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STAFF RECOMMENDATION

ON CONSISTENCY DETERMINATION

Consistency Determination No.	**CD-086-06**
Staff:	MPD-SF
File Date:	10/30/06
60th Day:	12/29/06
75th Day:	1/13/07
Commission Meeting:	12/15/06

FEDERAL AGENCY: **U.S. Navy**

PROJECT LOCATION: Four Navy operating areas: Southern California operating area (Exhibits 1-2), San Clemente Island Range Complex, Marine Corps Base Camp Pendleton, and Silver Strand Training Complex (Exhibits 1-3)

PROJECT DESCRIPTION: Onshore and offshore U.S. Pacific Fleet military training exercises

SUBSTANTIVE FILE DOCUMENTS: See page 20.

EXECUTIVE SUMMARY

The U.S. Navy (Navy) has submitted a consistency determination for the U.S. Pacific Fleet's offshore and onshore military training exercises in southern California. The four training areas are: the southern California operating area (Exhibit 1), San Clemente Island Range Complex, Marine Corps Base Camp Pendleton, and Silver Strand Training Complex (Exhibit 2). The exercises involve a wide range and combinations of ships, support craft, submarines, helicopters, airplanes, and amphibious vehicles, and other equipment used to train Navy and Marine forces with "complex, deployment-preparation exercises."

Many of the exercises would take place outside the coastal zone (up to 80 miles offshore). Activities within the coastal zone include Amphibious Operations, Naval Surface Fire Support, Ship Mine Countermeasures Operations, Demolition Operations, and Mining (airborne, non-explosive, mine-laying) Operations.

Potential marine environment and use issues raised by the projects are impacts to marine mammals, sea turtles, kelp beds, white abalone, commercial and recreational fishing, and recreational diving in the marine environment. Potential land habitat issues raised are impacts to sensitive bird breeding areas (e.g., snowy plovers and loggerhead shrikes) in several areas and the island night lizard on San Clemente Island. The exercises are similar to activities the Navy has been regularly undertaking for many years and do not represent an intensification in use of the affected areas compared to past years' activities. Activities with the potential to disturb marine mammals include ship movement, inert mine drops, underwater detonations, and, outside the coastal zone, mid-frequency sonar, missile launches, and amphibious landings. Use of explosives within the coastal zone would be limited to small (mostly 1-5 lb.) charges. Mid-frequency sonar would only occur outside the coastal zone, and, for the most part, beyond 80 nautical miles from shore (off San Clemente Island).

The Navy's initial consistency determination focused on activities physically within the coastal zone; nevertheless, in response to Commission staff questions the Navy has provided additional information detailing the protection measures in place from activities outside but potentially affecting the coastal zone. Marine mammal and sea turtle protection measures include: Marine Species Awareness Training material, shipboard surveillance for marine mammals and sea turtles, aerial surveillance where planes or helicopters are part of the activity, passive acoustic monitoring, implementing a buffer zone (700 yard arc-radius around detonation sites for small explosives (mostly 1-5 pounds, with none exceeding 20 pounds)), reducing the likelihood of exposing marine mammals or sea turtles to sounds exceeding 173 decibels (dB), avoiding of dropping any inert mines on marine mammals or sea turtles, removing from the marine environment inert mines dropped pre- and post-exercise surveys, and coordinating with NMFS in the event of any injury to a marine mammal or sea turtle observed and submitting monitoring reports. The Navy has also agreed to coordinate with Commission staff on whether marine mammal incident reports for events occurring in the Southern California Operating Area will be provided to Commission staff after discussion and review with NOAA. These reports may be generated pursuant to future MMPA and/or ESA take authorizations/consultations.

For land-based species, because the activities are similar to past training exercises, the Navy is relying on mitigation measures developed through its Endangered Species Act consultations with the U.S. Fish and Wildlife Service and contained in several existing Biological Opinions. These agreements include measures to protect loggerhead shrikes and island night lizards on San Clemente Island for Naval Surface Fire Support activities, and snowy plovers at Camp Pendleton and the Silver Strand peninsula for amphibious landing activities.

Thus, through its consultation with other federal agencies, the Navy is applying a number of habitat protection measures to the proposed activities. When added to the measures included in the Navy's consistency determination, the only measure lacking to enable a finding of consistency with the marine resource policies is a Navy agreement to submit the marine mammal/turtle monitoring reports that it prepares for NMFS to the Commission staff. Submittal of these reports is necessary under the Coastal Act for several reasons. First, the

Navy is using explosives within the coastal zone, which have the potential to affect marine mammals unless adequate preclusion areas are maintained. Second, review of the monitoring is necessary to assure the Commission that the Navy has complied with its commitments to protect marine resources. Third, interim monitoring reports may lead to alterations in training practices and protection measures included. Fourth, submittal of the monitoring reports is an ideal way for the Navy to support its assertion that use of mid-frequency sonar in federal waters would not affect the coastal zone. Fifth, the federal consistency regulations (Section 930.45 – see page 9) specifically require continued monitoring and coordination with state agencies). The Commission is therefore conditioning its concurrence on a requirement that the Navy provide its monitoring reports to the Commission staff. Only as conditioned would the project include adequate measures to enable the Commission to find that the activities will be conducted in a manner protecting marine resources, and that the proposed activities would be consistent with the applicable marine resource, water quality, and environmentally sensitive habitat policies (Sections 30230, 30231, and 30240) of the Coastal Act.

As provided in 15 CFR § 930.4(b), in the event the Navy does not agree with the Commission's condition of concurrence, then all parties shall treat this conditional concurrence as an objection.

Measures to minimize impacts to boating, diving and fishing activities include publishing Notices to Mariners, limiting operations offshore of San Clemente Island to Federally-designated danger and restricted zones, temporary closures of other affected areas, avoiding operations if boats or divers do not leave the area, and limiting amphibious landings to restricted military beaches already off-limits to the public. With these measures, the proposed exercises would be consistent with the commercial and recreational fishing and diving policies and public access and recreation policies (Sections 30234, 30234.5, 30210, and 30212) of the Coastal Act.

STAFF SUMMARY AND RECOMMENDATION

I. STAFF SUMMARY:

A. Project Description. The Navy has submitted a consistency determination for a series of offshore and onshore military exercise used to train the U.S. Pacific Fleet in southern California both onshore and in offshore waters. The four training areas are: the southern California operating area, San Clemente Island Range Complex, Marine Corps Base Camp Pendleton, and Silver Strand Training Complex (Exhibits 1-2). The exercises, which have been conducted in various forms since the 1920s, are used to train Navy and Marine forces with "complex, deployment-preparation exercises" involving "varied land, sea, and undersea training environments to properly demonstrate the full range of capabilities required of deploying naval forces."

The exercises are separated into three, increasingly complex phases, which the Navy calls: "Basic, Integrated and Sustainment." The Navy calls the latter two phases "COMPTUEX," standing for Composite Training Unit Exercises, and "JTFEX," standing for Joint Task Force Exercises.

The exercises would involve troops from bases in three states (California, Arizona and Nevada (Exhibit 1)), which would form "Strike Groups." Strike Groups are either: (a) a Carrier Strike Group (CSG) (normally formed around an Aircraft Carrier (CV/N), with an embarked Air Wing (CVW)); or (b) an Expeditionary Strike Group (ESG) (formed around an Amphibious Helicopter Carrier (LHD), with an embarked Marine Expeditionary Unit (MEU)). Both types of groups would also involve a number of support ships. CSG exercises are offshore; only ESGs would involve bring troops ashore (either by helicopter or amphibious vehicle).

The Navy elaborates:

> *A COMPTUEX is conducted as a series of scheduled training events that occur according to a given time schedule against an opposition force. The COMPTUEX provides an opportunity for the Strike Group to become proficient in the myriad of required warfare skill sets. Additionally, it stresses the integration or coordination of the different warfare areas and provides realistic training on in-theater operations. The COMPTUEX is normally more structured than the JTFEX, so it is longer in duration.*
>
> *JTFEX is in the Sustainment or final Phase of the FRTP and may involve either a CSG or an ESG. It is a scenario-driven, at-sea training exercise designed to evaluate the Strike Group's preparedness for forward deployed contingency and combat operations. JTFEX also utilizes a simulated opposition force and serves as the venue for U.S. THIRD Fleet to assess the readiness, interoperability, and proficiency of naval forces in realistic, free-play scenarios, ranging from military operations other-than-war to armed conflict. As the final certification event of the FRTP, the Strike Group must demonstrate the ability to operate and integrate into a Joint Operations Area under simulated austere, hostile conditions.*

Most of the training would occur outside the coastal zone on federal land or in federal waters. The Navy's consistency determined examined those exercises within or with the potential to affect the coastal zone. Exercises outside the coastal zone are listed and briefly summarized in Exhibit 3. (The asterisks (*) in the list below denote those activities the Navy believes has the potential to affect the coastal zone. The acronyms stand for the four operating areas (OPAREAs): SOCAL, SCIRC, SSTC, MCBCP - southern California operating area, San Clemente Island Range Complex, Silver Strand Training Complex, and Marine Corps Base Camp Pendleton, respectively).

Table 1-2. COMPTUEX/JTFEX Activities Inside the Coastal Zone

EVENT	RANGE/OPAREA
Amphibious Exercise*	SCIRC, SSTC, MCBCP
Ship Mine Countermeasures Exercise*	SCIRC, SSTC, MCBCP
Demolition Operations*	SCIRC, SSTC, MCBCP
Visit, Board, Search, and Seizure	SOCAL
Naval Cooperation and Guidance for Shipping	SOCAL
Maritime Security Operations	SOCAL
Naval Surface Fire Support*	SCIRC, SOCAL
Straits Transit/Q Route	SOCAL
Fast Inshore Assault Craft	SOCAL
Dynamic STRIKE/TSS	SCIRC
Close Air Support	SCIRC, MCBCP
Counter Special Operations Force	SOCAL
Mining Exercise*	SOCAL
Surge Exercise	SOCAL
Live-Fire Exercise	SOCAL, SCIRC, MCBCP
Special Warfare Operations	SCIRC, MCBCP
Humanitarian Assistance/Disaster Relief	MCBCP
Non-Combatant Evacuation	SCIRC, MCBCP
Embassy Reinforcement	SCIRC, MCBCP
Combat Search and Rescue Trap	SCIRC, SOCAL, MCBCP

Thus, of these activities, the Navy believes only the following five types of events have the potential to affect coastal resources: Amphibious Operations, Naval Surface Fire Support, Ship Mine Countermeasures Operations, Demolition Operations, and Mining Operations. Describing these, the Navy states:

2.2.1 At-Sea Training Operations

Amphibious Operations

Amphibious operations may include shore assault, boat raid, airfield seizure, humanitarian assistance, and force reconnaissance. Amphibious landings are launched from Navy ships positioned out to 50 mi (80 km) offshore. For an assault on a beach, units come ashore in Landing Craft, Air Cushion (LCAC) and in Amphibious Assault Vehicles (AAV)(lightly armored tracked vehicles). An amphibious exercise may last from 2 days up to 3 weeks, depending on the size and complexity of the exercise, and typically includes a Live-Fire Exercise. Amphibious operations normally take place at MCBCP and the SCIRC. Additionally, smaller amphibious exercises have occurred on the southern beaches of the SSTC. The participants and assets in amphibious operations typically include: 1,500 Marines;

rotary wing, fixed wing, and tilt-wing aircraft; amphibious vehicles, vessels, and boats - Landing Craft, Utility (LCU), Combat Rubber Raiding Raft (CRRC), Rigid Hull Inflatable Boat (RHIB); three amphibious ships; and other surface ships.

Naval Surface Fire Support (NSFS) Operations

NSFS operations involve naval surface ships with the MK-45 5-inch/54 or the MK-45 5-inch/62 naval gun firing system, engaging land and surface targets. NSFS operations are an annual requirement for all naval vessels outfitted with the 5-inch gun system. NSFS is conducted against land targets in the SHOBA on SCI. Because ships are firing from sea to land targets located in SHOBA, the public is restricted in the offshore portion of SHOBA, called Fire Support Area (FSA), during the live-firing portion of the operations. However, the cumulative time that ships are actually firing weapons during these operations is extremely short. The participants associated with an NSFS operation include: four to six ships.

Mine Countermeasures (MCM) Operations

MCM Operations train forces to locate and neutralize inert (non-explosive) mine shapes in shallow-water environments in support of the CSG and ESG. A typical exercise would involve bottom-laid explosive and mid-water column explosive training evolutions. The training would take place offshore of the beaches at SSTC/MCBCP, and in the nearshore waters off the western side of SCI. The assets include two MCM ships, two to three airborne mine countermeasures helicopters, divers, unmanned underwater vehicles (UUV) and marine mammals (dolphins). Some or all of the following equipment would be used: underwater explosives (up to 20 pounds net explosives weight (NEW)), side-scan sonar, high-frequency sonar, laser line scans, magnetic sweep gear, and influence sweep gear.

Demolition Operations (DEMO)

DEMO provides training in the identification and neutralization or destruction of inert floating or moored mines. This training includes hydrographic reconnaissance of approaches to prospective landing beaches; demolition of obstacles and clearing mines; locating, improving, and marking of useable channels; channel and harbor clearance; and acquisition of operational intelligence during pre-assault operations. Explosives used in DEMO are less than 20 pounds. During a COMPTUEX or JTFEX there may be up to 20 demolition events. The DEMO exercise takes place at locations routinely used for explosive ordnance disposal (EOD) and DEMO training at SCIRC, MCBCP, SSTC, and Naval Base Coronado (NBC). The participants and assets typically used in this event include: EOD divers, small boats, and helicopters.

2.2.2 Air Operations

Mining Operations
Mining Operation consists of airborne mine-laying. The aircraft drop a series of (usually four), non-explosive inert training shapes (MK-76, bomb dummy unit [BDU] 45, or BDU 48) in the water. The aircraft may make multiple passes on the same flight pattern, dropping one or more shapes each pass. The shapes are scored for accuracy as they enter the water. The training shapes are inert and recovered at the end of the operation.

Describing the need for the training, the Navy also states:

1.3 PURPOSE AND NEED
The purpose of conducting COMPTUEXs and JTFEXs is to train, prepare and certify Strike Group readiness prior to deployment of forces to Combatant Commanders. The exercises incorporate a multi-dimensional, multi-threat environment that stresses all aspects of joint maritime operations.

The need for major naval exercises such as COMPTUEXs or JTFEXs is derived from the Congressional mandate to organize, train, and equip the military services for prompt and sustained combat operations (10 United States Code [U.S.C.] Sections 5032 and 5062). The COMPTUEX and JTFEX are required both to train the units and to evaluate their combat readiness. At the conclusion of the JTFEX, Commander, U.S. THIRD Fleet certifies to the Commander, Pacific Fleet that the CSG or ESG is ready to deploy, fulfilling the Navy's Title 10 responsibilities.

B. History. As noted above, the exercises are similar in duration, intensity, and location to long-standing Navy training in the operating areas. The Navy states:

Nominally, the U.S. Navy (Navy) conducts seven COMPTUEXs and seven JTFEXs per 2-year period throughout existing major ranges and facilities in the southwestern United States and offshore Southern California (Table 1-1 and Figure 1-1 [Exhibit 1]). Dependent on national tasking, an average of three ESG COMPTUEXs, four CSG COMPTUEXs, three ESG JTFEXs, and four CSG JTFEXs, would be conducted over a 2-year period (fourteen total exercises). Beginning January 2007, the Navy proposes to conduct some of these major range events concurrently. The overall number, type, frequency, and location of these major range events would not change from current baseline operations. Southern California (SOCAL) land, sea and air ranges have supported major Fleet training dating back before the 1920's. San Clemente Island (SCI) has served as a dedicated Fleet training asset since it was transferred over to the Department of the Navy (DON) in 1934. As early as 1935, naval gunfire and bombing, and U.S. Fleet Landing exercises have occurred in the SCI Shore Bombardment Area (SHOBA) and throughout the island, respectively.

C. Federal Agency's Consistency Determination. The Navy has determined the project consistent to the maximum extent practicable with the California Coastal Management Program.

II. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following motion:

MOTION: **I move that the Commission conditionally concur with consistency determination CD-086-06 and determine that, as conditioned, the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the California Coastal Management Program (CCMP).**

STAFF RECOMMENDATION:

Staff recommends a **YES** vote on the motion. Passage of this motion will result in an agreement with the determination and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.

RESOLUTION TO CONDITIONALLY CONCUR WITH CONSISTENCY DETERMINATION:

The Commission hereby **conditionally concurs** with consistency determination CD-086-06 by the Navy on the grounds that the project would be fully consistent, and thus consistent to the maximum extent practicable, with the enforceable policies of the CCMP, provided the Navy agrees to modify the project consistent with the condition specified below, as provided for in 15 CFR §930.4.

Condition:

1. Submittal of Monitoring Plans. The Navy shall agree to submit all marine mammal monitoring reports prepared for the National Marine Fisheries Service to the Commission staff for its review.

III. APPLICABLE LEGAL AUTHORITIES.

The federal consistency regulations (15 CFR § 930.4) provide for conditional concurrences, as follows:

> *(a) Federal agencies, … should cooperate with State agencies to develop conditions that, if agreed to during the State agency's consistency review period and included in a Federal agency's final decision under Subpart C … would allow the State agency to concur with the federal action. If instead a State agency issues a conditional concurrence:*

> *(1) The State agency shall include in its concurrence letter the conditions which must be satisfied, an explanation of why the conditions are necessary to ensure consistency with specific enforceable policies of the management program, and an identification of the specific enforceable policies. The State agency's concurrence letter shall also inform the parties that if the requirements of paragraphs (a)(1) through (3) of the section are not met, then all parties shall treat the State agency's conditional concurrence letter as an objection pursuant to the applicable Subpart . . . ; and*
>
> *(2) The Federal agency (for Subpart C) … shall modify the applicable plan* [or] *project proposal, … pursuant to the State agency's conditions. The Federal agency … shall immediately notify the State agency if the State agency's conditions are not acceptable; and*
>
> *…*
>
> *(b) If the requirements of paragraphs (a)(1) through (3) of this section are not met, then all parties shall treat the State agency's conditional concurrence as an objection pursuant to the applicable Subpart.*

The federal consistency regulations also provide for monitoring and coordination; 15 CFR § 930.45(a) provides:

> *(a) Federal and State agencies shall cooperate in their efforts to monitor federally approved activities in order to make certain that such activities continue to be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the management program.*

IV. <u>FINDINGS AND DECLARATIONS</u>:

The Commission finds and declares as follows:

A. <u>Marine Resources/Coastal Waters/Environmentally Sensitive Habitat</u>. The Coastal Act provides:

> ***Section 30230:*** *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*
>
> ***Section 30231****: The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground*

water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240: *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Sensitive marine species in the project areas include marine mammals and sea turtles, kelp beds, white abalone, and essential fish habitat. Potentially affected onshore species include snowy plovers at Camp Pendleton and the Silver Strand peninsula, and loggerhead shrikes and the island night lizard on San Clemente Island (Exhibits 5 & 6). The Navy's consistency determination focuses on the five types of exercises occurring within the coastal zone and having the potential to affect coastal zone resources. The Navy states:

Coastal Zone Effects

The Proposed Action would be consistent with Section 30230. Under the Proposed Action, the overall number, type and location of training operations would not increase. Biological productivity of coastal waters would be maintained and populations of fish and other marine organisms would be sustained. Important marine resources would be avoided.

Discussion

COMPTUEX/JTFEX activities within the SOCAL OPAREA with potential to affect marine resources include deployment of inert mine shapes on surface targets, sea-to-land weapons firing into designated land-based ranges, underwater detonation, and amphibious landings. Due to the generally dispersed, infrequent nature of Navy training exercises and the wide dispersal of marine resources, biological productivity of coastal waters will be maintained.

Marine resources of special biological or economic significance in the SOCAL OPAREA include:

- *Marine flora, especially kelp forests*
- *Commercial and recreational fish stocks and essential fish habitat*
- *Special-status species, including marine mammals, sea turtles, and white abalone*

These resources are considered, for this analysis, to be suitable indicators of general biological productivity, and representative of the overall marine resources within the SOCAL OPAREA.

Exhibit 4 contains the Navy's estimates of marine mammal distributions and population trends in the offshore operating areas. The Navy states:

Effects of the Proposed Action

Overview

JTFEX/COMPTUEX activities would have negligible effects on marine mammals. Minor acoustic effects to marine mammals could occur from underwater detonations and possibly include: temporary changes in behavior, movement away from an area of activity, temporary reduction in hearing sensitivity, and no response. It is highly unlikely that a marine mammal would experience any long-term effects because the proposed training is:

• Intermittent
• Localized in discreet, shallow water areas in SOCAL
• Mitigated, such that marine mammals will not be in proximity to underwater detonations during training events

Underwater Detonations

Marine mammals may be exposed to acoustic energy from underwater detonations from DEMO and SMCMEX, and to physical injury from inert mine shapes dropped during MINEX. Small charges are used to neutralize inert mine shapes during DEMO and SMCMEX. Underwater detonations associated with DEMO are aimed at removing obstacles and clearing mines in areas to be used for approaches to landing beaches. Underwater detonations conducted during SMCMEX involve one bottom-laid detonation and one mid-water column detonation. While water depth is slightly greater than DEMO activities, SMCMEX activities are conducted to locate and neutralize inert mine shapes in shallow water environments. Because underwater detonations conducted during DEMO and SMCMEX occur in shallow or very shallow water, a significant portion of the energy is dissipated as surface blowout pressure and/or into the ocean substrate. In addition, bottom substrate characteristics have an affect on the amount of energy propagating through the water column.

Characteristic of the west coast of North America, Southern California has mixed semidiurnal tides. This results in four daily tidal heights, including a low low tide, high low tide, low high tide, and high high tide. During these tides, sand and gravel from submerged portions of intertidal beaches are washed into the water column. This frequent tidal flow, combined with close proximity to erosion of sand and particulate matter from coastal dunes and hills results in a relatively deep sandy substrate in

nearshore waters. Consequently, propagation of acoustic energy from these shallow water, and shallow water bottom-laid mine shapes is significantly reduced in the water column.

Operating procedures for detecting marine mammals would be implemented in conjunction with underwater detonations training. Prior to an underwater detonation (DEMO, SMCMEX) or mine laying activity (MINEX), ship-based or aerial observers would visually scan the area for marine mammals. As with sea turtles, underwater detonations or mine laying would be delayed, postponed or cancelled if a marine mammal approached the operating area; thereby, avoiding injury to marine mammals.

While marine mammals may detect the underwater detonations or sound of an inert mine shape dropping into the water from a distance, these exercises would be intermittent, and of very short duration. Underwater detonations and mine-laying would not affect the biological productivity of marine mammal populations in the CZ. The Proposed Action is consistent to the maximum extent practicable with Section 30230 for marine resources.

Concerning water quality, the Navy states:

Coastal Zone Effects

COMPTUEX/JTFEX activities within the SOCAL OPAREA with the potential to affect biological productivity include underwater detonations from DEMO and SMCMEX. Mine shapes used in conjunction with these activities are either floating or moored mines. Small charges are used to neutralize inert mine shapes. Underwater detonations associated with DEMO are aimed at removing obstacles and clearing mines in areas to be used for approaches to landing beaches. Because these underwater detonations occur in very shallow water, a significant portion of the energy is dissipated as surface blowout pressure; thereby, reducing affects to water quality and plankton communities in the water column. Underwater detonations conducted during DEMO and SMCMEX would not be conducted in kelp forests surrounding SCI.

Due to the generally dispersed, infrequent nature of underwater detonations, small charges used, significant tidal flow (particularly around SCI), discreet effects associated with underwater detonations, and the wide dispersal of marine resources, biological productivity of coastal waters will be maintained. The Proposed Action is consistent to the maximum extent practicable with Section 30231.

The Commission notes that the proposed training exercises are similar to activities the Navy has been regularly undertaking for many years and do not represent an intensification in use of the affected areas compared to past years' activities. However the Commission takes a broader view than the Navy as to which activities may affect the coastal zone. Many of the species covered potentially affected by the proposed training activities spend some portions of their life cycles within coastal waters (e.g., birds that fly in and out of the coastal zone and marine

species that swim in and out of the coastal zone). Without adequate avoidance and mitigation measures, a greater number of exercises than those listed by the Navy could adversely affect coastal zone resources. The Commission believes that the numbers and types of activities with the potential to disturb marine species and other sensitive habitat include ship movement, inert mine drops, underwater detonations, and, from activities outside the coastal zone, mid-frequency sonar, missile launches (onto federally owned San Clemente Island), and amphibious landings (onto federally owned Navy and Marine Corps bases at Camp Pendleton and the Silver Strand). Accordingly, the Commission staff requested additional information from the Navy about the activities outside the coastal zone, and in response, the Navy has provided additional information detailing more specifically the locations and intensities of the various training exercises, monitoring practices, and protection measures in place (Exhibit 2).

The Commission will look to the broader regulatory scheme (under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA)) and Navy planning efforts (under the "Sikes" Act, which set up the Integrated Natural Resource Management Plan (INRMP) planning process for all military bases), in examining the adequacy of mechanisms in place to protect the potentially affected species (in addition to those measures included in the Navy's consistency determination). The Commission notes that measures are already in place through existing Biological Opinions issued by the U.S. Fish and Wildlife Service, and that the Navy is coordinating with the National Marine Fisheries Service (NMFS) in implementing measures to minimize acoustic impacts from mid-frequency sonar (which are proposed, for the most part, beyond 80 nautical miles from shore off San Clemente Island).

The acoustic protection measures now routinely used by the Navy during training activities were developed to minimize effects of active sonar and underwater detonations on marine mammals and sea turtles. The measures in place for the proposed exercises include:

- requiring all Navy lookouts to review the NMFS-approved Marine Species Awareness Training material;
- shipboard surveillance for marine mammals and sea turtles;
- aerial surveillance where planes or helicopters are part of the activity;
- passive acoustic monitoring;
- implementation of a buffer zone (700 yard arc-radius around detonation sites for small explosives (mostly 1-5 pounds, with none exceeding 20 pounds));
- reducing the likelihood of exposing marine mammals or sea turtles to sounds > 173 dB (received level (RL), expressed in decibels (re 1 $\mu Pa^2 \cdot s$ @ 1m [one micropascal squared second at one meter]));
- avoidance of dropping any inert mines on marine mammals or sea turtles;

- removal from the marine environment of inert mines dropped pre- and post-exercise surveys; and

- coordination with NMFS in the event of any injury to a marine mammal or sea turtle observed and submitting monitoring reports.

The Navy has also agreed to coordinate with Commission staff on whether marine mammal incident reports for events occurring in the Southern California Operating Area will be provided to Commission staff after discussion and review with NOAA. These reports may be generated pursuant to future MMPA and/or ESA take authorizations/consultations.

The Commission further notes that the acoustic protection measures provide habitat protection measures that, until recently, were not previously implemented for these types of exercises in California waters, and thus represent an improvement in marine mammal protection compared to historic practices. (The Commission also notes, parenthetically, that the Navy will be preparing a report on the effectiveness of these types of measures, when it submits its report to the National Marine Fisheries Service on the "RIMPAC"[1] measures, expected within the next few months.)

The Navy has also documented that the project would not adversely affect kelp beds, white abalone, or any marine mammal haulout areas or rookeries. The primary onshore sensitive species of concern are snowy plovers at the Silver Strand in Coronado, and island night lizards and loggerhead shrikes on San Clemente Island (Exhibits 5-6), but again, measures and efforts are in place to protect these species, both through Biological Opinions covering Navy training exercises and through the Navy's INRMPs for the affected bases. Of these species the only "listed" species potentially affected that lives completely outside the coastal zone is the island night lizard (on San Clemente Island). Although it is listed as a threatened species under the ESA, based on extrapolation the Fish and Wildlife Service estimates a fairly robust population of 2-20 million individuals throughout the island (and the Navy's INRMP estimates "an excess of 20 million"). The Fish and Wildlife Service is currently undergoing an analysis to consider "de-listing" the species, at least for this island (compared to possibly genetically distinct and much smaller populations on San Nicolas and Santa Barbara Islands). Also, possibly arguably not a coastal zone species (the biological important activities of which occur predominantly on the federally owned island) is the San Clemente Island loggerhead shrike, which does not migrate but is sometimes observed over water areas, and which has been described as "…possibly the most endangered animal population in the continental United States." (Lynn et al. 1999) (Source, Navy May 2002 San Clemente Island Integrated Natural Resources Management Plan (INRMP). Other populations of loggerhead shrikes may occur on the

1 Small Takes of Marine Mammals Incidental to Specified Activities; Rim of the Pacific (RIMPAC) Antisubmarine Warfare (ASW) Exercise Training Events Within the Hawaiian Islands Operating Area (OpArea), National Oceanic and Atmospheric Administration Federal Register Notice, Vol. 71, No. 78, Monday, April 24, 2006.

mainland and nearby Santa Catalina Island; however, the San Clemente Island population is genetically and morphologically distinct from these populations (Ridgway 1903; Miller 1931; Mundy et al. 1996 in Lynn et al. 2000)(same source).

Through the ESA and INRMP processes, the Navy is currently implementing aggressive, island-wide measures to manage, protect, and improve loggerhead shrike and island night lizard habitat, including but not limited to, surveying, monitoring and research, predator management and removal, fire controls (including during Naval Surface Fire Support from the proposed training activities), establishing restricted areas off limits to military and other human activities, captive breeding, and habitat enhancement. Firebreaks are coordinated with the Navy's Natural Resources Office prior to installation, and fire suppression equipment is on site during live-firing events. The Navy has also established snowy plover avoidance measures that must be implemented for any training occurring during the snowy plover nesting season at the Silver Strand Peninsula. The Marine Corps implements conservation measures on landing beaches off Camp Pendleton, including: fencing nesting areas, predator controls, restoring dunes within nesting areas, monitoring breeding activities, and studying long-term snowy plover and least tern population trends.

Thus, through its consultation with other federal agencies, the Navy is applying a number of habitat protection measures to the proposed activities. When added to the measures included in the Navy's consistency determination, the only measure lacking to enable a finding of consistency with the marine resource policies is a Navy agreement to submit the marine mammal/turtle monitoring reports that it prepares for NMFS to the Commission staff. The Navy has only agree to coordinate with Commission staff on *whether* marine mammal incident reports will be provided to Commission staff, and only after discussion and review with NOAA. Submittal of marine mammal monitoring reports is necessary under the Coastal Act for several reasons. First, the Navy is using explosives, albeit small, within the coastal zone, which have the potential to affect marine mammals unless adequate preclusion areas are maintained. Second, review of the monitoring is necessary to assure the Commission that the Navy has complied with its commitments to protect marine resources. Third, interim monitoring reports may lead to alterations in training practices and protection measures included (as was the case for the Mobil Pier decommissioning project the Commission reviewed in 1996, where acoustic monitoring of the explosives footprint led to greater areas of preclusion than originally proposed). Fourth, if the Navy's concern is of a jurisdictional nature based on use of mid-frequency sonar in only federal waters, there is *no better way* for the Navy to establish to the Commission's satisfaction that coastal zone resource impacts are being avoided than to provide the Commission the data that would support the Navy's conclusions. Fifth, the federal consistency regulations (Section 930.45 – see page 9) specifically require continued monitoring and coordination with state agencies). The Commission is therefore conditioning its concurrence on a requirement that the Navy provide its monitoring reports to the Commission staff. Only as conditioned would the project include adequate measures to enable the Commission to find that the activities will be conducted in a manner protecting marine resources, and that the proposed activities would be consistent with the applicable marine resource, water quality, and environmentally sensitive habitat policies (Sections 30230, 30231, and 30240) of the Coastal Act.

As provided in 15 CFR § 930.4(b), in the event the Navy does not agree with the Commission's condition of concurrence, then all parties shall treat this conditional concurrence as an objection.

B. <u>Public Access/Fishing</u>. Section 30210 of the Coastal Act provides:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with safety needs and the need to protect public rights, rights of private property public owners, and natural resource areas from overuse.

Section 30212 provides in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources....

Section 30220 provides:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

In addition, aside from the commercial fishing protection afforded under Section 30230, quoted above on page 9, Sections 30234 and 30234.5 underscore the need to protect commercial and recreational fishing opportunities:

30234. *Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.*

30234.5. *The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.*

The Navy maintains that the project is consistent with the public access and recreation, and recreational fishing policies of the Coastal Act, stating that:

The Proposed Action is fully consistent with California CZ policy Section 30210 because it would not alter current public access to recreational areas or recreational

opportunities in the CZ. Public beaches and beach access routes are not affected, nor are National Park facilities. Notices to Mariners (NOTMARs) and Notices-to-Airmen (NOTAMs) are issued to allow mariners and commercial recreational services (e.g., dive charters) to select alternate destinations without substantially affecting their activities. The Proposed Action would not increase the number or type of training operations or change the training locations.

Most COMPTUEX/JTFEX activities in the CZ are compatible with concurrent recreational activities. Some COMPTUEX/JTFEX activities (i.e., those involving the live firing of weapons) require access to be restricted for safety and military security concerns. COMPTUEX/JTFEX activities in areas of joint use occasionally limit public access to portions of the shoreline or nearshore waters for short periods because the Navy implements strict safety procedures prior to each training activity. The locations, sizes, and durations of safety zones are carefully tailored to the needs of the military exercise so as to minimize the effects on public access and recreation, and ensure public safety.

Discussion

The Navy has implemented procedures to efficiently inform the public about temporary exclusions when such exclusions are necessary for public safety during NSFS, Mine Exercise (MINEX), DEMO, Ship Mine Countermeasures Exercise (SMCMEX), and Amphibious Exercise (AMPHIBEX). Potential effects of the Proposed Action on public access to beaches are negligible because these activities take place on or in proximity to Federally-owned property for which the public is not permitted access.

Elements of these activities that require exclusive use of an open-ocean area have the potential to affect public access and recreational fishing operations during the actual operation. Around SCI, these operations occur in Federally-designated danger and restricted zones. In the other nearshore operating areas offshore SSTC and MCBCP, non-authorized individuals are cleared from the area for the duration of the exercise. Short-term, intermittent effects on individual recreational use of these areas may result from temporary closures of specific operating areas, but the areas are relatively small, and easily circumvented.

Prior to commencement of these events, NOTMARs and NOTAMs are issued, providing the public, including commercial fishermen, with notice of upcoming location and time restrictions in specific training areas. In addition, the Southern California Offshore Range (SCORE) maintains a public website depicting upcoming restrictions in designated Danger Zones around SCI. These notices detail date, time, duration, and location of restricted access so that commercial and private fishermen and divers can plan their activities accordingly. The restricted times only extend through the duration of the training activity; thereby allowing the public to shift their activities to alternate areas during temporary closures. The Navy will continue to schedule its activities to

minimize conflicts, and to provide adequate public notice. The Proposed Action would be consistent with Section 30210 to the maximum extent practicable.

Nearshore and Beach Areas

San Clemente Island Range Complex

SCI is Navy-owned property where public access is strictly controlled for purposes of military security and public safety. The Navy considers all ocean areas around SCI to be co-use zones that are available for public access, except for the restricted anchorages in the Wilson Cove Exclusive Zone. Access to some co-use zones may be restricted from time to time for public safety. When such restrictions are necessary, the Navy implements procedures to minimize effects on the public. Under the Proposed Action, COMPTUEX/JTFEX activities at SCI are consistent with Section 30210. Recreational activities in the CZ include sport fishing, sailing, boating, whale-watching, and diving. Commercial uses include fishing, tourism, and marine transportation. The area also is used by the public for scientific research and education.

Silver Strand Training Complex

The Navy leases ocean beaches along the SSTC from the California State Lands Commission. Boat lanes extend out 2 nm from these beaches in support of offshore amphibious training. Bayside training areas off the northern portion of SSTC are also used in support of amphibious training events. When not in use for military training, the nearshore bay and ocean waters off SSTC are used for commercial fishing and recreational boating. The Navy training areas on San Diego Bay adjacent to the peninsula are within a designated restricted area. However, non-Navy vessels may transit through the area when the training lanes are not scheduled for military activities. Consistent with ongoing activities, public access and recreation co-exist with Navy training.

The Navy contributes to the provision of public access on the Silver Strand peninsula. The Silver Strand peninsula has several water-oriented public facilities, including marinas, parks, beaches, and resorts. Together, these facilities provide the public with substantial access to the local beaches and waters of San Diego Bay and offshore areas. YMCA Camp Surf operates on 80 acres on SSTC-South at the southern end of the peninsula on Navy land, providing overnight beachfront accommodations for local youth and instruction in water sports. A salt marsh ecological preserve and salt evaporator ponds located on about 27 acres (10.9 hectares) of SSTC South property fronting San Diego Bay is leased by the Navy to San Diego County Department of Parks and Recreation, which has installed a parking lot and bicycle and pedestrian paths. The Proposed Action is consistent with California CZ Section 30210 to provide maximum public access consistent with public safety.

Marine Corps Base Camp Pendleton

Substantial public access to beaches and nearshore waters is provided both to the north and south of Marine Corps Base Camp Pendleton. San Onofre Beach, located at the northern end of MCBCP, is a public beach leased to the State by the Marine Corps. Both San Onofre State Beach and the adjacent San Mateo State Preserve/Trestles Beach are directly accessible from the Interstate-5 freeway. Immediately south of Camp Pendleton lies the City of Oceanside, with a harbor and extensive beach areas. Public access is not affected by COMPTUEX/JTFEX training exercises because the Camp Pendleton shoreline is not accessible to the public. Under the Proposed Action, the extent and accessibility of adjacent public areas would not change. The Proposed Action is consistent with Section 30210 to provide maximum public access consistent with public safety.

Concerning commercial fishing, the Navy states:

Potential effects of the Proposed Action on economic, commercial, and recreational fishing have been evaluated by the Navy. COMPTUEX/JTFEX activities do not have the potential to result in permanent modifications of the marine environment within the CZ. Elements of the Proposed Action that require exclusive use of an ocean area (e.g., those operations in which weapons are fired) have the potential to affect commercial and recreational fishing operations during the actual operation. Short-term adverse effects on individual commercial fishermen may result from temporary closures of specific ocean areas, but the economic importance of the regional commercial fishing industry would be unchanged.

Prior to these events, NOTMARs and NOTAMs are issued, providing the public and commercial fishermen with notice of upcoming location and timing restrictions in specific training areas. In addition, the Southern California Offshore Range (SCORE) maintains a public website depicting upcoming restrictions in designated Danger Zones around SCI. These notices detail date, time duration, and location of restricted access, so that commercial and private fishermen and divers can plan their activities accordingly. The restricted times only extend through the duration of the training activity; thereby allowing the public to shift their activities to alternate areas during temporary closures. Thus, the Proposed Action would be consistent with Section 30234.5 to the maximum extent practicable.

The Navy's proposal is consistent with the Coastal Act policies that provide for balancing maximum public access in a manner consistent with public safety and military security needs. In past reviews, the Commission has found that absent a nexus such as intensifications of public access closures, no new public access requirements are normally required. For the proposed exercises, the public area closures during the exercises, which are clearly necessary for both public safety and military needs, are similar to past closures from similar Navy testing. The proposal may even reduce closures, as one of the Navy's goals is to schedule more frequent simultaneously occurring exercises than previously scheduled. The Commission

concludes that the existing military restrictions are necessary and consistent with Coastal Act policies, that the Navy is not proposing greater numbers or durations of closures, and that the project is consistent with the public access, recreation, and fishing policies (Sections 30210, 30212, 30234, and 30234.5) of the Coastal Act.

V. SUBSTANTIVE FILE DOCUMENTS:

1. Navy Consistency Determinations CD-20-95 (Navy San Clemente Island Cable Repair), CD-109-98 (Navy Advanced Deployable System (ADS) Ocean Tests), CD-95-97 and CD-153-97 (Navy, Low-Frequency Active (LFA) Sonar Research, Phases I and II), CD-2-01 (Navy Point Mugu Sea Range testing and training activities), CD-045-89 and CD-50-03 (Navy FOCUS Cable and Cable repairs, San Nicolas Island), and CD-37-06 (Navy Monterey Bay (MB) 06).
2. Island Night Lizard, 5-Year Review, U.S. Fish and Wildlife Service.
3. San Clemente Island Integrated Natural Resources Management Plan (INRMP), Navy, May 2002.
4. USGS Seismic Survey Consistency Determinations No. CD-14-02, CD-16-00 and CD-32-99.
5. Mobil Oil Pier and Wharf Decommissioning (Coastal Development Permit (CDP) No. E-96-14).
6. Monterey Bay Aquarium Research Institute (MBARI) (CDP No. E-05-007/Consistency Certification No. CC-076-05).
7. Consistency Determination No. CD-102-99, National Marine Fisheries Service, small test of “pulsed power” acoustic harassment device to protect recreational fishing from sea lions.
8. Consistency Certification CC-110-94/Coastal Development Permit Application 3-95-40, Scripps Institution of Oceanography, Acoustic Thermometry of Ocean Climate (ATOC) Project and Marine Mammal Research Program (MMRP).
9. High Energy Seismic Survey Review Process and Interim Operational Guidelines for Marine Surveys Offshore Southern California, the High Energy Seismic Survey Team (HESS), for the California State Lands Commission and the U.S. Minerals Management Service Pacific OCS Region, September 1996 – February 1999.
10. Caltrans 10 Mile River Bridge Replacement, CDP No. 1-06-022/Public Works Plan 1-06-01/LCP Amendment A-1-MEN-98-017-A2.

Figure 1-1. Military Ranges and Operating Areas Supporting COMPTUEX/JTFEX

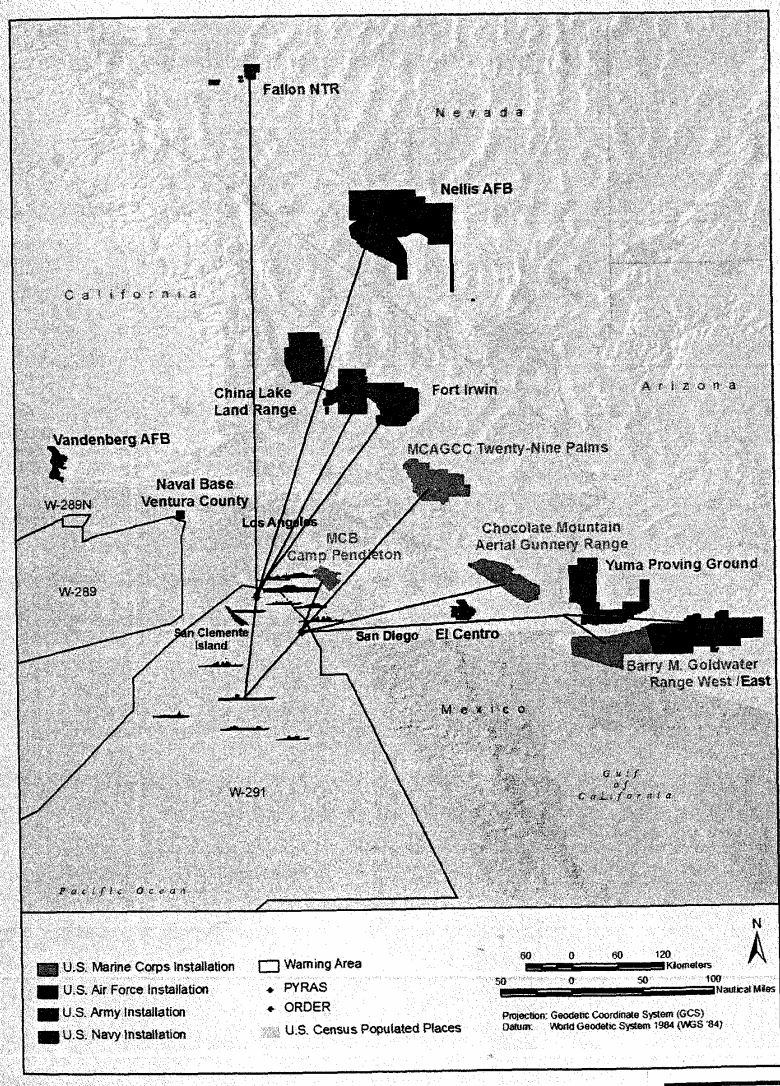


EXHIBIT NO. 1
APPLICATION NO.
CD-86-06

COMPOSITE TRAINING UNIT EXERCISES (COMPTUEX)
AND
JOINT TASK FORCE EXERCISES (JTFEX)

Information provided in this memorandum provide clarification to questions raised by CCD staff (Mark Delaplaine) during Oct 26, 2006 teleconference. Information can be used in conjunction with Coastal Consistency Determination (CCD) submitted to CCC on Oct 25.

COMPTUEX/JTFEX TRAINING OPERATION DESCRIPTIONS

Following information provides additional information on the five training activities detailed in the Consistency Determination.

I. Map showing location of activities.

San Clemente Island Range Complex (Figures 1-1 and 1-2)
Mining Operations occur offshore San Clemente Island in the Castle Rock Mining Range off the northwest coast of the Island; Eel Point Mining Range at the midpoint on the southwest side; China Point area, off the southwestern-most part of island; and Pyramid Head area, off the island's southeast tip (Figure 1-1.) These ranges are used for training of aircrews in mine - laying by delivery of inert mine shapes (no explosives) from aircraft.

Figure 1-1. Mining Areas off San Clemente Island

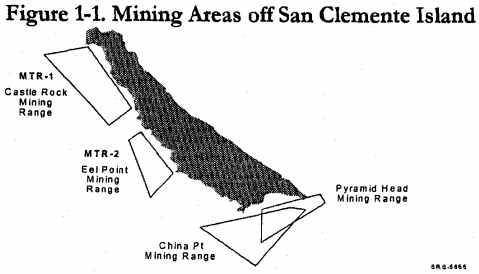


EXHIBIT NO. 2
APPLICATION NO.
CD-86-06

Naval Surface Fires Support operations are only conducted at the Shore Bombardment Area

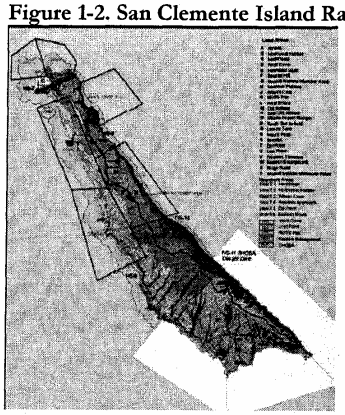
located on the southern tip of San Clemente Island. Offshore Navy vessels fire into either Impact I or Impact Area II (slightly to the west of Impact Area I). As depicted in Figure 1-2, the offshore ranges supporting firing activities into the Shore Bombardment Areas extend up to about 3 nm offshore, and are charted as Danger Zones (yellow area in Figure).

Demolition Operations occur in Pyramid Cove (offshore Impact Area I on the southern end of San Clemente Island); this area has been used for many years for underwater detonation activities.

Ship Mine Countermeasures rarely occur in Southern California, but when they do, they occur off the western side of San Clemente Island.

Amphibious landings occur at West Cove (northwestern side near the end of the runway) and Horse Beach Cove (southern end).

Figure 1-2. San Clemente Island Ranges



Silver Strand Training Complex (Figure 1-3)

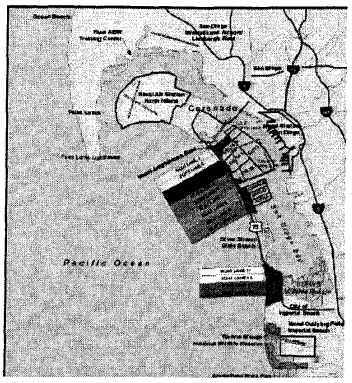
Mining Operations occur west of the boat lanes (greater than 2 nm offshore.) and involve dropping inert shapes into the water.

Demolition Operations occur in the offshore boat lanes and extend slightly west, beyond the end of the 2 nm boat lanes; this area has been used for many years for underwater detonation activities.

Ship Mine Countermeasures rarely occur in Southern California, but when they do, they occur in the boat lanes and slightly to the west.

Amphibious Operations have occurred at the Silver Strand Training Complex South

Figure 1-3. Silver Strand Training Complex



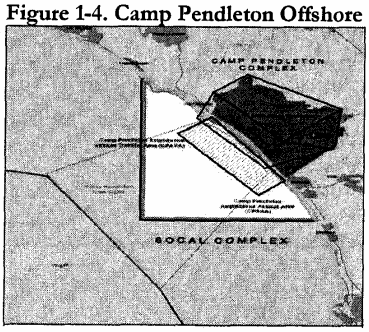
Marine Corps Base Camp Pendleton (Figure 1-4)
Mining Operations are conducted offshore Camp Pendleton in the Camp Pendleton Amphibious Assault Area, but not in the Camp Pendleton Amphibious Vehicle Training Area.

Demolition Operations occur in the offshore Camp Pendleton Amphibious Assault Area, but not in the Camp Pendleton Amphibious Vehicle Training Area; this area has been used for many years for underwater detonation activities.

Ship Mine Countermeasures rarely occur in Southern California, but when they do, they occur in the offshore Camp Pendleton Amphibious Assault Area, but not in the Camp Pendleton Amphibious Vehicle Training Area

Amphibious Operations occur in the Camp Pendleton Amphibious Assault Area and Camp Pendleton Amphibious Vehicle Training Area.

Figure 1-4. Camp Pendleton Offshore Operating Areas



In all cases, the Proposed Action:
(1) is consistent with ongoing activities, and does not occur at a new location, and
(2) occurs in offshore waters or on federally-owned property.

II. Number of ships/vehicles that will be used in each of the exercise
Because of the variability built into major range events, particularly JTFEX, only an estimated range can be provided.

Mining Operations
1 aircraft
2-5 small boats

Naval Surface Fires Support
4-6 ships

Demolition Operations
2-3 small boats
0-2 helicopters

Ship Mine Countermeasures
2 mine countermeasure boats
1 helicopter

Amphibious Operations
3 amphibious ships
Aircraft – rotary wing, fixed wing, and tilt-wing
Amphibious vehicles and vessels – Landing Craft Air Cushion, Amphibious Assault Vehicles, Combat Rubber Raiding Craft (small rubber boats), Rigid Hull Inflatable Boat (small, rigid hull boat), Landing Craft Utility (vessel used to carry personnel, equipment and land vehicles.)

MARINE MAMMAL MITIGATION MEASURES – UNDERWATER DETONATIONS AND MINING OPERATIONS

To ensure protection of marine mammals and sea turtles during underwater explosives training and Mining Operations, the operating area must be determined to be clear of marine mammals and sea turtles prior to detonation. Implementation of the following protective measures continue to ensure that marine mammals would not be exposed to TTS, PTS or injury from physical contact with training mine shapes during major range events.

These protective measures are the focus of consultation with NOAA NMFS SW Region.

Demolition and Ship Mine Countermeasures Operations

Safety Zones

All mine warfare and mine countermeasure operations involving the use of explosive charges must include safe zones for marine mammals and sea turtles to prevent physical and/or acoustic harm to those species. These safety zones shall extend in a 700-yard arc radius around the detonation site.

Pre-Exercise Surveys

For Demolition and Ship Mine Countermeasures Operations, pre-exercise survey shall be conducted within 30 minutes prior to the commencement of the scheduled explosive event. The survey may be conducted from the surface, by divers, and/or from the air, and personnel shall be alert to the presence of any marine mammal or sea turtle. Should such an animal be present within the survey area, the exercise shall be paused until the animal voluntarily leaves the area.

Post-Exercise Surveys

Surveys within the same radius shall also be conducted within 30 minutes after the completion of the explosive event.

Reporting

Pre- and post-exercise surveys shall be reported to the Commander Third Fleet Judge Advocate and the COMNAVREG Southwest Environmental Director at (619) 532-1428. Negative reports for post operations surveys are required. Any evidence of a marine mammal or sea turtle that may have been injured or killed by the action shall be reported immediately to Navy Region Southwest Environmental Director.

Mining Operations

As described in the COMPTUEX/JTFEX EA/OEA, Mining Operations involve aerial drops of inert training shapes on floating targets. Aircrews are scored for their ability to accurately hit the target. Although this operation does not involve live ordnance, marine mammals have the potential to be injured if they are in the immediate vicinity of a floating target; therefore, a safety zone shall be cleared around the target location. Pre- and post - surveys and reporting requirements outlined for underwater detonations shall be implemented during Mining Operations.

ENDANGERED SPECIES ACT CONSULTATION WITH NOAA

I. Endangered Species Consultation with NOAA.
Endangered Species Act (ESA) package was sent to NOAA HQ August 2006. NOAA HQ designated lead for the consultation to the local, NOAA National Marine Fisheries Service Southwest Regional Office in Long Beach. Navy met with SW Regional Office on Nov 16th and will continue ESA consultation until all issues are addressed.

II. What thresholds did we use to assess effects of SONAR?
Thresholds used to evaluate harassment considered the potential for behavioral effects at both 173 dB and 190 dB, with the 173 dB analysis conducted at the request of NMFS.

III. What mitigation measures are in place to minimize effects of SONAR on marine mammals?
Consultation with NMFS includes discussion on mitigations for MFA SONAR, and can be relayed in greater detail as they are developed in conjunction with ESA consultations with NOAA.

V. Does the Navy use trained observers to locate marine mammals?
Yes, the Navy has developed a Marine Species Awareness program that assists dedicated Navy watch standers in identifying marine mammals on the surface. To assist in this education process, the Navy has developed a Marine Species Awareness DVD, outlining watch standing techniques for locating and reporting presence of marine mammals during anti-submarine warfare training activities. Purpose of the Marine Species Awareness Program is to minimize and avoid interactions between marine mammals and anti-submarine warfare operations.

VI. What is the ZOI for each SONAR and underwater detonation?
Based on the results of marine mammal acoustic effects analysis modeling, SONAR will not affect resources in the coastal zone. While some anti-submarine operations occur on the instrumented, deep water range 5 nm west of San Clemente Island, the majority of anti-submarine warfare operations occur greater than 80 nm offshore – well outside the 3 nm coastal zone. Overlapping the outer periphery of sub-Temporary Threshold Shift (sub-TTS) zone of influence for the strongest SONAR system, the AN/SSQ 53, **active SONAR does not extend into the coastal zone;** therefore, mitigation measures for active SONAR do not fall within the Articles addressed in the Navy's Coastal Consistency Determination for COMPTUEX and JTFEX. The Navy is working with NMFS to ensure that the mitigations account for the potential sound exposures, including establishing the safety zone distances at which Navy will implement measures.

NAVY'S LONG-TERM STRATEGIC PLAN FOR ENVIRONMENTAL COMPLIANCE

The Navy has developed the COMPTUEX/JTFEX Environmental Assessment/Overseas Environmental Assessment, which addresses major range events in Southern California during a two year period of time. Concurrently, the Navy is developing the Southern California (SOCAL) Environmental Impact Statement (EIS)/Overseas EIS and Silver Strand Training Complex EIS, which address Navy training activities in Southern California from Unit Level Training to major range events to sustainment level training. Long-term, the SOCAL EIS, Silver Strand Training Complex EIS and supporting regulatory consultations will fulfill mandated, federal environmental compliance regulations for all phases of the Navy's pre-deployment readiness training conducted on the San Clemente Island Range Complex and offshore waters of Southern California.

Table 1-3. COMPTUEX/JTFEX Activities Outside the Coastal Zone

EVENT	RANGE/OPAREA
Anti-Aircraft Warfare Exercise	SCIRC
Surface-to-Surface Missile Exercise	SOCAL
Sink Exercise	SOCAL
Gunnery Exercise	SOCAL
Submarine Operations	SOCAL
Tracking Exercise	SOCAL
Psychological Operations	SOCAL
Aircraft Operations Support	SCIRC, SOCAL, MCBCP
Air-to-Air Missile Exercise	SOCAL
Air-to-Surface Missile Exercise	SOCAL
Haystack	Over San Diego
Urban Close Air Support	NTC Ft Irwin BSTRC
Long Range STRIKE	SCIRC
Deck Landing Qualification	SOCAL
War at Sea Exercise	SOCAL
GANGPLANK	SOCAL
Sea Surface Control	SOCAL
Maritime Interdiction	SOCAL
Maritime Patrol Aircraft	SOCAL
Anti-Submarine Warfare Exercise	SOCAL
Electronic Warfare Exercise	SOCAL
Command and Control	SOCAL
Air Defense Exercise	SOCAL
Counter Targeting	SOCAL
Final Battle Problem	SOCAL

EXHIBIT NO. 3
APPLICATION NO.
CD-86-06

APPENDIX

COMPTUEX/JTFEX TRAINING ACTIVITIES OUTSIDE THE COASTAL ZONE

Anti-Submarine Warfare Exercise (ASWEX)

ASWEX provides crews of submarines, ships, aircraft, and helicopters with experience in locating, tracking, and attacking submarines or submarine-like mobile underwater targets.

Anti-Aircraft Warfare Exercise (AAWEX)

The AAWEX provides realistic training and evaluation of ships and their crews in defending against enemy aircraft and missiles.

Surface-to-Surface Missile Exercise (SSMEX)

SSMEX provides basic training for Fleet units in firing surface-to-surface HARPOON missiles.

Sinking Exercise (SINKEX)

In a SINKEX, a specially-prepared, deactivated vessel is deliberately sunk using multiple weapons systems.

Gunnery Exercise (GUNEX)

Surface ship gunnery exercises take place in the open ocean and involve a variety of stationary and moving surface and aerial targets to provide gunnery practice for ship crews in an offensive or defensive posture.

Submarine Operations (SUBOPS)

SUBOPS train submarine crews in using sonar systems to search for and track surface ships and submarines, responding to simulated attacks using evasive maneuvering and countermeasures in deep and shallow waters, and avoiding detection by anti-submarine warfare (ASW) systems.

Visit, Board, Search, and Seizure (VBSS) or Maritime Intercept Operations (MIO) or Helicopter Visit, Board, Search, and Seizure (HVBSS)

VBSS missions are the principal type of Maritime Intercept Operations. Highly trained teams of personnel are deployed by small Zodiac boats or helicopters to board and inspect ships and vessels suspected of carrying contraband.

Naval Cooperation and Guidance for Shipping (NCAGS)

NCAGS assists the operational Commander in managing risk by providing situational awareness, a real-time operational picture, and the coordinated and safe passage of friendly merchant shipping carrying military supplies into seaports for off-load during a crisis or contingency.

Maritime Security Operation/Oil Platform (MSO/OPLAT) Defense

MSO/OPLAT Defense operations train ship crews to defend stationary high value infrastructures at-sea from possible attack.

Table 3-3. Marine Mammal Species in Southern California Waters

Common Name Species Name	Abundance	Stock (SAR)	ESA & MMPA Status	Annual Population Trend	Southern California Operating Area
Blue whale *Balaenoptera musculus*	1,744 (0.28)	Eastern North Pacific	E, D, S	May be increasing	Uncommon
Bryde's whale *Balaenoptera edeni*	12 (2.0)	California		Unknown	Rare
Fin whale *Balaenoptera physalus*	3,279 (0.31)	California, Oregon, Washington	E, D, S	May be increasing	Uncommon
Gray whale *Eschrichtius robustus*	26,635 (0.1006)	Eastern North Pacific		Increasing ~ 2.5%	Common during migration
Humpback whale *Megaptera novaeangliae*	1,034 (0.11)	California, Oregon, Washington	E, D, S	Increasing 6-7%	Uncommon
Minke whale *Balaenoptera acutorostrata*	1,015 (0.73)	California, Oregon, Washington		Unknown	Uncommon
North Pacific right whale *Eubalaena japonica*	Unknown	Eastern North Pacific	E, D, S	Unknown	Rare
Sei whale *Balaenoptera borealis*	56 (0.61)	Eastern North Pacific	E, D, S	May be increasing	Rare
Baird's beaked whale *Berardius bairdii*	228 (0.51)	California, Oregon, Washington		Unknown	Rare
Bottlenose dolphin coastal *Tursiops truncatus*	206 (012)	California Coastal		Stable	Rare
Bottlenose dolphin offshore *Tursiops truncatus*	5,065 (0.66)	California Offshore		Unknown	Common
Cuvier's beaked whale *Ziphius cavirostris*	1,884 (0.68)	California, Oregon, Washington		Unknown	Uncommon
Dall's porpoise *Phocoenoides dalli*	99,517 (0.33)	California, Oregon, Washington		Unknown	Common
Dwarf sperm whale *Kogia sima*	Unknown	California, Oregon, Washington		Unknown	Possible visitor
False killer whale *Pseudorca crassidens*	Unknown Rare	Eastern Tropical Pacific		Unknown	Rare
Killer whale offshore *Orcinus orca*	1,340 (0.31)	Eastern North Pacific		Unknown	Uncommon
Harbor porpoise *Phocoena phocoena*	7,579 (0.38)	Central California North		Increasing but not	Very rare
Killer whale southern resident	83 (?)	British Columbia	D,S	Increased in 2002 & 2003	Uncommon
Killer whale transient *Orcinus orca*	346 (?)	Eastern North Pacific		Unknown	Uncommon
Long-beaked common dolphin	43,360 (0.72)	California		Unknown – seasonal	Uncommon
Mesoplodont beaked whales *Mesoplodon* spp.	1,247 (0.92)	California, Oregon, Washington		Unknown	Rare
Northern right whale dolphin *Lissodelphis borealis*	20,362 (0.26)	California, Oregon, Washington		No Trend	Cor

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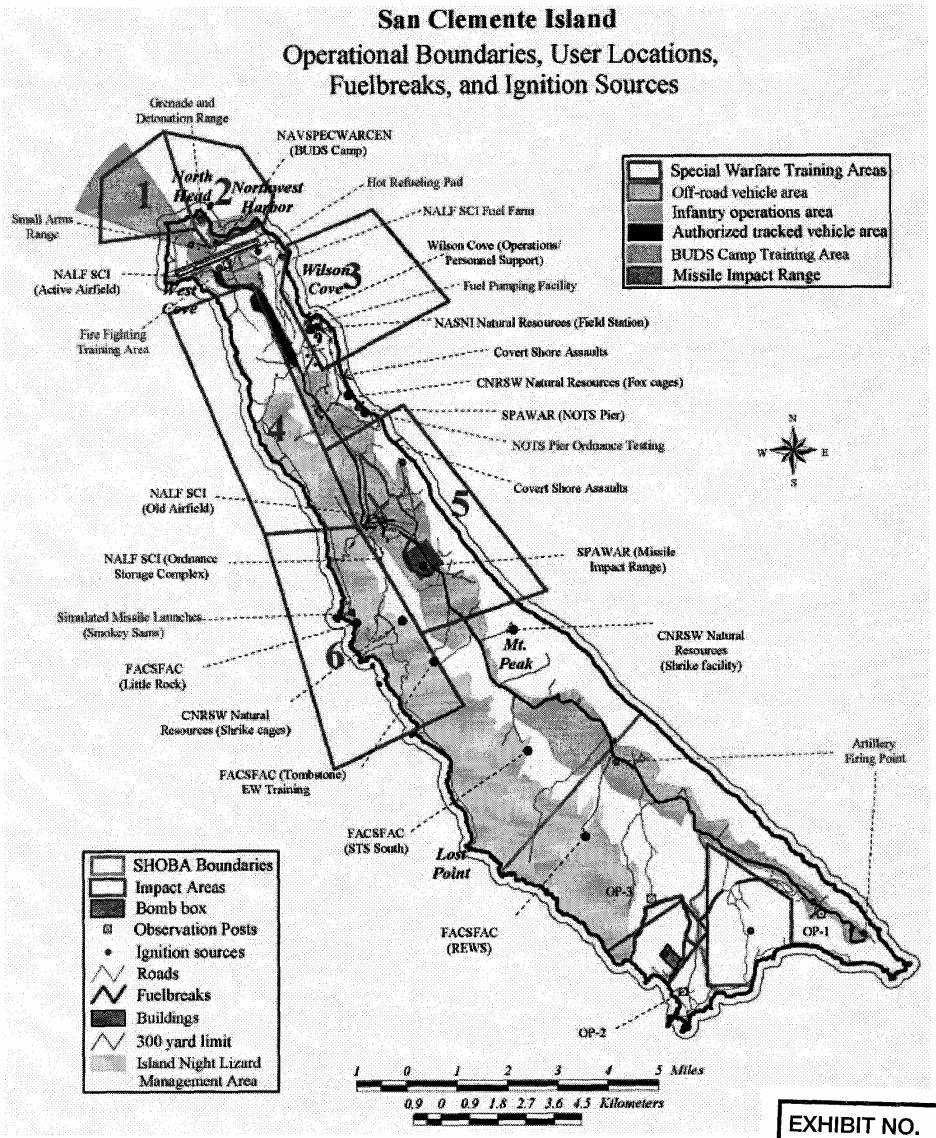
Common Name Species Name	Abundance	Stock (SAR)	ESA & MMPA Status	Annual Population Trend	Southern California Operating Area
Pantropical spotted dolphin *Stenella attenuate*	Unknown	Eastern Tropical Pacific		Unknown	Rare
Pygmy sperm whale *Kogia breviceps*	119 (?)	California, Oregon, Washington		Unknown	Rare
Risso's Dolphin *Grampus griseus*	16,066 (0.28)	California, Oregon, Washington		No Trend	Common
Pacific white-sided dolphin *Lagenorhynchus obliguidens*	59,724 (0.50)	California, Oregon, Washington		No Trend	Common
Rough-toothed dolphin *Steno bredanensis*	Unknown	Tropical and warm temperate		Unknown	Rare
Short-beaked common dolphin *Delphinus delphis*	449,846 (0.25)	California, Oregon, Wash		Unknown – seasonal differences	Common Seasonally abundant
Short-finned pilot whale *Globicephala macrorhynchus*	304 (1.02)	California, Oregon, Washington		Unknown	Uncommon; common before 1982
Sperm whale *Physeter macrocephalus*	1,233 (0.41)	California, Oregon, Washington	E, D, S	Unknown	Uncommon
Spinner dolphin *Stenella longirostris*	2,805 (0.66)	Tropical and warm temperate		Unknown	Rare
Striped dolphin *Stenella coeruleoalba*	13,934 (0.53)	California, Oregon, Washington		No Trend	Occasional visitor
Harbor seal *Phoca vitulina*	27,863 (0.17)	California		Stable	Common
Northern elephant seal *Mirounga angustirostris*	101,000	California		Increasing	Common
California sea lion *Zalophus californianus*	237,000	U.S. Stock		Increasing 6.1%	Abundant in summer
Guadalupe fur seal *Arctocephalus townsendi*	6,443	Mexico	T, D, S	Increasing 13.7%	Rare
Northern fur seal *Callorhinus ursinus*	7,784	San Miguel Island		Increasing 8.3%	Common
Stellar sea lion *Eumetopias jubatus*	6,555	California, Oregon, Washington	T, D	Decreasing	Rare
Southern Sea Otter *Enhydra lutris*	2,359	California	T, D	Increasing	Rare

Stock or population abundance estimates and the associated correlation of variance (CV) from NMFS Stock Assessment Reports (SAR), their status under the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA), the population trend, and relative abundance in each range area. E=Endangered under the ESA; D = Depleted under the MMPA; and S=Strategic Stock under the MMPA. Due to lack of information, several of the Mesoplodont beaked whales have been grouped together.

Effects of the Proposed Action

Overview

JTFEX/COMPTUEX activities would have negligible effects on marine mammals. Minor acoustic effects to marine mammals could occur from underwater detonations and possibly include: temporary changes in behavior, movement away from an area of activity, temporary



Map2-1. On-shore operational boundaries and user locations on San Clemente Island. (Do not reproduce or di permission [see Document Disclaimer].)

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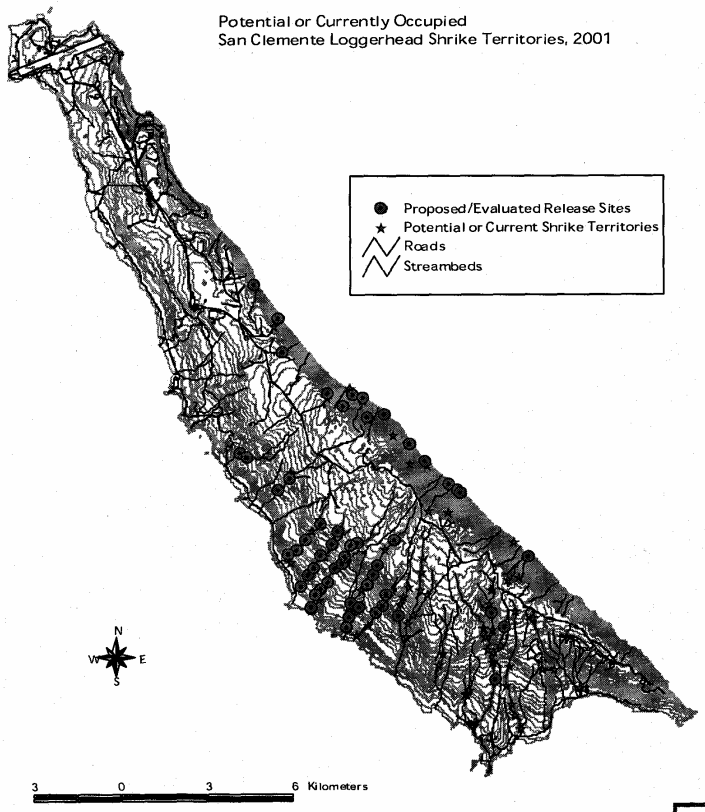
Applicable INRMP Management Units: Units immediately important as nesting locations or future release sites are units numbered 9-18: Lemon Tank, Seal Cove, Mt. Thirst, Lost Point, Cave Canyon, Eagle Canyon, Upper China Canyon, China Cove, Pyramid Cove, and Mosquito Cove.

Current Military Values of the INRMP Management Units: **Highest**: China Cove (16) and Pyramid Cove (17), **High**: Seal Cove (10), **Medium**: Cave Canyon (13) and Mt. Thirst (11), **Low**: Lemon Tank (9), **Lowest**: Lost Point (12), Mosquito Cove (18), Eagle Canyon (14), and Upper China Canyon (15).



MapD-16. Recent and historical nest locations of the San Clemente loggerhead shrike. (Do not reproduce or dis permission [see Document Disclaimer]).

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