



PRESENTATION NOTES

High Impact Environmental Challenges

Slide 1: High Impact Environmental Challenges

I want to welcome you and extend my personal thanks for coming to the workshop and taking time from your busy schedules. I want to especially thank the community co-chairs from the RABs. You are all volunteers and the Navy truly appreciates your time and dedication to the Navy's cleanup program. We have over 50% of the community co-chairs here this weekend. A great turnout!

And I want to thank to the Navy co-chairs here. As you know, this program is about communication and outreach as much as it is about technical solutions. Your efforts to work outside the comfort zone are recognized.

A couple of statistics for active and BRAC installations:

- We have identified over 4,600 potential sites on 250 Navy and Marine Corps installations.
- We have completed 50% of the program.
- Putting this into perspective, the cleanup program is 1/3 of my overall yearly environmental budget.

As Dave mentioned, he asked me to give you an overview on a topic that I believe is growing in significance every day—Navy's challenge to balance our national security mission with environmental protection.



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Slide 2: Explosive Growth in Environmental Legislation

Environmental legislation has grown explosively over the past three decades.

All facets of DoD activities are impacted; real estate, training, and weapon systems subject to environmental regulation.



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Slide 3: Reduced Flexibility

Installations and ranges are increasingly surrounded by urban development, leaving less and less acreage available outside our facilities for conservation. This has turned our real estate in to **“islands of biodiversity,”** and, as such, subject to increasing scrutiny by environmental regulatory agencies and pressure to restrict our training from environmental activists known as non-governmental organizations (NGOs).

The Navy’s record of compliance is commendable given its size and mission. Large resources are committed to complying with the growing array of environmental requirements, especially air emission limits, hazardous waste management, oil spill clean up, effluent discharges into navigable waters, and natural resource management. At present **Navy invests approximately \$800 million annually to meet its environmental stewardship responsibilities.** Despite this commitment the weight of ever-expanding environmental requirements is leading to a **“death by a thousand cuts”** on our **quality of training, access to ranges, testing of new systems, and ultimately readiness.**



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Slide 4: Compliance Impact on Readiness

Realistic Training Compromised

- Live fire training on San Clemente Island is limited to 3 out of 7 days a week during Loggerhead Shrike breeding season (1 February to 15 August). During fire season (March to November) night operations and other training is prohibited.
- The Eisenhower Carrier Battle Group deployed this year with 3 ships C4 for readiness for Naval Surface Fire Support. A fourth ship's NSFS qualification expired a month later.

Employment of Active Sonar Jeopardized

- **Anti-sub Choke Point Exercise:** Few training areas simulate Straits of Hormuz. Stranding of beaked whales in Bahamas in March 2000 coincident with exercise has led to increased regulatory scrutiny. Navy impeded by limited science on effects to marine mammals.
- **Low Frequency Active Sonar deployment in doubt:** Postponed for 5 years during preparation of EIS—price tag of \$10 million plus. Scientists nominated by NGOs to assist Navy study impacts now support Navy position. System deployed by Russia and France.
- **John Paul Jones Ship Shock Test shut down in 1995 by court despite EIS, consultation and approval by NMFS.** Settlement: 30-day delay, \$3 million added expense, NGO-selected location contained HIGHER DENSITY of marine mammals than Navy-selected site.
- **Upcoming shock test of Winston Churchill (May 2001) in doubt.** Cost of ship shock trial includes \$1.6 million for EIS. **Marine Mammal Commission stated that, "Any behavioral disruption would technically constitute harassment" [ltr 30 March 2000].** By this definition all Navy actions could require "take" permits.



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Slide 5: Regulatory Interpretation and Application

Regulators are influenced by risk of suit.

- **U.S. Fish and Wildlife Service is facing over 100 law suits over their alleged failure to designate Critical Habitat.** The Director of USFWS advised Navy leadership that the process for designating critical habitat “is out of control.” She had little choice but to designate additional lands.
- Critical Habitat designations do not recognize DoD’s extremely successful efforts to protect listed species.
- At **Coronado NAB** critical habitat designated for Western Snowy Plover, which is able to thrive precisely because of Navy conservation efforts directed specifically at the Western Snowy Plover. **SPECIAL WARFARE TRAINING (SEALS)** has been curtailed. During nesting season training space reduced by 40% during nesting season.
- Chocolate Mountain Range is another example. Prior to 1970, 432,000 acres were available as a bombing range. Now, only 187,000 acres are available for training, and large tracts are regularly off limits due to noise restrictions, encroachment, safety, and air space limitations.
- **Activists also pressure regulators to adopt a “precautionary approach” for addressing compliance and mitigation.** Navy often required to adopt mitigation that impedes training simply because there is a vacuum of science in the area in question. For example, little information exists on the migratory patterns of Beaked Whales.



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Slide 6: Clean Water Act

Clean Water Act prohibits discharge of pollutants from a point source into navigable waters. Federal District Court has applied this proposition to ordnance in the water. See *Brown v. Romero-Barcelo* (original Vieques case 1979). Navy has a permit for ordnance discharged at Vieques. This permit has been used by activists and EPA over the past two years to limit Navy use of live ordnance.

For over 10 years Navy SELF-reported that it was exceeding water quality standards. EPA only threatened action after political pressure was brought to bear on the Navy to depart Vieques following the bombing accident that killed an observer on the range. Review of testing procedures and water-quality standards revealed that new testing methods suggest a high probability that Navy is in compliance. EPA nevertheless declined for many months to allow Navy to adopt these methods despite recommendations made in EPA policy memoranda for adoption of these new protocols industry-wide.

North Carolina recently asked Navy and Marine Corps to obtain a discharge permit for four water-based ranges within three miles of their coast. Similar proposals by other states could potentially further restrict Navy training.



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Slide 7: Clean Air Act

The Clean Air Act General Conformity Provision requires that any federal action be reviewed in the context of the state plan to attain the National Ambient Standards.

NAS Lemoore: Introduction of new aircraft into Fleet in “serious nonattainment area.” These new aircraft required a large amount of emissions offsets. Navy was only able to obtain sufficient offsets due to the closure of Castle Air Force Base in same air region.

NAS Oceana: Re-alignment of F/A 18C/D aircraft from Florida to Virginia. The Commonwealth of Virginia had to revise its emissions budget at a cost to industry sources to accommodate the emissions increases.

Emissions offsets will likely be much more difficult to obtain in the future.

Key Point: Conformity forces Navy to re-evaluate how to base and train its aircraft. The next generation aircraft Joint Strike Fighter has an engine with much higher thrust output and consequently higher air emissions. N45 worked to insert an objective placed in the Operational Requirements Document to acknowledge General Conformity requirements. The challenge is to procure aircraft with little or no environmental constraints on basing or training.



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Slide 8: UXO and Constituents at Active/Inactive Ranges

Another challenge for land-based ranges is management of unexploded ordnance (UXO) and other constituents to ensure compliance with environmental laws. Cleanup laws were not envisioned to apply to military operations.

The public and regulators are concerned with the potential for UXO contamination. In the past the extent of cleanup for an active/inactive range was to do a surface sweep, post warnings, and erect a fence around the range, if necessary. Now regulators are under pressure from NGOs to regulate DoD ranges more stringently.

A mere allegation that DoD is adversely affecting the environment can delay/stop a training exercise and ultimately shut down live fire or all training on a range like Vieques where testing revealed no safe-level exceedences.

DoD and Navy are beginning to identify data gaps/requirements and associated costs for “fate and effects” of UXO on the environment. Until the Navy is able to demonstrate through scientific analysis the effect of UXO on the environment, Navy is vulnerable to litigation and delays in training.

Range cleanup costs are driven up by lack of technology for accurately detecting the presence of subsurface UXO. Current technology does not provide for positive identification of UXO (false alarm rate of 90%). Cleanup contractor in Adak, Alaska reported, for example, that during the past work-year 4,417 anomalies were excavated, of which only 197 were UXO. Sixty-one contractor personnel performed 58,839 hours of work. Thus, costs for active/inactive range cleanup will be staggering, and the disruptions to training extremely problematic.

Funding to clean up all ranges is expected to come out of Navy’s Total Obligation Authority for readiness and training for many years to come. To minimize our vulnerabilities associated with sustaining our ranges, we must put in place and implement a sustainable range management program/policy for active ranges.

N45 working with N43 (Fleet Readiness) to include environmental factors into Navy’s overall training range strategy by implementing plans to mitigate encroachment, programmatic EIS for ranges, and assessing ranges for off-site migration of contaminants.



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Slide 10: Executive Order 13148

With Executive Order (EO) 13148 we are building on the successful programs we already have in place for pollution prevention and community right-to-know.

The Navy is committed to effective Pollution Prevention (P2). P2 is good business decision-making and the principal tool for cost-effective compliance. The Navy's P2 program has achieved significant, measurable results. The Navy's toxic releases are down 74% (CY 1994–1999), hazardous waste disposal is down 61% (CY 1992–1999), and we diverted approximately 41% of our solid waste in CY 1999 to recycling or composting.

I believe that all of the Services have used the requirement to comply with the Emergency Planning and Community Right to Know Act (EPCRA) as an opportunity to engage our regulators and the public on great strides we have made in P2 and the work we are doing to balance our environmental stewardship and military readiness responsibilities.

We welcome the additional emphasis EO 13148 puts on environmental management systems (EMS). An effective EMS makes good sense. It's about systematically recognizing and seizing opportunities to enhance the overall mission performance through better environmental management.

Much of what is needed for a formal EMS is already in place in the Navy management system framework. We are currently developing Navy policy and guidance on EMS that will help our installations effectively utilize existing Navy policy and tools to implement their EMS. Compliance with of EO 13148 fully supports our requirement to train our soldiers and sailors to conduct military operations.



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Slide 11: Environmental Strategy

Environmental laws do not recognize readiness as a factor. Title 10, however, requires ready, trained forces. Balance is needed in the law. **National Security and environmental stewardship are not mutually exclusive.** These **dual goals are achievable through an integrated, systematic strategy.**

Vehicle for progress: Operational Environmental Compliance Oversight Group (OECOG). Senior Flag officers comprise the OECOG. Responsibilities include: Coordinate Navy's environmental-compliance strategies; communicate unified position internally and externally; and oversee resolution of environmental issues affecting Navy.

Four Pillars of Integrated Strategy

- 1) **Sound Legal Position:** For example, amend the MMPA definition of harassment so as to regulate impacts having a biologically significant effect, as opposed to mere benign effect, on marine mammals.
- 2) **Knowledge Superiority:** Focus R&D on effects of Navy training on protected species, location of species populations, and their density. Investment of \$18 million over next three years.
- 3) **Consistent Policies and Procedures:** Navy-wide At-Sea Policy. Proactive Environmental Planning (EISs) and consultations with regulators.
- 4) **Education and Engagement:** Operator Engagement/Awareness: Navy senior "line" officers must appreciate the impact of the law on training. Reduced training impacts readiness: Leadership must address the linkage between environmental issues and readiness. Progress requires coordination between operational and environmental staffs. Legislative and Regulatory Outreach: Navy bears the burden of proving its actions do not effect the environment. Navy must tell its story to Congress, regulators, and the public.

Environmental Acquisition. Reduce weapon system's impact on the environment through ESOH planning and decision making. For example, air emissions could limit basing options for JSF/F/A-18E/F.



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Slide 12: Installation Restoration

Restoration Advisory Boards are a model for working together in the environmental arena. Initiated in 1994, RABs have become an integral part of the cleanup effort. For example, at the **Naval Undersea Warfare Center (NUWC) Division Keyport Washington**, groundwater under a landfill was contaminated with volatile organic compounds (VOCs).

Traditional method of remediating groundwater is pump and treat. The RAB suggested that the Navy try a different type of remediation—in this case phytoremediation. Phytoremediation is the planting of trees/shrubs to allow the roots to cleanup the contaminated groundwater. Phytoremediation is more environmentally friendly and it minimizes construction damage. The cost of the remedy including operation and management is \$1.5 million. This suggestion has allowed the Navy to avoid approximate \$10 million.

At the **Naval Ordnance Station Louisville (NOSL) Kentucky**, the local media reported background contaminants at the ball fields that were on land associated with the cleanup effort. The media sensationalized the potential risk to ball players. The Navy had already presented this information to the RAB. At the next meeting of the RAB, the public showed up en masse to support the Navy's findings of no unacceptable risk to ball players. This could have been a very explosive situation but because of the trust level the Navy had established with community through the RAB, it was avoided.

These are the kind of scenarios that we can achieve if we work together. I am depending on you to help us run an effective program, protect human health and the environment and maybe be able to help the Navy maintain its readiness by finding cheaper solutions to the cleanups. That will allow me to spend environmental money in other environmental areas or improve the Navy's readiness.



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Slide 13: Conclusion

Thanks again for coming. I hope you find that the training sessions are a valuable tool. Networking with other RAB members from throughout the country should provide additional value to your weekend.

I ask that you evaluate this experience with a critical eye. This is not an inexpensive undertaking and I want to make sure that if we have these in the future we make them as value added as possible.

Finally—enjoy yourself!

Thank you very much and Good Luck the rest of the weekend.

