



InterTribal Sinkyone Wilderness Council

P.O. Box 1523 Ukiah, CA 95482 Phone (707) 468-9500 www.sinkyone.org

InterTribal Cultural Conservation for Sinkyone Indian Lands



April 16, 2021

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Mitigations Adopted for Navy Northwest Training and Testing (NWT) Study Area

The InterTribal Sinkyone Wilderness Council is pleased to provide this public update regarding important mitigation measures for the protection of marine mammals, now required for the US Navy's training and testing activities in the Northwest Training and Testing (NWT) Study Area. The NWT is approximately 250 nautical miles (NM) wide x 500 NM long.

Since 2005, InterTribal Sinkyone Wilderness Council has helped lead a movement demanding greater protection for marine mammals and the Tribes' cultural lifeways, which are inextricably linked. In 2012 the Sinkyone Council—on behalf of its ten member Tribes—was lead plaintiff in a federal lawsuit brought by the Council, Earthjustice, Center for Biological Diversity, and others against the National Marine Fisheries Service (NMFS) for permitting the US Navy's incidental take of marine mammals. At that time, NMFS' rule for the NWT contained no mitigations for the protection of marine mammals. In 2013, a federal court ruled in our favor, requiring the Navy and NMFS to develop measures to better protect sea mammals. Since 2015, the Council has facilitated and hosted a formal Government-to-Government Consultation process between our member Tribes and the Navy. The consultation addresses Tribal opposition to, and concerns about, training and testing the Navy conducts offshore from Northern California, Oregon and Washington.

In 2019 and 2020, the Sinkyone Council and its member Tribes developed and submitted extensive comments to the Navy and NMFS regarding a wide range of cultural—environmental concerns pertaining to the Navy's NWT training and testing activities. The NWT encompasses a vast network of complex, interdependent and imperiled marine ecosystems situated within traditional territories of numerous Tribal Nations that have lived in close relationship with their coastal and marine environments for countless generations. To learn more about key issues of concern for the Sinkyone Council and its member Tribes, please see our News page at www.sinkyone.org/news where you can access the following documents:

Tribal Comment Letter to US Navy on Draft SEIS for NWT—5/03/2019

Tribal Comment Letter to NMFS on Proposed Rule for NWT—7/08/2020

Environmental Group Comment Letter to NMFS on Proposed Rule for NWT—7/17/2020, to which Sinkyone Council is signatory, citing extensive scientific studies and data that support the need for improved measures to protect marine mammals.

As a direct result of the Tribal—Navy Consultation process and the extensive comments submitted by the Sinkyone Council, the Tribes, environmental NGOs, and the public—as well as ongoing Tribal communications and meetings with the Navy and NMFS—a number of important new mitigation measures are now in place, which are intended to increase the protection of marine mammals. Although the Navy and NMFS did not adopt

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every protection measure advocated by the Tribes, the Sinkyone Council and environmental groups, they did adopt several new key mitigations that we demanded. The new mitigations contained in the Navy SEIS (pursuant to the National Environmental Protection Act) and the NMFS Rule (pursuant to the Marine Mammal Protection Act) were developed to be consistent with each other.

The new mitigations, as described in the Navy's SEIS, are summarized here:

- Applying to the entire NWT offshore from Northern California, Oregon and Washington: a **permanent no-training and no-testing zone 12 NM wide** that comprises the entirety of state and federal waters, with the exception of the W-237 area and Quinalt Range Site located immediately offshore from the Northern Washington coastline. This means the Navy's testing and training activities are restricted to only international waters, with the above exception.
- Applying to the entire NWT offshore from N. California, Oregon and Washington: a **new 50-mile wide Marine Species Coastal Mitigation Area**, which covers the area from shoreline out to 50 NM from shore. With exception of the W-237 area and Quinalt Range Site, the following Navy training and testing activities are **PROHIBITED** within the new 50 NM-wide Marine Coastal Mitigation Area:
 - 1) Explosive training activities
 - 2) Explosive testing activities
 - 3) Non-explosive missile training activities
- **Relocation of a new Mine Countermeasure & Neutralization testing program** originally proposed to take place offshore from Northern California. The program will instead be conducted at a more suitable area offshore from Washington.
- **An annual maximum of 33 hours of surface ship hull-mounted mid-frequency active sonar** will be allowed during testing activities within 20 NM from shore, within the entire NWT.
- **Seasonal restrictions in Biologically Important Areas** at these locations:
 - 1) Use of all surface ship hull-mounted mid-frequency active sonar and use of all explosives is prohibited within Point St. George Humpback Whale Mitigation Area annually, from July 1 through November 30.
 - 2) Use of all surface ship hull-mounted mid-frequency active sonar and use of all explosives is prohibited within Stonewall and Heceta Bank Humpback Whale Mitigation Area annually, from May 1 through November 30.

To learn more about the above mitigations, see the following documents and sections:

1) Supplemental Environmental Impact Statement (SEIS) for NWT:

<https://nwtteis.com/>

- **Table K-2 of SEIS: Marine Species Mitigation Areas in the NWT Offshore Area**, summarizes mitigation areas developed to further avoid or reduce potential impacts

on marine mammals, sea turtles, ESA-listed fish, and marbled murrelets.

These sections of the SEIS provide details on the above mitigations and other relevant information:

- **Section 3.10** Cultural Resources
- **Section 3.11** American Indian and Alaska Native Traditional Resources
- **Section 3.12** Socioeconomic Resources and Environmental Justice
- **Section 5.2** Mitigation Development Process
- **Section 5.3** Procedural Mitigation to be Implemented
- **Appendix H** Public Comment Responses
- **Appendix K** Geographic Mitigation Assessment

2) NMFS Incidental Take Rule for NWT:

<https://www.federalregister.gov/documents/2020/11/12/2020-23757/taking-and-importing-marine-mammals-taking-marine-mammals-incidental-to-the-us-navy-training-and> You may need to copy and paste this link into your browser.

These sections of the NMFS Rule provide details on the above mitigations and other relevant information:

- **Tables 35-49** list all required procedural mitigation measures, including new measures and tables for specific activity types, and those applying more broadly to vessel movement and environmental awareness and education for Navy personnel. Additional discussion is in **Procedural Mitigation** section (begins page 72403)
- **Table 50** lists the geographic mitigation areas and describes the applicable measures, including new measures, within each area. Figure 1 provides associated map depicting each mitigation area. Additional discussion is in **Mitigation Areas** section (begins page 72411)
- The **Assessment of Mitigation Measures for NWT Study Area** section (begins page 72400) describes eight changes to mitigation measures that were made subsequent to the Proposed Rule
- The **Measures Evaluated but not Included** section (begins page 72402) describes other mitigation measures NMFS considered, but determined to not be warranted
- The **Comments and Response** section (begins page 72323) responds to comments received during the public comment period
- The **Changes from the Proposed Rule** section (begins page 72371) addresses reductions in originally planned levels for two types of Navy activities:
 - a) The number of Mine Neutralization/Explosive Ordnance Disposal training exercises was reduced from 12 to 6 events annually, and the number of Gunnery Exercise/Ship training exercises was reduced from 90 to 34 annually.
 - b) The number of planned Mine Countermeasure and Neutralization Testing events in the offshore area is now described as 2 events annually and 6 events over the seven-year period, as one of the 3 annual events noted in the proposed rule does

not include acoustic components. The change resulted in a reduction in the NMFS estimate for anticipated takes of several species.

The Sinkyone Council thanks our member Tribes and our allies for their dedication to protecting sacred marine mammals and the ocean's ecosystems. We have a responsibility to protect the marine environment and its many species to ensure the continuation of these forms of life and Indigenous cultural lifeways, and to safeguard a good future for all life on this planet.

The Sinkyone Council and its member Tribes will continue to hold discussions with the Navy and NMFS regarding the implementation and monitoring of mitigation measures contained in the Navy SEIS and the NMFS Rule for the NWTT. We will continue working with allies to achieve stronger protections for the ocean and our traditional ways of life. Updates about this issue will be posted periodically at www.sinkyone.org.

Sincerely,

Mary Norris

Priscilla Hunter

Suzanne Romero

Mariah Rosales

Debra Ramirez

Jaime Boggs

Mona Oandasan

Crista Ray

Buffie Schmidt

Cahto Tribe of Laytonville Rancheria

Coyote Valley Band of Pomo Indians

Hopland Band of Pomo Indians

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