft noise.²²⁹ Birds already experience stress while surveying their habitats for predation and other dangers, with the increase in and unpredictably of Navy flights, an individual is facing increased threats throughout its day—causing chronic stress and its associated negative physiological responses. “Animals rely on hearing to avoid predators, to obtain food, and to communicate with members of their own species and other members of the community,” thus, the increased noise pollution may also impact the species' ability to thrive, survive, and hunt.²³⁰ Birds rely on their vocalizations to communicate, but unfortunately, “anthropogenic noise is typically loud and low in frequency [that it] can mask signals used by animals.”²³¹ When low-frequency noise, such as Growler jets, pollutes an area, birds with low-frequency vocalizations may be unable to communicate and may abandon suitable habitat.²³² Notably, the northern spotted owl's vocalization frequency primarily occurs under 1000 Hz (1kHz), which is the range where Growlers have heavy impacts.²³³ While the marbled murrelet's vocalization frequency range is larger than the spotted owls, a portion of their vocalization also occurs under 1000Hz and can be impacted by the Growlers.²³⁴ Additionally, animals are constantly surveying their surroundings for dangers, utilizing both sight and hearing. When a Growler jet flies into the area, an individual may become distracted by the noise not become aware of a nearby danger, increasing the individual's vulnerability. Further, when exposed to sound and visual stressors from military overflights, raptors and waterfowl are generally flushed from their nests, exposing their chicks to predation and other dangers.²³⁵ Alternatively, some birds rely on their hearing to

²²⁶ From page 41 of NPCA Comments on 2019 NWTT DSEIS.

²²⁷ NWTT DSEIS at 3.6-28

²²⁸ Ortega, at 9. (Attached as Exhibit 34 to NPCA 2019 Comments on NWTT DSEIS).

²²⁹ See Hayward Impacts of Acute and long-term vehicle exposure on at 12 (Attached as Exhibit 35 to NPCA 2019 Comments on NWTT DSEIS).

²³⁰ U.S. Air Force, at 13. (Attached as Exhibit 33 to NPCA 2019 Comments on NWTT DSEIS).

²³¹ Wolfenden, at 11, (Attached as Exhibit 32 to NPCA 2019 Comments on NWTT DSEIS)

²³² Clinton D. Francis et al., *Noise Pollution Filters Bird Communities Based on Vocal Frequency*. 1 (Attached as Exhibit 36 to NPCA 2019 Comments on NWTT DSEIS); see also Wolfenden, at 22 (“Birds with low-frequency songs are affected more than those with high frequency songs, presumably because their songs overlap more with that of the noise.”), (Exhibit 32 to NPCA 2019 Comments on NWTT DSEIS.)

²³³ See Spectrogram Comparison of Frequencies of NSO vocalization and Growlers Near the Hoh (Attached as Exhibit 37 to NPCA 2019 Comments on NWTT DSEIS)

²³⁴ Spectrogram Comparison of Frequencies of Marbled Murrelet vocalization and Growlers Near the Hoh (Attached as Exhibit 38 to NPCA 2019 Comments on NWTT DSEIS)

²³⁵ See Efroymsen, *Ecological Risk Assessment Framework for Low-Altitude Aircraft Overflights: II. Estimating Effects on Wildlife*. (Attached as Exhibit 39 to NPCA 2019 Comments on NWTT DSEIS)

*hunt—northern spotted owls are acoustically specialized predators—and are particularly vulnerable to noise pollution.*²³⁶

Note that while there is a lot of information relating to species' responses to noise pollution, the specific ESA species, like the spotted owl and murrelet, within the Park are understudied, primarily because these species are so rare. Thus, to truly understand the impacts to these specific species, the Navy should focus more resources and time on monitoring the species and specifically how they react to aircraft flyover events.

Despite the numerous possible impacts described above, the draft SEIS, without substantial evidence, concludes that impacts facing the marbled murrelet, northern spotted owl, western snowy plover, and streaked horned lark will be insignificant and no critical habitat in the study area will be affected.²³⁷ Pursuant to ESA Section 7, these conclusions must be supported by a biological assessment or opinion prepared by the U.S. Fish and Wildlife Service. Birds are particularly susceptible to noise pollution, as evidenced above, yet there are other species in the Park that may be negatively impacted by the Growler jet's noise pollution that the draft SEIS failed to analyze. The Park is home to elk, mountain goats, and mule deer. These ungulate (hoofed mammals) species are also vulnerable to noise, particularly noise levels ranging from 75-113dBA.²³⁸ Importantly, within the MOAs, a Growler training operations can produce noise levels between 81.5-100.6dBA.²³⁹ When exposed to noise pollution, ungulates can be startled resulting in interruptions of breeding, nursing, or foraging, as well as avoidance.²⁴⁰ These impacts can lead to growth impairment or increased predation if the individual moves to an area with a greater number of predators in order to avoid the noise pollution.²⁴¹

iv. Inadequacy of the Navy's Response

The Navy did not respond to any of our specific comments above regarding impacts to wildlife, including how noise from training can cause stress or cause wildlife to change their normal behavior, resulting in health issues and potential danger from predators. Section 3.6 (Birds) also does not provide much insight to the extent the Navy considered these factors and again is flawed as it does not account for all wildlife within the park, and only focuses on effects upon those within the study area.

Even then, despite the research in Section 3.6 that explicitly accounts for the harms birds in this area may face from increased training activities, and despite the Navy admitting it does not know certain facts (such as what the marbled murrelet's wintering range is), it still comes to the conclusion that effects on animals are negligible.

Kuehne, *supra* note 116, at 4; see also Jesse R. Barber et al., *The Costs of Chronic Noise Exposure for Terrestrial Organisms*, CELL PRESS (Sept. 2009) at 186 (Attached as Exhibit 40 to NPCA 2019 Comments on NWTT DSEIS).²³⁷ NWTT DSEIS at J-22.

²³⁸ See Efroymsen, Ecological Risk Assessment, (Attached as Exhibit 39 to NPCA 2019 Comments on NWTT DSEIS).

²³⁹ Draft NWTT SEIS at J-22

²⁴⁰ See Efroymsen, Ecological Risk Assessment, (Attached as Exhibit 39 to NPCA 2019 Comments on NWTT DSEIS).

²⁴¹ *Id.*

Furthermore, again, these impacts to wildlife need to be considered through a cumulative NEPA lens, not just an ESA one. A cumulative effects analysis in an ESA consultation document, such as a Biological Opinion or Biological Assessment, cannot satisfy the NEPA cumulative effects analysis requirement, because the ESA analysis includes only state and private actions—not other federal actions.²⁴² The effect from these jets, combined with the typical stressors of the area should be considered when assessing how wildlife are impacted and cumulative impacts.

e. The Draft SEIS Fails to Properly Consider the Cumulative Impacts of the Proposed Action.

i. NPCA’s Original Comment (NPCA-30)²⁴³

The Draft SEIS Fails to Properly Consider the Cumulative Impacts of the Proposed Action. The draft SEIS first notes that the geographic scope of the cumulative impacts analysis is defined by the “Study Area” which encompasses the MOAs, Warning Areas, and areas within the inland waters. A Figure of the Study Area from the draft SEIS is provided below. This geographic scope is far too narrow. When analyzing project specific impacts, it is often sufficient to analyze effects within the immediate area of the proposed action; however, when analyzing cumulative effects, the geographic boundaries almost always should expand. At a minimum an EIS must explain why it has limited the geographic scope of a cumulative impacts analysis. By limiting the scope of the analysis to only the MOAs, Warning Areas, and inland waters, the Navy improperly narrowed the scope of the cumulative impacts analysis. The scope of the cumulative impacts section should, at a minimum, include impacts to the entire Olympic National Park.

ii. Inadequacy of the Navy’s Response to NPCA-30

The Navy responded to our comment, attempting to clarify that it considered “areas far outside of the Study Area used for this Supplemental, because it [the FSEIS] includes all actions that may add to impacts affecting the resources that were analyzed in this Supplemental.”²⁴⁴ This is not an understandable or meaningful definition of the actual geographic scope of the cumulative impacts analysis. Essentially it says the FSEIS analysis included everything it supposedly needed to include, which is a conclusion, not the required definition of the actual geographic scope. Moreover, the FSEIS still identifies the Study Area as “defin[ing] the geographic extent of the impacts analysis.”²⁴⁵ The Study Area is identified in Chapter 3 (Affected Environment and Environmental Consequences), as remaining the same as identified in the 2015 NWT Final EIS/OEIS, which means it the Study Area remains limited to the MOAs, Warning Areas, and areas within inland waters. Even if certain actions outside of these areas are taken into account, the unduly narrow scope of the cumulative analysis results in only fragmented areas

²⁴² *San Luis & Delta-Mendota Water Auth. v. Jewell*, 747 F.3d 581, 650 (9th Cir. 2014) (“the ESA only requires agencies to consider the cumulative impacts of non-federal actions, while NEPA requires agencies to consider the cumulative impacts of all actions,” citing 50 C.F.R. § 402.02 and 40 C.F.R. § 1508.7) (citation and internal quotation marks omitted).

²⁴³ From page 43 of NPCA Comments on 2019 NWT DSEIS, listed as comment NPCA-30 on page H-114 of Navy’s Response to Comments in Appendix H of the 2020 NWT FSEIS.

²⁴⁴ NWT FSEIS at H-114; NWT FSEIS at 4-1.

²⁴⁵ NWT FSEIS at 4-1.

getting included in the required analysis. What is needed is a clearly defined broader geographic scope, so that impacts for all relevant areas are analyzed, and not just certain resources or areas outside of the Study Area.

iii. NPCA's Original Comment (NPCA-31)²⁴⁶

The draft SEIS also notes that the time frame for cumulative impacts centers on the timing of the proposed action. The timing of the proposed action consists of training and testing activities that are necessary to meet requirements beyond 2020 and into the reasonably foreseeable future. This time frame is also too narrow. The definition of cumulative impacts explicitly requires agencies to analyze impacts from past, present and reasonably foreseeable future actions. By focusing the time frame from 2020 and into the future, the Navy eliminated decades of Naval activity within the Olympic Peninsula from the cumulative impacts review.

iv. Inadequacy of the Navy's Response to NPCA-31

The Navy does not supply any analysis and simply replies in a conclusory manner that, “in the cumulative section, the Navy is clear that we looked at past, present, and reasonably foreseeable actions.”²⁴⁷ However, the Navy makes this blanket statement while failing to point to any specific analysis that properly accounts for prior impacts. In addition, the Navy does not appear to have considered impacts when combined with commercial and private aircraft noise. The Navy likes to point out that it is not the only source of noise over the Park because private and commercial flights also take place in that airspace. However, it conveniently forgets this fact when it comes time to analyze the cumulative impacts of all noise sources on the Park and adjacent areas. The Navy did not model aircraft noise other than from its own jets, and the assertions in the FSEIS and a lack of cumulative impacts from all aircraft noise are simply unsupported conclusions, not the required analysis.

Additionally, the data the Navy did use appears to suggest the Navy chose particular metrics to downplay the known effects of military aircraft noise, one of several mistakes which led to a grant of summary judgment against the Air Force in Idaho District Court.²⁴⁸

v. NPCA's Original Comment (NPCA-32)²⁴⁹

When reviewing the cumulative impacts analysis, NPCA faced additional confusion. While the Navy seemed to improperly narrow the scope of the review, in terms of both geography and timing, the draft SEIS provides a table of “Past, Present, and Reasonably Foreseeable Actions.” This table includes actions that are outside both the specified geographic Study Area and time frame specified for review. Thus it remains unclear to NPCA, and the general public, what the scope of the cumulative impacts review actually consisted of—the improperly narrow

²⁴⁶ From page 44 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-31 on page H-115 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

²⁴⁷ Listed as Navy Response NPCA-31 on page H-115 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

²⁴⁸ *Hausrath v. US Airforce*, 2020 WL 5848094 (D. Idaho Oct. 1, 2020)

²⁴⁹ From page 44 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-32 on page H-115 of Navy's Response to Comments in Appendix H of the 2020 NWTT FSEIS.

geographic scope and time frame designated in the “Scope of Cumulative Analysis” section, or of every action listed in Table 4.3-1 was analyzed?

vi. Inadequacy of the Navy’s Response to NPCA-32

The Navy’s response to our comment is, “see responses to NPCA-30 and NPCA-31.”²⁵⁰ As such, please see our analysis of the Navy’s responses under NPCA-30 and NPCA-31.

vii. NPCA’s Original Comment (NPCA-33)²⁵¹

Overall, the DSEIS addresses cumulative impacts by including a long list of ongoing or future actions. Then, at the end of this table it “analyzes” the cumulative impacts to various resources from this list of actions and the Navy’s training and testing actions with a series of short, almost entirely conclusory paragraphs. Lists of actions are of course not an analysis, especially when those lists are incomplete, and conclusory assertions of “no cumulative impacts” are equally ineffectual when attempting to comply with NEPA.

One obvious omission from its list of ongoing or future actions is commercial logging. Even if limited to the “study area,” that area includes large areas of national, state and private forests where there are always ongoing commercial logging operations. Attached below is a map showing active state timber sales in the region. In terms of noise impacts, commercial logging operations create extensive, localized noise and would create cumulative impacts with the noise from Navy Jet overflights on recreational users and on wildlife, including in particular birds.

Another legal concern NPCA has with the draft SEIS’s cumulative impacts analysis is the inadequate analysis relating to impacts from all aircraft use within and above the Olympic Peninsula. The Navy does list “commercial and general aviation” as an action that could cause cumulative impacts. However, in its subsequent “analysis paragraphs, it first appears to discuss noise impacts to the Park in the “cultural resources” section. But here it limits its actual discussion to a repeat of its flawed analysis of direct noise impacts from its navy jets, does not mention commercial aircraft as a source for cumulative impacts, and summarily concludes: “when considered with other actions (see Table 4.3-1), the contribution of the Proposed Action of this Supplemental EIS/OEIS to the Olympic National Park soundscape would be short term, intermittent, and temporary.” This is a conclusion, not the actual analysis required by NEPA.

Cumulative impacts on Park resources from Navy jet overflights and other activities like nearby commercial logging and commercial jet overflights required an actual discussion and quantification of those impact.

viii. Inadequacy of the Navy’s Response to NPCA-33

The Navy responded by explaining that in the FSEIS the Navy included the analysis of additional activities that have occurred or will occur in the vicinity of the Study Area, including

²⁵⁰ NWTT FSEIS at H-115.

²⁵¹ From page 45 of NPCA Comments on 2019 NWTT DSEIS, listed as comment NPCA-33 on page H-115 of Navy’s Response to Comments in Appendix H of the 2020 NWTT FSEIS.

logging operations.²⁵² The Navy also explains that it considered the cumulative impacts of its activities in addition to all of the activities listed in Table 4.3-1 and also included additional analysis in Section 4.4.12.3 (Cumulative Impacts on Socioeconomic Resources) to describe the occurrence and potential impacts of military, commercial, and general aviation in the vicinity of Olympic National Park.²⁵³

However, Section 4.4.12.3 of the Final SEIS does not actually provide a supplemental analysis. Adding logging to its table regarding activities that could cause cumulative impacts is not the same thing as actually analyzing those cumulative impacts. There is no actual analysis of the cumulative impacts of logging in areas adjacent to the park, including the very loud noises that often accompany logging, and the other artificial noises, including those from the Navy's jet aircraft on park resources and park visitors. In fact there is no actual analysis of any cumulative impacts, and especially impacts affecting noise and the Park's soundscape, beyond listing all of the potentially cumulative impacts in a long table. That is patently insufficient under NEPA. Instead, the Navy actually explains that despite all the supposedly re-evaluated competing concerns, the conclusions in its cumulative impacts assessment are essentially the same as its flawed 2015 one:

[B]ased on the analysis presented in Section 3.4 (Marine Mammals), 3.5 (Sea Turtles), 3.6 (Birds), 3.9 (Fishes), 3.10 (Cultural Resources), 3.11 (American Indian and Alaska Native Traditional Resources), and 3.12 (Socioeconomic Resources and Environmental Justice), the current aggregate impacts of past, present, and other reasonably foreseeable future actions are not significantly different than the assessment in the 2015 NWTT Final EIS/OEIS.

As the Navy has only modeled for military sounds, and neither modeled nor monitored for noise from commercial and private aircraft, it has not provided proof to substantiate its response here.

IV. Other Public Comments Underscore the Issues Raised in NPCA's DSEIS Comments.

a. The Navy Should Monitor Noise Rather Than Rely on Noise Modeling.

Numerous federal agencies, state agencies, and elected officials, including the U.S. Department of the Interior (DOI), the Island County Commissioner, the Jefferson County Board of Commissioners, the Port Townsend Mayor, and the San Juan County Council, found the Navy's noise modeling to be inadequate and requested the Navy instead engage in noise monitoring.²⁵⁴ As noted by the DOI, monitoring would provide for increased transparency by

²⁵² NWTT FSEIS at H-115.

²⁵³ NWTT FSEIS at H-115.

²⁵⁴ United States Department of the Interior, comment on 2019 NWTT Draft SEIS/OEIS, June 12, 2019 at 5, hereinafter referred to as "DOI Comment;" Island County Commissioner, comment on 2019 NWTT Draft SEIS/OEIS, at 1-2, hereinafter referred to as "Island County Comment;" Jefferson County Board of Commissioners, comment on 2019 NWTT Draft SEIS/OEIS, June 12, 2019 at 2, hereinafter referred to as "Jefferson County Comment"; Port Townsend Mayor, comment on 2019 NWTT Draft SEIS/OEIS, June 12, 2019 at 1-2, hereinafter

giving a measured outcome and determine whether the aircraft maintained the claimed altitudes identified.²⁵⁵ The use of real time measurements would allow data-based assessments that would allow for an accurate measurement of the impacts and potential mitigation measures.²⁵⁶

The Navy gives the same reason in response to nearly all comments calling for noise monitoring over noise modeling.²⁵⁷ It is clear the Navy prefers to follow the Department of Defense's (DoD) position to utilize modeling exclusively. It is also clear that in the comments to the DSEIS there is a great demand for the Navy to also engage in noise monitoring for a wide variety of reasons. The Navy cites the Air Force Handbook for the proposition that monitoring is not the appropriate approach to analyze the impacts of aircraft noise. However, these cited sections do not say that noise monitoring is prohibited if the facts of the situation call for it.²⁵⁸ Despite this, the Navy has steadfastly refused to engage in noise monitoring beyond the one location in Olympic National Park under the Olympic Military Operations Area (MOA) required by the Fiscal Year 2020 National Defense Authorization Act (NDAA).²⁵⁹ Even in the face of Lauren Kuehne's monitoring research, which disputes many of the facts stated in the DSEIS,²⁶⁰ the Navy unjustifiably stands by DoD's position to utilize only modeling over modeling and monitoring.²⁶¹

The DOI and the EPA also called for the inclusion of additional noise metrics.²⁶² Both DOI and EPA recommend using the "Time Above a Specified Level" metric for flights as more representative of what an individual on the ground would actually experience.²⁶³ This analysis would help the public understand the length of time the Growlers would exceed certain sound levels.²⁶⁴ The "Number-of-Events Above" metric recommended by EPA would more fully disclose the frequency of flights over a given area at or above a noise threshold.²⁶⁵ The current noise metrics employed by the Navy are Day-Night Average Sound Level (DNL) and Lmax, which help to understand the average sound level over a 24 hour period (DNL) and the loudest events (Lmax), but do not address the frequency and duration of aircraft noise above certain levels.²⁶⁶ The Navy's response to the request for additional metrics was to explain how the noise modeling software used cannot feasibly calculate these metrics.²⁶⁷ This response does not engage with the substance of these comments. Instead of explaining the inadequacy of the noise

referred to as "Port Townsend Comment;" San Juan County Council, comment on 2019 Draft SEIS/OEIS, June 12, 2019 at 1, hereinafter referred to as "SJCC Comment." *See also* Exhibit DD.

²⁵⁵ DOI Comment at 5.

²⁵⁶ Island County Comment at 1–2; Jefferson County Comment at 1–2; Port Townsend Comment at 1.

²⁵⁷ *See* U.S. DEP'T OF THE NAVY, NORTHWEST TRAINING AND TESTING: FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT/OVERSEAS ENVIRONMENTAL IMPACT STATEMENT (Sep. 2020) at H-11–12, hereinafter referred to as "NWTT FSEIS."

²⁵⁸ NWTT FSEIS at H-11–12.

²⁵⁹ NWTT FSEIS at H-103–104.

²⁶⁰ Kuehne, L.M., and J.D. Olden. 2020. Military Flights Threaten the Wilderness Soundscapes of the Olympic Peninsula, Washington. Northwest Science Vol 94, in press. *See* Exhibit AA.

²⁶¹ NWTT FSEIS at H-103–104.

²⁶² DOI Comment at 5; United States Environmental Protection Agency Region 10, comment on 2019 NWTT Draft SEIS/OEIS, June 12, 2019 at 3, hereinafter referred to as "EPA Comment." *See also* Exhibit EE.

²⁶³ DOI Comment at 5; EPA Comment at 3.

²⁶⁴ EPA Comment at 3.

²⁶⁵ EPA Comment at 3.

²⁶⁶ EPA Comment at 3.

²⁶⁷ NWTT FSEIS at H-11; NWTT FSEIS at H-13–14.

modeling software, the Navy should explain why it believes these metrics are not worth adding, and why it is infeasible to obtain software that is capable of addressing these metrics. Clearly a method to measure these metrics exist, or the metrics themselves would not exist.

Additional flaws with the noise modeling involve the volume of Growlers compared to the old EA-6Bs and the ranges at which they are audible.²⁶⁸ The DOI noted that, based on their experience, Growlers are “much louder aircraft” than the previous aircraft.²⁶⁹ The Navy claims that the new planes are not actually louder than the older ones, but that perceived differences in loudness is a subjective evaluation.²⁷⁰ The Navy should provide the data disproving the anecdotal observations and experiences that the newer planes are louder. The maximum volume of a Growler heard within the MOA given in the FSEIS is 100.6 dBA.²⁷¹ However, by using DNL averaging, this loud but brief (0.12 second) noise is averaged over a much longer (24 hour) period, thus diluting and obfuscating the actual noise level and associated impacts. As a result, this lets the noise modeling show the proposed action as having a cumulative noise metric of at most 36.7 dBA.²⁷² According to Table J-1, which shows the decibel level of various sources, the DNL averaging brings the aircraft volume down to between a whisper and a babbling brook where the peak volume is louder than riding a motorcycle or operating a food processor.²⁷³ The Navy acknowledges that the noise model used does not have the capability to monitor complex terrain, yet still uses this model to estimate noise exposure on the complex terrain of the Olympic Peninsula.²⁷⁴

b. The FSEIS failed to adequately address a reasonable range of alternatives.

As the Navy admits, “[t]he No Action Alternative is required by CEQ regulations as a baseline against which the impacts of the Proposed action are compared.”²⁷⁵ The Navy then immediately notes that CEQ guidance identifies two approaches in developing this No Action Alternative.²⁷⁶ The first, which uses the “status quo” of *current ongoing activities* as the baseline for impacts, is most commonly used and provides the best foil for the proposed alternatives. The second approach allows the agency to use as a baseline the hypothetical situation where *current ongoing activities cease*. The Navy chose to use the latter approach.²⁷⁷ The latter approach obviously provides a much starker contrast against proposed action alternatives, thus creating a forced perspective to suggest that the chosen No Action Alternative is completely incompatible with the Navy’s purpose and need. However, had the Navy used the more appropriate “status quo” approach (the Navy would never cease all operations, and thus it was disingenuous to choose that approach), it could have provided a more reasonable comparison for its proposed alternatives and still aligned with its stated purpose and need. Instead, the status quo alternative

²⁶⁸ DOI Comment at 5.

²⁶⁹ DOI Comment at 5.

²⁷⁰ NWTT FSEIS at H-11.

²⁷¹ NWTT FSEIS at J-22.

²⁷² NWTT FSEIS at J-19.

²⁷³ NWTT FSEIS at J-7.

²⁷⁴ NWTT FSEIS at J-19.

²⁷⁵ NWTT FSEIS at ES-4.

²⁷⁶ NWTT FSEIS at 2-28.

²⁷⁷ NWTT FSEIS at 2-28.

was not considered in the DSEIS and was summarily eliminated from consideration in the FSEIS.²⁷⁸

The literal No Action Alternative used by the Navy in the FSEIS assumes no authorizations or permits would be issued, thus all testing and training activities would cease.²⁷⁹ The FSEIS automatically disqualifies this literal No Action Alternative by defining the purpose and need as “to maintain, train, and equip combat-ready naval forces capable of winning wars, deterring aggression, and maintaining freedom of the seas.”²⁸⁰ Clearly doing *nothing* is considered incompatible with the need to do *something*. Alternative 2.4.1.7, the more reasonable “status quo” alternative, is eliminated from consideration. This alternative was only added to (and quickly dismissed from) the FSEIS after the Jefferson County Board of Commissioners and Port Townsend Mayor asked for the same No Action standard as the 2015 EIS.²⁸¹ According to the Navy, this would lock the Navy into using obsolete systems and platforms and not allow for new testing requirements.²⁸² However, this fails to consider an option where the Navy maintains the training and testing at levels documented in the 2015 NWT FEIS/OEIS with adjustments to the weapons, platforms, and systems to meet current system and platform needs.²⁸³ The reason given for the elimination from further consideration of the status quo alternative was that it would not allow the Navy to “fulfill its Title 10 responsibilities described in the Purpose and Need.”²⁸⁴ However, the literal No Action Alternative was carried forward even though it is literally impossible for such an alternative to meet the Purpose and Need of the Proposed Action.

The preferred action alternative predicts approximately 300 additional flights per year.²⁸⁵ The Navy should at least consider an action alternative with fewer additional flights per year. A full analysis of such an alternative would show the impact that a smaller increase in EA-18 Growler flights would have over the Olympic Peninsula. This information would allow the public to meaningfully participate in this process by having access to a fuller range of realistic alternatives. Concern over the consideration of Alternatives is shared by the Makah Tribe,²⁸⁶ the Port Gamble S’Klallam Tribe,²⁸⁷ and the Attorney General of Washington.²⁸⁸ The Suquamish Tribe requests virtual training and testing as an alternative for greater consideration.²⁸⁹ The City

²⁷⁸ NWT FEIS at H-47–48.

²⁷⁹ NWT FEIS at ES-4.

²⁸⁰ NWT FEIS at 1-4.

²⁸¹ Jefferson County Comment at 5–6; Port Townsend Comment at 5.

²⁸² NWT FEIS at 2-27.

²⁸³ NWT FEIS at 2-27.

²⁸⁴ NWT FEIS at 2-27.

²⁸⁵ NWT FEIS at 2-36 fn2.

²⁸⁶ Makah Tribe, comment on 2019 NWT Draft SEIS/OEIS, June 12, 2019, at 6. Hereinafter referred to as “Makah Comment.”

²⁸⁷ Port Gamble S’Klallam Tribe, comment on 2019 Draft SEIS/OEIS, June 14, 2019, at 3. Hereinafter referred to as “PGST Comment.”

²⁸⁸ Washington Counsel for Environmental Protection, comment on 2019 Draft SEIS/OEIS, June 12, 2019, at 3. Hereinafter referred to as “WCEP Comment.”

²⁸⁹ Suquamish Tribe, comment on 2019 Draft SEIS/OEIS, June 10, 2019, at 3. Hereinafter referred to as “Suquamish Comment.”

of Fort Bragg suggested testing in a simulated and controlled environment.²⁹⁰ The Action Alternatives considered should have been more than the three which were carried forward. Not only was the No Action Alternative unrealistic given the Purpose and Need,²⁹¹ Alternatives 1 and 2 are almost identical in terms of training and testing activities.²⁹²

Even if the “No Action Alternative” selected by the Navy was appropriate, its analysis of this alternative is not the “rigorous” and “objective” evaluation of alternatives required by NEPA.²⁹³ Instead it is a biased and incomplete comparison of alternatives that directly violates NEPA. The Navy is essentially using the “No Action Alternative” to showcase what it believes is a “parade of horrors” if training and testing in the planning area were to stop. However, at the same time, the Navy refuses to acknowledge the significant environmental benefits, and public health and quality of life benefits, that would occur if all Naval training and testing ceased. There would, without question, be beneficial impacts if Navy jet overflights do not occur in the future. For example, there would be beneficial impacts to terrestrial wildlife and recreation (especially recreation in the Park), public health, and quality of life for the people who live in the study area including Environmental Justice communities. NEPA requires an EIS to acknowledge both adverse impacts and benefits when comparing alternatives.²⁹⁴

c. The Navy failed to adequately address negative impacts on tourism.

The Navy says the aircraft overflights are not impacting tourism because Olympic National Park saw steady visitor growth for four out of five years from 2013-2018.²⁹⁵ This statement does not take into account that numerous visitors have complained that Growler overflights negatively impacted their park experience.²⁹⁶ For example, Rebecca Wanagel describes the Growler noise as “stabbing at the very heart of what make the Olympics so very uniquely special.”²⁹⁷ Some guests have even thought noise from Growlers was a landslide or avalanche in the mountains and expressed feeling unsafe.²⁹⁸ Simply because some people are willing to endure the noise created by Growler overflights does not mean that others are. And just because visitor numbers have increased does not mean that visitors are enjoying their visits as expected, and does not account for visitors who came to the Park but cut their trips short as a result of Growler disturbances.²⁹⁹

The Navy justifies the noise created over the park by stating that the military has been flying aircraft over the Olympic Peninsula for training since World War II. (WWII)³⁰⁰ While

²⁹⁰ City of Fort Bragg, comment on 2019 Draft SEIS/OEIS, May 28, 2019, at 1. Hereinafter referred to as “Fort Bragg Comment.”

²⁹¹ NWTTE FSEIS at 2-27, 28.

²⁹² See WCEP Comment at 4–5.

²⁹³ 40 C.F.R. § 1502.14(a).

²⁹⁴ 40 C.F.R. §§ 1508.8(b) and 1502.14(a) (2019)

²⁹⁵ NWTTE FSEIS at H-98–99.

²⁹⁶ National Parks Conservation Association, comment on 2019 NWTTE Draft SEIS/OEIS, June 12, 2019 at 6. Hereinafter referred to as “NPCA 2019 Comment.” Citing to Testimonials from Olympic National Park Visitors (Exhibit 2 to NPCA 2019 comment on NWTTE DSEIS) and National Park Service’s October 5, 2017 DSEIS Scoping Comment at 2 (Exhibit 3 to NPCA 2019 comment on NWTTE DSEIS).

²⁹⁷ NPCA 2019 Comment, Exhibit 2 to NPCA 2019 comment on NWTTE DSEIS, at 4.

²⁹⁸ NPCA 2019 Comment, Exhibit 2 to NPCA 2019 comment on NWTTE DSEIS, at 12.

²⁹⁹ See Jefferson County Comment at 5; See Port Townsend Comment at 4–5.

³⁰⁰ NWTTE FSEIS at H-98.

true, that argument is flawed because it ignores the obvious advances in technology and subsequent changes in aircraft being flown over the park. The Navy is not training with the same type of propeller aircraft that were used in WWII. Modern military jet aircraft are louder than their WWII counterparts, creating a more disruptive impact over a larger area during overflights.

The Makah Tribe, Jefferson County Board of Commissioners, Port Townsend Mayor, and San Juan County Council have asked for additional analysis into the impact of Growler operations on tourism.³⁰¹ The San Juan County Council has tracked the number of cancelled camping reservations directly linked to Growler operations near Deception Pass State Park and requested that the Navy examine that impact.³⁰² The Jefferson County Board of Commissioners and Port Townsend Mayor state that some of their constituents in the tourism industry have reported customers are deterred by and leave early due to noise.³⁰³ The Makah Tribe feels the cumulative impacts analysis does not consider a number of factors, including existing industries such as tourism.³⁰⁴ The negative impact on tourism caused by Growler overflights could spread over the majority of the Olympic Peninsula. The Navy should complete a more thorough analysis of these potential impacts and possible mitigation plans to reduce the drain on local tourism revenues.

d. The Navy failed to adequately analyze noise impacts to Public Health.

The failure of the FSEIS to adequately analyze noise impacts of the proposed training makes determining the public health impacts extremely difficult. In addition to NPCA's comments concerning the inadequacy of the noise analysis, the Department of Interior also found that the Navy's DSEIS analysis did not represent what a visitor would actually experience on the ground.³⁰⁵ If the Navy will not monitor the noise, it should at minimum use modeling appropriate to determine the potential health impacts to Park visitors and those living in and around the MOAs and transit paths, and discuss mitigation measures to address those impacts.

The Washington State Department of Health's comment on the 2017 DEIS Growler expansion proposal calling for updated and increased research on public risks was raised by the Island County Commissioner, Jefferson County Board of Commissioners, and Port Townsend Mayor for the impacts of noise on communities and rural areas.³⁰⁶ DNL averaging for Growler flights overhead does not account for the peaks of noise created. An increase in flights will lead to an increase in frequency of noise events as the jets fly over. As noted by the Port Townsend Mayor, low-income residents who lack the means to harden their homes against noise may be more severely impacted by the increased Growler activity.³⁰⁷ Another concern is night flights waking individuals, interrupting their sleep and potentially causing negative health effects. In fact, failure to take a hard look at potential noise impacts to sleep was one of several reasons that the Idaho District Court found an environmental assessment by the Air Force inadequate and

³⁰¹ Makah Comment at 6; Jefferson County Comment at 5; Port Townsend Comment at 4–5; SJCC Comment at 2.

³⁰² SJCC Comment at 2.

³⁰³ Jefferson County Comment at 5; Port Townsend Comment at 4–5.

³⁰⁴ Makah Comment at 6.

³⁰⁵ DOI Comment at 4.

³⁰⁶ Island County Comment at 1–2; Jefferson County Comment at 2; Port Townsend Comment at 1–2.

³⁰⁷ Port Townsend Comment at 1–2.

required a more thorough analysis be undertaken.³⁰⁸ The Navy acknowledges that hazardous noise exposure poses an occupational health risk to service members, indicating that they are aware of the potential negative effects of hazardous noise.³⁰⁹ The Navy should likewise acknowledge the impact of this noise and potential health risks to residents and communities impacted by the proposed activities.

e. The Navy failed to adequately address Environmental Justice concerns.

Environmental Justice issues are raised by the InterTribal Sinkyone Wilderness Council,³¹⁰ Makah Tribe,³¹¹ Squaxin Island Tribe,³¹² Yurok Tribe,³¹³ Jefferson County Board of Commissioners,³¹⁴ Port Townsend Mayor,³¹⁵ and Attorney General of Washington Counsel for Environmental Protection,³¹⁶ many of which were not addressed by the Navy. The failure to account for disproportionate impacts on minority and low-income populations is in opposition to CEQ guidance³¹⁷ and DoD strategy,³¹⁸ as well as Executive Order 12898.³¹⁹ Due to their proximity to the project's location, these Environmental Justice communities will face the brunt of the impacts associated with the Navy's Growler training. The Navy claims the 300 additional flights will not change the results of the 2015 NWTTF Final EIS/OEIS because the increased activities will have a negligible impact on the soundscape of the Olympic Peninsula.³²⁰ The problems with the modeling used by the Navy to reach this conclusion are discussed elsewhere in this comment, but here the focus is on the inevitable impact of the proposed action on Native American reservations along the Olympic Peninsula and low-income communities in the area.

The Jefferson County Board of Commissioners raises concerns over the additional stress caused by the increase in Growler activity, especially in a rural areas which have a higher expectation of quiet.³²¹ The Navy does not respond to this particular part of the comment, but instead offers the conclusory answer that the modeling used is appropriate to address concerns over increased noise.³²² The Board also found the analysis of the impact to the local tourism and transportation sectors inadequate.³²³ Their concern is for constituents in the tourism industry who

³⁰⁸ *Hausrath v. Air Force*, 2020 WL 5848094 (D. Idaho Oct. 1, 2020)

³⁰⁹ U.S. Navy, Leslie Tomaino, *Have You Heard? Industrial Noise and Hearing Conservation Course Returns*. Sept. 18, 2020. See Exhibit FF.

³¹⁰ InterTribal Sinkyone Wilderness Council, comment on 2019 NWTTF Draft SEIS/OEIS, May 3, 2019, at 3–4. Hereinafter referred to as “ITSWC Comment.”

³¹¹ Makah Comment at 3, 5–6.

³¹² NWTTF FSEIS H-32–33. (The original Squaxin Island Tribe comment was not uploaded to the NWTTFEIS.com/documents public access page.)

³¹³ Yurok Tribe, comment on 2019 Draft SEIS/OEIS, June 12, 2019, at 2. Hereinafter referred to as “Yurok Comment.”

³¹⁴ Jefferson County Comment at 1–2, 5.

³¹⁵ Port Townsend Comment at 1–2, 4–5.

³¹⁶ WCEP Comment at 6.

³¹⁷ COUNCIL ON ENVTL. QUALITY, *Environmental Justice Guidance Under the National Environmental Policy Act* (1997).

³¹⁸ DEPARTMENT OF DEFENSE, *Strategy on Environmental Justice*, Appendix I (1995).

³¹⁹ Exec. Order No. 12898, 32 C.F.R. § 651.17 (2018).

³²⁰ NWTTF FSEIS at H-107.

³²¹ Jefferson County Comment at 2.

³²² NWTTF FSEIS at H-43.

³²³ Jefferson County Comment at 5.

have complained that customers are deterred by the aircraft noises and choose to leave early, leading to a decrease in tourism revenues.³²⁴ The Navy's response was to revise the data in FSEIS Section 3.12.3.2 to reflect information about park visitors.³²⁵ However, the analysis of the noise in 3.12.3.2 is based on the Navy's flawed noise modeling, and the monitoring referred to is now ten years old and from a time when fewer planes were flown over the monitored sites.³²⁶ The Port Townsend Mayor and the Attorney General of Washington Counsel for Environmental Protection raised similar concerns about communities in rural areas in their comments.³²⁷ These comments show the concern for Environmental Justice and rural communities affected by the proposed increase in Growler activities.

The Port Gamble S'Klallam Tribe,³²⁸ Jefferson County Board of Commissioners,³²⁹ and Port Townsend Mayor³³⁰ raise concerns about water and sediment quality. The analysis of the potential impacts from explosives and explosives byproducts does not meet that standard required by NEPA.³³¹ The Navy's response refers to the analysis in Section 3.1.4 as the "complete analysis of potential impacts on water."³³² However, Section 3.1.4.1.1 of the FSEIS states that no comprehensive studies have been done on this study area.³³³ The Navy instead relies on studies from similar marine environments with WWII era munitions disposal sites.³³⁴ Relying on studies from other areas with a different type of explosive does not adequately evaluate the environmental impacts of the proposed activities on *this* marine environment with *these* types of explosives. Such environmental impacts not only affect marine life, but those who depend on it as a source of income or food. Similar concerns are raised regarding the impacts of the proposed training increase to tribal fishing rights and resources.³³⁵ The impact to marine life and those who rely on it must be analyzed to the complete extent required by NEPA.

The issues of Tribal Traditional Knowledge³³⁶ and ongoing consulting³³⁷ are raised by multiple state agencies and Tribes. NEPA requires use of the high-quality science, which should include the understanding of the environment Tribes have gained over the centuries. The requested ongoing tribal consultations gains additional importance in light of the Navy's refusal to engage in noise monitoring. Without ongoing noise monitoring, the consulting will be the best

³²⁴ Jefferson County Comment at 5.

³²⁵ NWTTEIS at H-46-47.

³²⁶ NWTTEIS at 3.12-36. *See also* Kuehne, L. M., and J. D. Olden. 2020. Military Flights Threaten the Wilderness Soundscapes of the Olympic Peninsula, Washington. Northwest Science Vol 94, in press, Exhibit AA. ("[N]ational consolidation of all Growler training to NASWI has increased the fleet from 82 to 118 aircraft[.]), citing to *US Dept of the Navy. 2019. Record of Decision for the Final Environmental Impact Statement for EA-18G "Growler" Airfield Operations at Naval Air Station Whidbey Island Complex, Island County, WA. Page 1. Notice of Decision, United States Department of the Navy, Washington DC.*

³²⁷ Port Townsend Comment at 4-5; WCEP Comment at 6.

³²⁸ PGST Comment at 2.

³²⁹ Jefferson County Comment at 3-4.

³³⁰ Port Townsend Comment at 3.

³³¹ 40 C.F.R. § 1502.2(d).

³³² NWTTEIS at H-42.

³³³ NWTTEIS at 3.1-23.

³³⁴ NWTTEIS at 3.1-23-24.

³³⁵ Makah Comment at 3; NWTTEIS at H-32. (The original Squaxin Island Tribe comment was not uploaded to the NWTTEIS.com/documents public access page.)

³³⁶ ITSWC Comment at 2-3; Makah Comment at 5-6; Yurok Comment at 2.

³³⁷ Makah Comment at 6-7; Jefferson County Comment at 5; Port Townsend Comment at 5-6.

option for the Navy to remain aware of community impacts from their training activities. This is especially true for Tribal cultural resources that have intangible features, such as spiritual connections that will be impacted by the training.³³⁸

Conclusion

The FSEIS remains deeply flawed both in terms of its limited scope, i.e. what it does not include, and its actual analysis of impacts like noise, which has numerous technical and scientific deficiencies. In particular the Navy still refuses, in violation of NEPA, to offer a comprehensive and accurate discussion of the actual impacts of its jet overflights on Olympic National Park, of cumulative impacts on the Park, and completely fails to even consider a single alternative that would have reduced impacts on the Park. The Navy offers no legitimate reason why it could not at least consider an alternative that allowed it to continue all of its necessary training activities in the MOAs while moving its transit routes to either avoid the Park or at least reduce the number of such overflights. The Navy also must fully consider alternatives that would have them conduct some or all of their training exercises at other locations, such as Mountain Home Air Force Base where they have done F-18 Growler training. Each of these alternatives could significantly mitigate or eliminate the current adverse impacts to Park resources and visitors from Navy transit flights and training exercises over the Park. The public deserves to see the actual benefits and costs of such alternatives and to compare them to the actual benefits and harms of what the Navy currently does and intends to continue to at an even greater pace. The Navy also offers no credible reason for failing to monitor the actual noise that its jets create when they fly over the park. The Navy's refusal to monitor suggests that it knows the results would show either that its noise modeling is incorrect or its pilots are flying far lower and in places they are not supposed to be flying.

The Navy must also offer NPCA and the public the opportunity to submit comments on this revised analysis by reissuing this FSEIS as a revised Draft SEIS after NPCA receives all the specific information it has requested in these comments and earlier regarding the underlying noise modeling information and after it receives complete responses from the Navy to NPCA's 2016, 2018 FOIA, May 2019 and EPA referral FOIA requests.

After the Navy reviews this comment and other comments from the public and NPCA during a second comment period, NPCA is confident the Navy will conclude that it must prepare a significantly revised and improved SEIS that finally properly addresses impacts to Olympic National Park and includes the consideration of reasonable alternatives that avoid or mitigate impacts to the Park.

Sincerely,



³³⁸ ITSWC Comment at 3–4; Yurok Comment at 2.

Tom Buchele
Counsel for NPCA

Copies of all Exhibits Included on Thumb Drive Submitted with Comment submitted via Certified U.S. Mail

List of Exhibits:

Exhibit A: List of comments received (NPCA00011606.pdf)

Exhibit B: Samantha Larson, *Sound Check: The Quietest Place in the U.S.*, CROSSCUT, <http://features.crosscut.com/sound-check-the-quietest-place-in-the-us>

Exhibit C: *One Square Inch*, GOOGLE MAPS, <https://www.google.com/maps/place/One+Square+Inch/@47.8654936,-123.8727267,692m/data=!3m1!1e3!4m5!3m4!1s0x0:0x7aee17bb3cfb184!8m2!3d47.8659833!4d-123.87035?hl=en-US>

Exhibit D: National Park Conservation Association, October 5, 2017 Scoping Comment on SEIS

Exhibit E: Emails Between Tom Buchele and NTWW Project Manager re: Request for Incorporated by Reference Materials

Exhibit F: National Park Conservation Association, November 15, 2019 Supplemental Comment on Draft Supplemental EIS/OEIS

Exhibit G: May 31 Email from Tom Buchele to NWTT PM and Navy Counsel, with Attachment re: Request for Underlying Data

Exhibit H:

- Doc 17-Suppl Complaint.pdf
- Doc 20-joint status report.pdf
- Doc 21 tcb declaration.pdf
- Doc 23-scheduling order.pdf
- Doc 32-our summary judgment motion.pdf
- Doc 33-1 Smith Ex. A.pdf
- Doc 33-2 Smith Ex. B. pdf
- Doc 33-3 Smith Ex. C.pdf
- Doc 33-4 Smith Ex. D.pdf
- Doc 33-5 Smith Ex. E.pdf
- Doc 33-6 Smith Ex. F.pdf
- Doc 33-7 Smith Ex. G.pdf
- Doc 33-8 Smith Ex. H.pdf
- Doc 33-9 Smith Ex. I.pdf
- Doc 33-10 Smith Ex. J.pdf
- Doc 33-11 Smith Ex. K.pdf
- Doc 33-12 Smith Ex. L.pdf
- Doc 33-13 Smith Ex. M.pdf
- Doc 33-Rob's declaration.pdf
- Doc 34-1 Cassidy Ex. A.pdf
- Doc 34-2 Cassidy Ex. B.pdf
- Doc 34-3 Cassidy Ex. C.pdf
- Doc 34-4 Cassidy Ex. D.pdf
- Doc 34-5 Cassidy Ex. E.pdf
- Doc 34-6 Cassidy Ex. F.pdf
- Doc 34-7 Cassidy Ex. G.pdf
- Doc 34-8 Cassidy Ex. J.pdf
- Doc 34-9 Cassidy Ex. I.pdf
- Doc 34-10 Cassidy Ex. J.pdf
- Doc 34-11 Cassidy Ex. K.pdf
- Doc 34-12 Cassidy Ex. L.pdf
- Doc 34-13 Cassidy Ex. M.pdf
- Doc 34-14 Cassidy Ex. N.pdf
- Doc 34-15 Cassidy Ex. O.pdf
- Doc 34-16 Cassidy Ex. P.pdf
- Doc 34-17 Cassidy Ex. Q.pdf
- Doc 34-18 Cassidy Ex. R.pdf
- Doc 34-19 Cassidy Ex. S.pdf
- Doc 34-20 Cassidy Ex. T.pdf
- Doc 34-21 Cassidy Ex. U.pdf
- Doc 34-22 Cassidy Ex. V.pdf
- Doc 34-23 Cassidy Ex. W.pdf
- Doc 34-Kevin's Declaration.pdf
- Doc 35-1 Staric Ex. A.pdf

- Doc 35-2 Staric Ex. B.pdf
- Doc 35-3 Staric Ex. C.pdf
- Doc 35-4 Staric Ex. D.pdf
- Doc 35-5 Staric Ex. E.pdf
- Doc 35-6 Staric Ex. F.pdf
- Doc 35-7 Staric Ex. G.pdf
- Doc 35-8 Staric Ex. H.pdf
- Doc 35-9 Staric Ex. I.pdf
- Doc 35-10 Staric Ex. J.pdf
- Doc 35-11 Staric Ex. K.pdf
- Doc 35-12 Staric Ex. L.pdf
- Doc 35-13 Staric Ex. M.pdf
- Doc 35-14 Staric Ex. N.pdf
- Doc 35-15 Staric Ex. O.pdf
- Doc 35-16 Staric Ex. P.pdf
- Doc 35-17 Staric Ex. Q.pdf
- Doc 35-18 Staric Ex. R.pdf
- Doc 35-19 Staric Ex. S.pdf
- Doc 35-20 Staric Ex. T.pdf
- Doc 35-21 Staric Ex. U.pdf
- Doc 35-22 Staric Ex. V.pdf
- Doc 35-23 Staric Ex. W.pdf
- Doc 35-24 Staric Ex. X.pdf
- Doc 35-25 Staric Ex. Y.pdf
- Doc 35-26 Staric Ex. Z.pdf
- Doc 35-27 Staric Ex. AA.pdf
- Doc 35-28 Staric Ex. BB.pdf
- Doc 35-29 Staric Ex. CC.pdf
- Doc 35-30 Staric Ex. DD.pdf
- Doc 35-31 Staric Ex. EE.pdf
- Doc 35-32 Staric Ex. FF.pdf
- Doc 35-33 Staric Ex. GG.pdf
- Doc 35-34 Staric Ex. HH.pdf
- Doc 35-35 Staric Ex. II.pdf
- Doc 35-36 Staric Ex. JJ.pdf
- Doc 35-37 Staric Ex. KK.pdf
- Doc 35-38 Staric Ex. LL.pdf
- Doc 35-39 Staric Ex. MM.pdf
- Doc 35-Morgan's declaration.pdf
- Doc 39 NPCA resp. to navy sj motion.pdf
- Doc 40 Second Staric Declaration.pdf
- Doc 40-1 Staric 2 Ex. A.pdf
- Doc 40-2 Staric 2 Ex. B.pdf
- Doc 40-3 Staric 2 Ex. C.pdf
- Doc 40-4 Staric 2 Ex. D.pdf
- Doc 40-5 Staric 2 Ex. E.pdf

- Doc 40-6 Staric 2 Ex. F.pdf
- Doc 40-7 Staric 2 Ex. G.pdf
- Doc 40-8 Staric 2 Ex. H.pdf
- Doc 40-9 Staric 2 Ex. I.pdf
- Doc 40-10 Staric 2 Ex. K.pdf
- Doc 40-11 Staric 2 Ex. L.pdf
- Doc 40-12 Staric 2 Ex. M.pdf
- Doc 40-13 Staric 2 Ex. N.pdf
- Doc 40-14 Staric 2 Ex. O.pdf
- Doc 41 Blomberg Decl.pdf
- Doc 41-1 Blomberg Ex. A.pdf
- Doc 41-2 Blomberg Ex. B.pdf
- Doc 42-1 revised proposed order.pdf
- Doc 42-filed reply brief.pdf
- Doc 47-our surreply.pdf
- Doc 48 praecipe.pdf
- Doc 48-1 corrected reply.pdf
- Doc 48-2 corrected Staric declaration.pdf
- Doc 48-3 ex P to corrected Staric declaration.pdf

Exhibit I: FAA Presentation, *Olympic National Park Areas of Concern*, dated April 18, 2016 [in color] (April 18 2016 FAA Flightpaths over Olympic National Park.pdf)

Exhibit J: FAA Presentation: *Analysis of Olympic National Park Overflights*, dated March 10, 2016 [black and white] (NPCA00014892.pdf)

Exhibit K: 2020-5-1_FAA-FOIA.final.pdf

Exhibit L:

- FAA Presentation, *Western WA NWTRC Analysis (52 week study)*, dated March 8, 2019. [Redacted] (NPCA_FAA00000001.pdf)
- FAA Presentation, *Western WA NWTRC Analysis: Green Sector – 1st Quarter Analysis Year*, dated March 12, 2019. [Redacted] (NPCA_FAA00000008.pdf)
- FAA Presentation, *Western WA NWTRC Analysis: Green Sector – 2nd Quarter Analysis Year*, dated March 13, 2019. [Redacted] (NPCA_FAA00000055.pdf)
- FAA Presentation, *Western WA NWTRC Analysis: Green Sector – 3rd Quarter Analysis Year*, dated March 7, 2019. [Redacted] (NPCA_FAA00000102.pdf)
- FAA Presentation, *Western WA NWTRC Analysis: Green Sector – 4th Quarter Analysis Year*, dated March 16, 2019. [Redacted] (NPCA_FAA00000149.pdf)
- FAA Presentation, *Western WA NWTRC Analysis: Red Sector – 1st Quarter Analysis Year*, dated March 9, 2019. [Redacted] (NPCA_FAA00000196.pdf)
- FAA Presentation, *Western WA NWTRC Analysis: Red Sector – 2nd Quarter Analysis Year*, dated March 9, 2019. [Redacted] (NPCA_FAA00000243.pdf)
- FAA Presentation, *Western WA NWTRC Analysis: Red Sector – 3rd Quarter Analysis Year*, dated March 10, 2019. [Redacted] (NPCA_FAA00000290.pdf)

- FAA Presentation, *Western WA NWTRC Analysis: Red Sector – 4th Quarter Analysis Year*, dated March 10, 2019. [Redacted] (NPCA_FAA00000337.pdf)
- FAA Presentation, *Western WA NWTRC Analysis Rev A: Yellow Sector – 1st Quarter Analysis Year*, dated March 7, 2019. [Redacted] (NPCA_FAA00000384.pdf)
- FAA Presentation, *Western WA NWTRC Analysis Rev A.: Yellow Sector – 2nd Quarter Analysis Year*, dated March 7, 2019. [Redacted] (NPCA_FAA00000431.pdf)
- FAA Presentation, *Western WA NWTRC Analysis Rev A: Yellow Sector – 3rd Quarter Analysis Year*, dated March 7, 2019. [Redacted] (NPCA_FAA00000478.pdf)
- FAA Presentation, *Western WA NWTRC Analysis Rev A: Yellow Sector – 4th Quarter Analysis Year*, dated March 8, 2019. [Redacted] (NPCA_FAA00000525.pdf)
- FAA Presentation, *Western WA NWTRC Analysis: Yellow Sector – 1st Quarter Analysis Year*, dated February 28, 2019. [Redacted] (NPCA_FAA00000572.pdf)
- FAA Presentation, *Western WA NWTRC Analysis: Yellow Sector – 2nd Quarter Analysis Year*, dated March 5, 2019. [Redacted] (NPCA_FAA00000619.pdf)
- FAA Presentation, *Western WA NWTRC Analysis: Yellow Sector – 3rd Quarter Analysis Year*, dated March 6, 2019. [Redacted] (NPCA_FAA00000666.pdf)

Exhibit M: FAA denial of FOIA request.pdf

Exhibit N: Our email defending FAA request.pdf

Exhibit O: 2019 Navy FOIA request for comments.pdf

Exhibit P: May 2020 Navy denial of comments appeal.pdf

Exhibit Q: Our appeal of Navy denial of comments FOIA.pdf

Exhibit R: Noise Pollution Clearinghouse, August 14, 2020 Supplemental Comments on 2019 NWTT DSEIS

Exhibit S-1: Noise Pollution Clearinghouse, October 17, 2020 Comments on 2020 NWTT FSEIS

Exhibit S-2: Noise Pollution Clearinghouse, October 17, 2020 Matrix of requests and concerns (part of NPC October 16, 2020 Comments)

Exhibit T: Naval Technology, EA-18G Growler Electronic Attack Aircraft (NavalTech_EA-18G Growler Electronic Attack Aircraft - Naval Technology.pdf)

Exhibit U: Boeing EA-18G Growler technical specifications (Boeing_EA-18G Growler tech specs.pdf)

Exhibit V: Olympic MOA Growler Utilization Sorties Data (undated) + FAA slide on “All Traffic – Altitude,” dated April 18, 2016 [black and white] (NPCA00014918.pdf)

Exhibit W: Navy email with resident of Forks, WA, RE: conversationally, as I know you have tried... dated June 8, 2017 [Redacted] (NPCAII00001526.pdf)

Exhibit X: Kimberly Kler email to John Mosher re: Noise complaint report 10/16/2016, dated October 18, 2016 [Redacted] (NPCAII00002860.pdf)

Exhibit Y: Olympic MOA EA-18G Utilization Sorties data (NPCAIII00000001.pdf)

Exhibit Z: Noise Pollution Clearinghouse, June 12, 2019 Comments on 2019 NWTT DSEIS

Exhibit AA: Kuehne, L.M., and J.D. Olden. 2020. Military Flights Threaten the Wilderness Soundscapes of the Olympic Peninsula, Washington. Northwest Science Vol 94, in press

Exhibit BB: U.S. Fish and Wildlife Service, *Biological Opinion: Navy’s Northwest Training and Testing Activities: Offshore Waters of Northern California, Oregon, and Washington, the Inland Waters of Puget Sound, and Portions of the Olympic Peninsula* (July 21, 2016) (NWTT USFWS BO 2016.pdf)

Exhibit CC: U.S. Fish and Wildlife Service, *Biological Opinion: Navy’s Northwest Training and Testing Activities: Offshore Waters of Northern California, Oregon, and Washington, the Inland Waters of Puget Sound, and Portions of the Olympic Peninsula* (December 11, 2018) (U.S. Fish and Wildlife Service Reinitiated Biological Opinion for NWTT Activities (Dec_2018).pdf).

Exhibit DD: Advisory Council on Historic Preservation letter Re: Proposed Increase of Aircraft Operations and Development of Support Facilities Naval Air Station Whidbey Island, dated February 19, 2019 (NPCAII00002224.pdf)

Exhibit EE: U.S. Dept. of the Interior, National Park Service letter re: ER-13/0596 Notice of Intent for EA-18G Growler Airfield Operations at Naval Air Station, Whidbey Island, Washington, dated January 3, 2014 (NPCAII00000190.pdf)

Exhibit FF: U.S. Navy, Leslie Tomaino, *Have You Heard? Industrial Noise and Hearing Conservation Course Returns*. Sept. 18, 2020. (Tomaino_Have You Heard_Industrial Noise_display-news.pdf)

