

# CITIZENS OF EBHEY'S RESERVE

*protecting our land, homes, and health*

Contact: Paula Spina, 206.265.0981, [paulaspina.wa@gmail.com](mailto:paulaspina.wa@gmail.com)

FOR IMMEDIATE RELEASE

December 12, 2021

**Federal Magistrate declares Navy's 2019 decision authorizing the EA-18G "Growler" expansion at Naval Air Station Whidbey Island (NASWI) violated the National Environmental Policy Act (NEPA).**

Coupeville, WA – Friday, December 10, 2021, Federal Magistrate J. Richard Creatura filed his *Report and Recommendation* in State of Washington, et al., v. United States Department of the Navy, et al., Case No. 2:19-cv-01059-RAJ-JRC. Judge Creatura determined that the Navy's 2019 decision authorizing the EA-18G "Growler" expansion at Naval Air Station Whidbey Island (NASWI) violated the National Environmental Policy Act (NEPA).

Judge Creatura leveled a scathing rebuke at the Navy in agreeing with the State of Washington and co-plaintiff Citizens of the Ebey's Reserve (COER) that the Navy's expansion decision had been arbitrary and capricious in four areas: (1) it failed to adequately examine El Centro naval air station as an alternative to Whidbey Island; (2) it failed to examine how Growler training was impacting childhood learning at nearby schools; (3) it severely under-reported Growler fuel usage and greenhouse gas emissions; and (4) it failed to conduct species specific analysis of Growler impacts on bird species.

"Here, despite a gargantuan administrative record, covering nearly 200,000 pages of studies, reports, comments, and the like, the Navy selected methods of evaluating the data that supported its goal of increasing Growler operations. The Navy did this at the expense of the public and the environment, turning a blind eye to data that would not support this intended result. Or, to borrow the words of noted sports analyst Vin Scully, the Navy appears to have used certain statistics 'much like a drunk uses a lamppost: for support, not illumination,'" wrote Judge Creatura.

COER has been challenging the Navy since 2010 when the first Growlers were deployed to Whidbey Island when it became clear immediately that the Navy had misled the local community about their impacts. COER co-founder Paula Spina said: "For the longest time few in positions of power were listening to the residents of Central Whidbey about the Growlers. Washington's Attorney General, Bob Ferguson, not only listened to us, he took action with us. Now the Federal Court has validated what we have been saying for the past ten years: the Navy is not following the law and is illegally harming our people and environment."

COER's President Bob Wilbur added: "This was huge step forward in our long process to move the Growlers somewhere they won't harm people or the environment. Military jets, while necessary for America's defense, should never have been based in civilian communities in the

first place. This problem has been obvious but ignored for a long time. Now that this court has spoken so clearly, it's time for our congressional leaders to step in and find a solution.”

COER has long argued that basing all of the Growlers on Whidbey Island was a mistake. In a 1998 Department of Defense (DOD) study, NASWI was rejected as a site for basing the F-18s because of its crossed runways. The Coupeville OLF is substandard for high-performance military jets pursuant to the Navy's own requirements and cannot be upgraded because of its proximity to a state highway, businesses and residences. Growler training on Whidbey takes place over residential neighborhoods and in close proximity to schools and the hospital. Weather conditions often require cancellation of training schedules.

In comparison, El Centro appears to be a much better location for basing the Growlers given its location in the California desert. A Navy document entered in the administrative record in this case admitted El Centro was superior to the Whidbey Island facilities for the Growlers. The Navy should have analyzed El Centro, and other possible locations, to find the best location for the Growlers. “The point of detailed analysis of alternatives is to generate information so that the ‘most intelligent, optimally beneficial decision will ultimately be made,’” Judge Creatura stated. The Navy failed to do that in this case.

During the court hearing on October 26, 2021 Judge Creatura asked COER's attorney, David Bricklin what remedies were being sought in the event the court found the Navy had violated NEPA. Bricklin suggested that the parties should meet to see if they could agree to remedies that would protect the community while still allowing the Navy to train. Judge Creatura adopted Bricklin's suggestion and recommended to Judge Jones that the parties be required to submit a stipulation as to remedies within 30 days of the date of the court's order. The parties have also been given 14 days to object to any of Judge Creatura's recommendations, which will then go to Judge Jones for a final decision.

Citizens of the Ebey's Reserve is represented by David Bricklin and Zachary Griefen from the law offices of Bricklin & Newman, LLP, 1424 Fourth Avenue, Suite 500, Seattle, WA 98101, telephone 206.264.8600.

For more information please contact: Paula Spina, 206.265.0981, [paulaspina.wa@gmail.com](mailto:paulaspina.wa@gmail.com) or visit: [www.citizensofebeyreserve.com](http://www.citizensofebeyreserve.com). The Judge's Report and Recommendations can be found at: <https://citizensofebeyreserve.com/2021/12/11/federal-magistrate-sides-with-coer-and-wa-state/>