

## **Navy rebuffs state's plea to better protect whales from sonar**

By Kenneth R. Weiss, Times Staff Writer

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The Navy has rejected additional safeguards to protect whales from high-power sonar during war games in Southern California waters, saying that state officials who asked for extra precautions have no authority to tell the U.S. Navy what to do.

In a flurry of letters dated Monday, the Navy and the National Marine Fisheries Service agreed that California has no power under the federal Marine Mammal Protection Act to regulate the powerful sonic blasts linked to panicked whales, mass beachings and die-offs.

The letters, delivered just before offshore naval training exercises begin today, set up another jurisdictional battle between the California Coastal Commission and the federal government. The commission, meeting in San Diego this week, will discuss the Navy's rebuff and decide whether to file a lawsuit in federal court, said Mark Delaplaine, a commission project analyst.

"We always want to avoid federal litigation, but it's hard to avoid a challenge and make sure your authority isn't given away," Delaplaine said.

The Navy has been conducting exercises for 30 years in Southern California waters, using active mid-frequency sonar designed to use sound waves to "light up" submarines in the way a floodlight beam might reflect off an intruder. This type of sonar has increased in power over the years to help detect quiet diesel submarines, such as those operated by North Korea and China.

The issue has surfaced because of increasing scientific evidence linking the powerful sonar to mass die-offs of whales and dolphins in the Bahamas, the Canary Islands and elsewhere after naval exercises. So last year, the Navy sought the commission's blessing for exercises as part of internal guidelines to ensure that major exercises meet all environmental requirements.

The commission last month agreed to the exercises, but set additional conditions such as avoiding high concentrations of whales and turning

down the volume at night when whales cannot be easily spotted. The commission sought to have its way under a separate federal law — the Coastal Zone Management Act — that ensures that federal activities don't run afoul of state environmental programs.

The Navy, in various letters, rejected the additional safeguards, saying its precautions were sufficient. "We can be responsible environmental stewards while our sonar operators receive the realistic training and experience at sea they need," said Vice Adm. Barry Costello.

In addition, the Navy said the Marine Mammal Protection Act "preempts state regulation."

In late January, the Navy was granted a two-year exemption from that act, so it could have the time to work out proper safeguards.

"It's ironic that the Navy takes the position that the Marine Mammal Protection Act preempts other laws right after it gets exempted from that law," said Joel Reynolds, a senior attorney with the Natural Resources Defense Council.

"If the Coastal Commission doesn't sue, we will," Reynolds added.

<http://www.latimes.com/news/local/la-me-sonar14feb14,1,1605010.story>

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**Coastal panel votes to restrict Navy's use of sonar  
Training exercises would have to be moved away from areas with  
large numbers of marine mammals to prevent harm.**

From the Associated Press

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The California Coastal Commission voted Wednesday to impose restrictions on the U.S. Navy's use of sonar, which has been linked to harmful effects on whales and other marine life.

The Navy has been using sonar during training exercises off the California

coast for decades, but this is the first time it has gone before the commission to seek approval of its activities.

The commission voted 8 to 1 to place restrictions on how the Navy conducts the training, including moving the exercises away from areas with a high concentration of marine mammals and lowering sonar levels when they are present.

The Navy decided to seek the commission's consent because of new internal guidelines requiring it to ensure that major exercises are environmentally compliant.

"We believe we've taken many steps to safeguard the environment, and we feel very confident the measures that we have in place protect the environment," said Matt Brown, spokesman for the Navy's Southwest region.

The secretary of the Navy will respond after reviewing the commission's recommendations.

Environmentalists applauded the commission's vote.

"The commission fulfilled its mandate from the people of California to protect our coast," said Cara Horowitz, an attorney for the Natural Resources Defense Council, which filed a federal lawsuit in Los Angeles demanding that the Navy develop a mitigation plan for the exercises.

Last July, a federal judge issued a temporary restraining order to block the Navy from using sonar during training in Hawaii. The resources defense council, which sought the injunction, argued that scientific evidence showed sonar can fatally harm marine mammals.

The two sides eventually settled, and the Navy agreed to stay away from certain sensitive marine habitats and increase whale monitoring in Hawaii.

The Navy conducts sonar-training runs in all of its operational waters including the East Coast, Gulf Coast, Hawaii and the Pacific Northwest. Sonar or pulses of sound are used to track submerged objects — a key technology for finding enemy submarines.

Even though many of the training exercises would take place up to 80 miles off California, the Coastal Commission maintains jurisdiction because the activities would potentially affect marine life within the coastal zone.

The Navy's sonar exercises have been responsible for at least six incidents of mass death and unusual behavior among whales in the last decade, a U.S. Congressional Research Service report found last year.

Many of the beached or dead animals had damaged hearing organs.

Strandings occurred in the Bahamas in 2000, the Canary Islands in 2004 and North Carolina in 2005.

The Navy's sonar is also believed to affect other facets of marine life, including fish reproductive rates and the behavior of giant sea turtles.

<http://www.latimes.com/news/local/la-me-sonar11jan11,1,2850200.story>