CITIZENS OF EBEY'S RESERVE

protecting our land, homes, and health

September 16, 2020

Alexander Hutchison
Captain, U.S. Navy
United States Pacific Fleet
250 Makalapa Drive
Pearl Harbor, Hawaii 96860-3131

Re: Federal Inconsistency of U.S. Navy's NWTT Supplemental EIS and Expanded Growler EIS with Endangered Species Act as Related to Marbled Murrelets

Dear Captain Hutchison:

Citizens of Ebey's Reserve (COER) is dedicated to the well being of the people, environment, and ecology of the Salish Sea. We are deeply concerned about its fauna impacted by naval activities in Western Washington. We fully support of the State of Washington's multi-agency August 2020 criticism of the National Marine Fisheries Service's impact analysis and associated marine mammal taking request related to the Navy's Northwest Training and Testing (NWTT) environmental impact statement (EIS).[1]

In our comments on the supplemental NWTT EIS and the Expanded Growler EIS,[2, 3] COER expressed concerns similar to the state's dissatisfaction with the NWTT impacts on threatened and endangered species. We focused our energy and attention on one of those species, the marbled murrelet, which we believe to be particularly impacted by the Navy's proposed actions, as outlined in those EISs. As you may know, the marbled murrelet is a small fast-flying, deep-diving, west coast seabird that nests in coastal forests miles inland from its marine feeding area. The species is in grave jeopardy due to wide-ranging habitat and environmental issues and is federally listed as threatened. In Washington State, where the murrelet decline has become especially precipitous—sliding 44% to just 7,500 birds since 2001—the species is appropriately listed as endangered by the state.

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1 https://citizensofebeysreserve.com/wp-content/uploads/2020/09/State-of-WA-challenges-Navy-NWTT-impacts.pdf

2 https://citizensofebeysreserve.com/wp-content/uploads/2020/07/COER-Addendum-ESA-MaMu2.pdf

3 https://citizensofebeysreserve.com/wp-content/uploads/2020/09/COER-MaMu-Comments-SEIS-NWTT-FINAL-as-submitted.pdf

Therefore, on July 10, 2019, COER notified the U.S. Department of Defense, Navy, and Department of Interior of their violations of the Endangered Species Act (ESA) and its implementing regulations regarding the U.S. Fish and Wildlife Service's June 14, 2018, Biological Opinion (BiOp) for marbled murrelets, as outlined in the Navy's expanded Growler EIS for Naval Station Whidbey Island. We further presented a *notice of intent to sue* under the ESA, pending reconsideration of the Service's BiOp. With the state Attorney General expressing similar concerns and intent, the Service and the Navy reinitiated consultation leading to a revised BiOP in January 2020.

After careful consideration of that revision, COER has concluded that it does not overcome the deficiencies in the Service's analysis and thereby fails to establish that the Navy's actions will insignificantly impact marbled murrelets. In addition to that deficient analysis, the impact conclusion was significantly facilitated by an unfortunate decision to divide the murrelet (and other listed species) impacts between the expanded Growler EIS and the NWTT EIS. This strategy, often referred to as "segmentation," masks the total impacts by splitting the actual take into two or more unrelated, discrete EISs.

The naval actions outlined in those two EISs seek to expand future sea and air training and testing activities, including, among others, low-level Growler flights creating noise harassment in murrelet feeding and nesting habitat, potentially damaging sonar and underwater detonations in murrelet marine feeding areas, nest-tending adult and nestling exposure to electromagnetic radiation from mobile emitters, injury of adult and immature birds from fired projectiles, and releases of bio-accumulative toxins into the murrelet food chain.

Additively, the expanded Growler activities would significantly increase noise harassment from low-level carrier landing practice flights on the same group of murrelets. That harassment may have grave impacts on avoidance behavior and feeding success, which in turn can increase energy costs, weaken nutrition, and diminish ability of adults to sufficiently provision themselves and their nestlings. Studies in Alaska have shown significant marbled murrelet movements away from feeding areas disturbed by boats and low-flying aircraft. While the Service discounted noise impacts under water, recent and on-going research indicates that loud aircraft noise penetrates water far deeper than previously believed and to levels that could potentially disturb and disrupt murrelet feeding. In addition, there are risks associated with Growler flight support, such as aqueous fire-fighting foam releases into the land and marine environment, as has already occurred around Ault Field and Outlying Field Coupeville.

A single BiOp should have examined the full and complete range of impacts of the Navy's proposed actions on the Washington murrelet population. That applies as well for other listed species of birds, fish, wildlife, and marine mammals, none more notable than the Southern Resident killer whale population. Its survival is in grave danger. Segmenting expanded Growler actions from the other Navy marine activities has obfuscated examination of the full impacts on species of concern to COER and the State.

Hence, we concur with the State of Washington's position that the expanded naval activities in Washington State pose unacceptable risks, not only to marine mammals, but to the marbled murrelet and other listed fauna. Therefore, COER endorses the State's position that the Navy needs to effect major reductions in its actions impacting marine mammals. For the marbled murrelet, we further seek the following mitigative measures:

1. Significantly reduce carrier landing practices at Outlying Field Coupeville to reduce impacts on murrelets in northern Puget Sound and those exposed to the related interfacility flights. (This actually was recommended by the Service, but ignored by the Navy dicision-makers.)
2. Significantly reduce Growler training over the Olympic Peninsula to minimize harassment of nesting murrelets and those in the marine areas those aircraft traverse. Note, the need to respect the critical nesting habitat is exacerbated by loss of nesting habitat due to the recent global warming wildfire destruction in the west coast states.
3. Determine times and areas where murrelets are congregated in marine areas and avoid all training and testing in such areas when densities are at or above 1 pair per square mile.
4. Correct the previously discounted underwater penetration of Growler noise into the water column and accordingly reanalyze the underwater noise-penetration impacts on murrelets (and marine mammals).
5. Adopt all conditions outlined by the State of Washington to bring the Navy's proposed actions into compliance with Washington's Coastal Zone Management.

While understanding the complexities attended to these requests, we are confident you understand that the protection of these special-interest species demands your thoughtful attention to these essential mitigation measures, as needed to overcome the shortcomings in the Navy's proposed activities in western Washington.

Sincerely,

Robert L. Wilbur
President of Citizens of Ebey's Reserve Board

cc: The Honorable Patty Murray
The Honorable Maria Cantwell
The Honorable Rick Larsen
The Honorable Adam Smith
The Honorable Jay Inslee
Robert Ferguson, Attorney General of Washington
Brenden McFarland, Section Manager, Washington Dept. of Ecology
Kelly Susewind, Director, Washington Dept. of Fish and Wildlife
Hilary Franz, Commissioner of Public Lands, Washington Dept. of Natural Resources

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