

CITIZENS OF EBHEY'S RESERVE

protecting our land, homes, and health

FOR IMMEDIATE RELEASE

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Coupeville, WA – Tuesday, February 9, 2021, Citizens of the Ebey's Reserve ("COER") served the U.S. Department of Defense, the U.S. Navy, the U.S. Department of Commerce, and the U.S. Department of Interior, with its Notice of Intent to Sue under the Endangered Species Act ("ESA").

New ground-breaking findings just published in the Journal of Marine Science and Engineering¹ revealed that Growler noise is not largely attenuated within the first meter or two of water, as was previously incorrectly asserted in both the Northwest Training and Testing (NWTT) Supplemental Environmental Impact Statement ("NWTT SEIS") and the Environmental Impact Statement for the EA-18G "Growler" Airfield Operations at Naval Air Station Whidbey Island ("Growler EIS"). Instead, Kuehne *et al.* (2020) found that noise penetrates at significant decibel levels to a depth of at least 30 meters (the deepest depth measured) and, presumably travels on much further in all directions from its air-water interface. Growler overflights at low altitudes producing extremely loud noise levels can occur for hours at a time at deep-water decibel levels that could diminish feeding success of endangered species—i.e., Southern Resident Killer Whales, marbled murrelets, Snake River Chinook salmon and bull trout—as well as non-listed marine mammals, sea birds and fish. The noise could further detrimentally disrupt other essential behaviors such as predator avoidance.

This 60-day notice alerts these government agencies of their violation of Section 7 of the ESA for failing to reinitiate formal consultations with regard to the NWTT SEIS and the Growler EIS. These agencies have a duty to reinitiate consultation when "new information reveals effects of [their] action that may affect listed species or critical habitat in a manner or to an extent not previously considered." 50 C.F.R. § 402.16(a)(2). The duty to reinitiate Section 7 consultation in this case is triggered by Kuehne's new scientific findings on Growler noise under water.

These projects cannot legally go forward without new biological opinions that consider the effects of Growler noise radiating great distances in all directions from the air-water interface. Moreover, the new biological opinions must analyze the effects of Growler noise deep underwater in conjunction with the effects of vast and increasing man-made noise affecting the underwater environment and the marine fauna that live and breed there.

These government agencies have 60 days in which to consider COER's notice and to reinitiate consultation in these projects before COER can file suit under the ESA. COER has offered to meet and confer with the agencies as to the violations noticed.

Citizens of the Ebey's Reserve (COER) is represented by Bricklin & Newman, LLP, 1424 Fourth Avenue, Ste. 500, Seattle, WA 98101, telephone 206.264.8600. For more information on COER: search "citizens of the ebey's reserve" on Facebook; or go to www.citizensofeyereserve.com.

¹ Kuehne, L.M., and 5 coauthors. 2020. Above and below: Military Aircraft Noise in Air and under Water at Whidbey Island, Washington. Journal of Marine Science and Engineering. 8(11): 923.