UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

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David T. MacDuffee
U.S. Fleet Forces Command
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Dear Mr. MacDuffee:

NOAA's National Marine Fisheries Service, Southeast Regional Office, Habitat Conservation Division (NMFS HCD) reviewed the draft Final Environmental Impact Statement/Overseas Environmental Impact Statement (FEIS/OEIS) dated April 2009 for the Navy Cherry Point Range Complex. The Navy's U.S Fleet Forces Command (USFF) prepared the FEIS/OEIS to assess the potential environmental impacts over a 10-year period of using the Navy Cherry Point Range Complex for Navy Atlantic Fleet training and for research, development, testing, and evaluation (RDT&E) activities. The USFF concludes in the FEIS/OEIS that cumulatively the activities would not have significant adverse impacts on essential fish habitat (EFH) or federally managed fishery species. As the nation's federal trustee for the conservation and management of marine, estuarine, and anadromous fishery resources, the following discussion is guided by NOAA's authorities under of the Fish and Wildlife Coordination Act and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS HCD and USFF have engaged in constructive dialogue regarding comments raised during development of the FEIS/OEIS and, as summarized below, agree upon a path forward.

Project Description
The Navy Cherry Point Range Complex encompass 18,966 nm^2 of special use airspace warning area; 18,617 nm^2 of offshore surface and subsurface operating area (OPAREA); and 12,529 nm^2 of deep ocean area greater than 100 fathoms (600 feet). The geographic scope of this FEIS/OEIS includes the airspace, seaspace, and undersea space of the Navy Cherry Point Range Complex plus the 3-nm strip of coastal water between the shoreline and the OPAREA's northwestern boundary; the study area does not include land ranges.

USFF indicates the purpose of the proposed action is to support and conduct current and emerging training and RDT&E operations in the Navy Cherry Point Range Complex. The FEIS/OEIS discusses a no action alternative and two action alternatives. The preferred alternative (referred to as Alternative 2 in the FEIS/OEIS) would result in changes to Navy Cherry Point Range Complex facilities, operations, training, or RDT&E capacities over the 10-year period. USFF characterizes these changes as small-scale enhancements necessary to maintain a state of military readiness commensurate with national defense mission of the Navy Cherry Point Range Complex.

The Navy's approach to mitigation for the Navy Cherry Point Range Complex includes avoidance by altering the location, design, or other aspect of an activity; steps would be taken to minimize impacts when avoidance is not feasible. Monitoring to track the effectiveness of mitigation measures is an

important complement to the avoidance and minimization of impacts.

Essential Fish Habitat within the Navy Cherry Point Range Complex
The FEIS/OEIS describes EFH within the Navy Cherry Point Range Complex, and these descriptions are summarized here. The South Atlantic Fishery Management Council (SAFMC) designates several habitats within the Cherry Point Complex as EFH, including benthic substrate (e.g., sand, mud bottoms, shell/hash), live/hardbottom (e.g., artificial/manmade reefs, coral and coral reefs), pelagic *Sargassum*, and the Gulf Stream Current. SAFMC also designates areas known as 10 Fathom Ledge and Big Rock as EFH-Habitat Areas of Particular Concern (HAPC) for coral and coral reefs; EFH-HAPCs are subsets of EFH that are either rare, particularly susceptible to human-induced degradation, especially important ecologically, or located in an environmentally stressed area. These areas are HAPCs because of the exceptional live cover and associated organisms. SAFMC designates offshore hardbottom where spawning normally occurs as EFH-HAPC for species within the snapper/grouper complex. Within the Navy Cherry Point Range Complex these areas include 10 Fathom Ledge and Big Rock as well as the Snowy Grouper Wreck Marine Protected Area (MPA) off of Cape Fear[1].

In addition to the above designations that afford protection under the EFH provisions of the Magnuson-Stevens Act, SAFMC identifies two additional areas within the Navy Cherry Point Range Complex as warranting special protection: Cape Fear *Lophelia* Bank and Cape Lookout *Lophelia* Bank. Based on research that shows the importance and rarity of deepwater coral habitats in the South Atlantic, SAFMC proposes designating deepwater coral areas off the coasts of North Carolina, South Carolina, Georgia, and Florida, as a coral-HAPC, which is similar to an EFH-HAPC designation and would provide this area with a heightened focus for protection by SAFMC when setting restrictions on fishing and developing formal policy statements regarding habitat impacts. Final designation of the coral-HAPCs by SAFMC is expected to occur during 2009.

While the descriptions of EFH within the FEIS/OEIS are generally adequate, we note that page 3-280 lists five criteria used by USFF for determining significance of projected impacts to EFH. The wording of the paragraph implies these criteria appear in the EFH Final Rule as criteria for assessing impacts from non-fishing activities; this is not the case.

Impacts to EFH from the Cherry Point Range Complex
USFF determines that that live/hardbottom habitats, such as deepwater corals, could be damaged if they were struck by large objects. Projected rates of recovery are a component of assessing the significance of these impacts. The FEIS/OEIS acknowledges repopulation and recovery of damaged hardbottom habitats would be relatively slow (*e.g.*, years to a decade or more) compared to soft bottom areas (*e.g.*, less than one year). NMFS HCD believes recovery of coral and live/hardbottom actually would require several decades based on the age of the deepwater corals and their susceptibility to physical disturbance (Neuman et al. 1977; Fossa et al. 2002).

The spatial extent of the impacts to live/hardbottom habitats cannot be determined at this time. It is not feasible to forecast exact locations where the non-explosive practice bombs/missiles and large-caliber naval gun shells will settle upon the seafloor. Further, only a fraction of the seabottom within the Navy Cherry Point Range Complex is adequately mapped for the purpose of determining impacts at fine spatial scales. To accommodate this uncertainty, USFF calculates a worst-case scenario for the impact footprint by assuming all expended materials large enough to disturb the seafloor (i.e., non-explosive practice

[1] The final designation was published in the Federal Register: January 13, 2009 (Volume 74, Number 8); Rules and Regulations, Page 1621-1631

bombs/missiles and large-caliber naval gun shells) hit live/hardbottom habitat[2]. Under the preferred alternative, non-explosive practice bombs, missiles, and naval gun shells could result in 6,266 square feet (0.14 acres) of impacts per year (1.4 acres over 10 years) to live/hardbottom habitat. USFF demonstrates the probability of the impact being this high is remote (much less than 0.001 percent), however the probability of intermediate levels of impact (e.g., 0.1 acres) is not provided.

While recognizing that USFF has taken a reasonable approach to using existing data to estimate impacts to live/hardbottom habitat, NMFS HCD is concerned that more effective, practicable steps could be taken. Excluding from training activities the three geographically defined EFH-HAPCs (10 Fathom Ledge, Big Rock, and Snowy Grouper Wreck MPA) and the two coral-HAPCs (Cape Fear *Lophelia* Bank and Cape Lookout *Lophelia* Bank) should have minimal impact on operations of the Navy Cherry Point Range Complex because these five areas total less than 2 percent of the seabottom within the range complex (based on figures within the FEIS/OEIS).

Lastly, NMFS HCD in concerned about marine debris generated within the Navy Cherry Point Range Complex. NOAA defines marine debris as any persistent, manufactured, or processed solid material that is directly or indirectly, intentionally or unintentionally, disposed of or abandoned into the marine environment (NOAA 2008). Marine debris includes a wide variety of objects (i.e., derelict fishing gear, lost vessel cargo, plastics) that pose a threat to the marine environment, human health, and/or navigation. Marine debris can damage habitats in a variety of ways, including a reduction in the structural complexity of habitats. In addition, marine debris can cause tissue abrasion and mortality of sessile invertebrates (Chiappone et al. 2002). The expended materials are not only a threat to EFH as they hit bottom, potentially damaging deepwater coral that may be centuries old, but the materials also would persistently degrade fishery habitat.

Recommended Path Forward

NMFS HCD recognizes that successful operation of the Navy Cherry Point Range Complex has significant public interest elements. The Navy Cherry Point Range Complex includes three EFH-HAPCs and two proposed coral-HAPCs that NMFS HCD believes represent the higher quality live/hardbottom habitat within the complex to fishery species. NMFS HCD and USFF have a mutual interest in understanding the potentially effected environment and the impacts of current and proposed Navy activities. NMFS HCD and USFF will collaborate to establish an approach for improving coordination on data collection efforts and sharing such data to the extent national security and other U.S. Navy restrictions allow. As data collection and other research results in new habitat data, USFF will continue to reassess and incorporate such information into future environmental planning for the Range Complex. This approach may include: (a) NMFS identifying specific, finite areas of known or potential deepwater habitats of concern; (b) USFF providing the areas where current/proposed activity would result in high use of expended materials that could potentially disturb bottom habitats; and, (c) NMFS HCD and USFF agree to further assess those areas in future environmental planning documents once areas of overlap are identified.

With USFF's inclusion of a commitment to this path forward in the Record of Decision for the Navy Cherry Point Range Complex, NMFS HCD concludes that the procedural goals for implementing the EFH requirements of the Magnuson-Steven Act are met for this project, that EFH conservation recommendations are not needed at this time, and that the EFH coordination is complete. Should additional information or subsequent project modifications indicate that impacts to NOAA trust resources would occur, we may provide EFH conservation recommendations to address those changes.

[2] The analysis assumes no impacts to live/hardbottom from mine shapes and underwater detonations since the Navy's mitigation prohibits underwater detonations within 1,000 feet of live/hardbottom communities and the practice of placing mine shapes on the bottom includes measures to avoid sensitive benthic habitats.

We appreciate the opportunity to provide these comments. Please direct related questions or comments to the attention of Mr. Ron Sechler at our Beaufort Area Office or Ms. Jocelyn Karazsia at our West Palm Beach Area Office. Ron may be reached at (252) 728-5090 or by e-mail at Ron.Sechler@noaa.gov and Jocelyn may be reached at (561) 616-8880 extension 207 or by e-mail at Jocelyn.Karazsia@noaa.gov.

Sincerely,

/ for

Miles M. Croom
Assistant Regional Administrator
Habitat Conservation Division

Literature Cited

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