

INTRODUCTION

Four public hearings were held 14-17 July 2008 to receive public comments on the VACAPES Range Complex Draft Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS). The hearings were held in Ocean City, MD; Chincoteague, Virginia, Virginia Beach, Virginia, and Kitty Hawk, North Carolina. The following is information resulting from each of these hearings.

PUBLIC HEARING #1

The first public hearing was held in Ocean City, Maryland, at the Princess Royale Oceanfront Hotel, July 14, 2008. The public was invited to attend an open-house from 5-7 pm during which time the Navy displayed six poster stations on various information regarding the EIS/OEIS. Subject Matter Experts (SME) were present to answer questions. From 7-9 pm a formal hearing was held and public comments were solicited. Six speakers from the general public made presentations. Thirty-four people attended the open house, the hearing, or both. No written comments were received during the meeting. The following pages are scanned copies of the sign-in sheets, speaker cards, comment forms, and transcript of the formal hearing.

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2 VACAPES RANGE COMPLEX DRAFT ENVIRONMENTAL IMPACT
3 STATEMENT/OVERSEAS ENVIRONMENTAL IMPACT STATEMENT
4 PUBLIC HEARING
5
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7 Held on Monday, July 14, 2008, commencing
8 at 7:00 p.m., at the Princess Royale Oceanfront
9 Hotel, 9100 Coastal Highway, Ocean City, Maryland,
10 before Kathy A. Zeve, an RPR and Notary Public in
11 and for the State of Maryland.
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13 Reported by KATHY A. ZEVE, RPR
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1 PROCEEDINGS
2 JUDGE MAKSYM: Good evening, ladies and
3 gentlemen. If I could have your attention. Welcome
4 to the public hearings on Navy Draft Environmental
5 Impact Statement/Overseas Environmental Impact
6 Statement, OEIS, on the Navy's proposed action in
7 evaluating the potential environmental impact over a
8 ten-year planning horizon associated with Navy
9 Fleet -- Atlantic Fleet training Research,
10 Development, Testing and Evaluation, RDT&E,
11 activities, and associated range capabilities and
12 enhancements within the Virginia CAPES, hereinafter
13 VACAPES, Range Complex.
14 The purpose of the proposed action is as
15 follows: One, to achieve and maintain Fleet
16 readiness using the VACAPES Range Complex to support
17 and conduct current, emerging, and future training
18 operations and RDT&E operations; two, expand warfare
19 missions supported by the VACAPES Range Complex; and
20 thirdly, upgrade and modernize existing range
21 capabilities to enhance and sustain Navy training
22 and RDT&E.
23 I'm going to begin by thanking each of you
24 for attending this hearing tonight. I should think
25 there's no greater example of citizenship.

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1 I am Commander John Maksym, and my role is
2 to serve as the hearing officer for this public
3 hearing. In order to ensure everyone present can
4 hear me and understand what is going about before
5 us, respect for your fellow citizens who will be
6 speaking tonight, I should ask everyone to please
7 take a moment to ensure that your cell phones are
8 secured or in a silent mode.
9 I'm a member of the Judge Advocate
10 General's Corps of the United States Navy. Much
11 more importantly, I'm the Deputy Chief Judge of the
12 Navy/Marine Corps Trial Judiciary. I've been
13 assigned by the Chief Judge of the Navy/Marine Corps
14 Trial Judiciary, my boss in Washington, D.C., to
15 preside over this public hearing. I am not and have
16 never been affiliated in any way, shape or form with
17 the Department of the Navy's evaluation of the
18 potential environmental impact associated with the
19 proposed action I previously described to you. In
20 short, I am a felony trial judge. That's what I am.
21 So I want to make that very clear. I've been on the
22 bench for about seven years now, and that's all I
23 do, until they sentence me to the Court of Appeals
24 at the end of this month.
25 All right. As a sitting military judge,

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1 I'm required to remain and in fact am neutral and to
2 act impartially on all matters under my cognizance.
3 I take an oath to that effect, did seven years ago,
4 which includes this hearing. My job here tonight is
5 straightforward and, all rather simplistic, is to
6 ensure that we have a fair, orderly and impartial
7 hearing consistent with the tenets of the National
8 Environmental Policy Act, or NEPA as it's known to
9 most. All who wish to provide comments will have
10 the opportunity to do so. I shall ensure that that
11 will happen.
12 I expect there to be a wide range of
13 comments expressed this evening, and I ask that we
14 treat each other with the utmost courtesy and
15 respect. I should think nothing else could be
16 excepted.
17 Throughout this hearing, I ask that you
18 keep in mind that this is not a debate or town hall
19 type presentation or debate. It is not a popularity
20 vote on the DEIS/OEIS, hereinafter referred to as
21 the document and the alternatives described therein,
22 nor is it a hearing in question -- in a question or
23 answer format. So a little tedious bit of
24 administrative issue for everyone's consideration.
25 If you choose to speak, there's an

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1 administrative process to that. Those of you who
 2 have signed up to do so know how to do that already.
 3 You put a card together, and you're able to speak.
 4 You're going to speak just as you would if you were
 5 in my courtroom and you were one of my counsel.
 6 You're speaking to me to this process. It's not a
 7 place for speech giving to the citizenry at large.
 8 You're addressing your concerns.
 9 This public hearing provides an
 10 opportunity to express your views on the adequacy or
 11 indeed inadequacy of the document and to have these
 12 comments made a part of the official record. This
 13 hearing is part of the official record.
 14 In order to orient those attending who
 15 might not be entirely familiar with the document,
 16 this public hearing will begin with a brief
 17 introduction by two Department of the Navy
 18 representatives; Mr. David Noble, U.S. Fleet Forces
 19 Command in Norfolk, Virginia, and Commander Paul A.
 20 Beckley, Commanding Officer of the Fleet Area
 21 Control and Surveillance Facility of Virginia CAPES.
 22 These gentlemen will present information concerning
 23 the purpose and need for the proposed action and the
 24 three alternatives analyzed in the document. The
 25 briefing takes -- the briefing by these gentlemen

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1 environmental impacts identified under the proposed
 2 action and the alternatives.
 3 We ask that you focus your comments on
 4 environmental issues. Nonenvironmental issues will
 5 take time away from those who came to comment on the
 6 analysis of environmental concerns, and comment
 7 on -- and comments on nonenvironmental issues will
 8 not add to the adequacy of the analysis used in the
 9 final EIS. I might also ask -- add that as an old
 10 trial judge up here, I've been doing this for a very
 11 long time. I will rule them out of order, and we
 12 will move along. As I said earlier, it's my job to
 13 ensure that each of you has an equal opportunity to
 14 speak. The Navy representatives will not be allowed
 15 to respond to your comments, and that is important
 16 to know.
 17 As I said earlier, this is not a debate.
 18 This is a hearing, and it's your opportunity to
 19 speak. I will enforce the individual time limits
 20 previously established of three minutes so that all
 21 who wish to speak will have an opportunity to do so.
 22 Please do not interrupt any speaker whether you
 23 agree or disagree with them. Interfering with a
 24 speaker will simply reduce the total amount of time
 25 allowed to those who desire to be heard by us this

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1 takes about 15 minutes and is required by statute as
 2 part of the National Environmental Policy Act
 3 process.
 4 Following the introductory presentation,
 5 we will begin hearing your comments on the document.
 6 This hearing is being held in accordance with the
 7 provisions of the National Environmental Policy Act,
 8 or NEPA, and the regulations that are published by
 9 the Council on Environmental Quality. The purpose
 10 of this hearing is to provide a public forum to
 11 summarize the results of the document, and more
 12 importantly, to receive your comments on the
 13 document. These comments will be part of the
 14 official record and will be considered in
 15 preparation for the final EIS/OEIS.
 16 Your comments and involvement in this
 17 hearing are very important to the decision-making
 18 process. Your input provides the decision-makers
 19 with the benefit of your knowledge of any
 20 environmental impacts that you might think might
 21 result from the proposed action.
 22 The hearing is a venue the Department of
 23 the Navy uses to gather your concerns, whether they
 24 are through oral or written comments, about the
 25 adequacy of the environmental analysis and the

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1 evening. Similarly, applause or other outbursts
 2 will just simply take valuable time away from the
 3 speakers and will hamper me in trying to afford
 4 everyone a chance to speak this evening.
 5 This hearing is scheduled to adjourn at
 6 21:00, 9:00. If necessary, I will not consider the
 7 time taken by the Navy representatives for the
 8 presentation to count against the full two-hour
 9 hearing time. In short, if I have more folks that
 10 want to be heard from, by the evidence, they'll be
 11 heard from. I'll allow additional time for the
 12 period available for everyone to speak. In other
 13 words, you'll have the full two-hour time allotted
 14 and noted and giving notice to you of in the Federal
 15 Register.
 16 If after everyone who desires to speak has
 17 had an opportunity to do so and there's still time
 18 left, I'll permit speakers to use additional time to
 19 continue to expand upon their earlier comments,
 20 again, observing the three-minute time limit I've
 21 already articulated to you.
 22 If you desire to speak, the stenographer
 23 will record your comments. You're also encouraged
 24 to continue your comments or elaborate upon them
 25 through written submissions which will become, as

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1 with your comments, part of the record. If you do
 2 not wish to speak at this public hearing but you
 3 have comments that you would like to have made part
 4 of the public record, I encourage you to submit
 5 those comments in writing. There are a number of
 6 ways available for you to do so as indicated on the
 7 projection screen aside me.

8 First, you may submit your comments
 9 tonight at the comment table. You may submit your
 10 comments online via the web site at
 11 <http://www.vacapesrangecomplexeis.com>.
 12 <http://www.vacapesrangecomplexeis.com>.
 13 As an additional alternative, you may fax
 14 your comments to (757)322-4894. That fax number
 15 again is (757)322-4894.

16 Finally, if you prefer, you may mail
 17 additional commentary to Naval Facilities
 18 Engineering Command, Atlantic, Attention, Code
 19 EV22ES, and in parentheses, (VACAPES -- all in
 20 caps -- EIS/OEIS PM) closed paren, 6506 Hampton
 21 Boulevard, Norfolk, Virginia 23508-1278. Written
 22 commentary will be accepted throughout the comment
 23 period which concludes on the 11th of August 2008.
 24 Comments made at the public hearings or provided in
 25 writing at any time during public comment period are

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1 speaker -- to the speaking area, which will be one
 2 at a time coming up is the way I'm going to do this,
 3 will also determine the order in which you provide
 4 your comments at the public hearing. At the
 5 conclusion of your comments, please return to your
 6 seat, and the speaker -- in your seat in the
 7 auditorium today.

8 After the first speakers who have filled
 9 out cards have made their comments, I will ask them
 10 to please return to their seats. I will then call
 11 the next speaker to come up to the staging area.
 12 It's important that you speak clearly and slowly so
 13 the court reporter, we'll call the stenographer, the
 14 stenographer for this evening's purposes can do her
 15 job. Please face the stenographer, which is very
 16 important, because the stenographer is taking down
 17 everything you say.

18 We're also going to ask that you state
 19 your full name, spell it so that it can be recorded
 20 exactly. In addition, please provide your state of
 21 residence. You don't need to provide any personal
 22 information such as your address. If you don't want
 23 any information published in the final EIS, I should
 24 recommend you not do that. If you're representing
 25 someone who -- or some group other than yourself,

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1 postmarked by August 11, 2008 will be given equal
 2 consideration. All comments, as I've indicated
 3 earlier, are part of the official record.
 4 Information is available at the comment table on all
 5 methods of submitting comments I have discussed.

6 When you arrived tonight, you should have
 7 signed in and received fact sheets. Also, you
 8 should have been asked to indicate if you wish to
 9 speak. Those who wish to speak signed speaker cards
 10 at the registration table. And speaker cards, of
 11 course, are available. The speaker cards will
 12 become part of the official record. Anyone who
 13 wishes to speak who has not yet signed a speaker
 14 card, please raise your hand and a member of the
 15 Navy staff will sign you up.

16 I will call speakers forward at -- I will
 17 call just a few speakers forward at a time to come
 18 in. And I've just been given the card for the first
 19 speaker. Any elected officials who choose to
 20 comment will be given an opportunity to speak first,
 21 followed by officials representing government
 22 organizations. Members of the public will then be
 23 called up in the order in which they signed up to
 24 speak.

25 The order in which I call speakers to the

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1 please state that as well as providing your general
 2 address of the group and organization.

3 Each person will be allotted three minutes
 4 to speak, as indicated earlier. This applies to
 5 everyone; public officials, spokespersons and
 6 individuals. You do not have to speak for the
 7 entire three minutes. However, if you choose to
 8 speak for the three minutes, a green card will be
 9 raised when there's one minute remaining; a yellow
 10 card will be raised when there's 30 seconds
 11 remaining to give you a cue that you only have 30
 12 seconds to wrap up your comments. When your three
 13 minutes has ended, a red card will be raised. At
 14 that point, please end your statement.

15 Out of respect for others who would like
 16 to make comments, I ask that you please honor the
 17 time restriction. And any request that I might have
 18 for you to stop speaking, it should not exceed the
 19 time limit. In other words, I'm going to give you a
 20 few seconds longer because I get to do that. But
 21 please respect your fellow citizens who want to
 22 speak.

23 Now, if you have more comments to make
 24 after you have finished your additional commentary
 25 and there's no other speakers, of course, you're

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1 going to be able to chat with us again if you choose
 2 to. If you don't have the opportunity to voice all
 3 your comments, you can and should submit them in
 4 writing. I can't overemphasize that fact of the
 5 myriad of options that we're placing before you to
 6 allow you to communicate with the Navy on this
 7 issue.

8 I will now turn the floor over to the Navy
 9 representative, Mr. David Noble, from the United
 10 States Fleet Forces Command in Norfolk, Virginia.
 11 Mr. Noble.

12 MR. NOBLE: Good evening, and welcome to
 13 tonight's public hearing on the Navy Virginia CAPES,
 14 also known as VACAPES, Range Complex Draft
 15 Environmental Impact Statement, also an Overseas
 16 Environmental Impact Statement.

17 I'm David Noble with U.S. Fleet Forces
 18 Command, and I want to thank you on behalf of the
 19 United States Navy for attending this hearing
 20 tonight.

21 I would like to introduce Commander Paul
 22 Beckley who is Commanding Officer for FACSFAC
 23 VACAPES. That's the Navy's Airspace Operating
 24 Control Facility at Naval Air Station Oceana in
 25 Virginia Beach.

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1 the operational issues.

2 COMMANDER BECKLEY: Thank you, David.
 3 Thank you to everybody for showing up tonight as
 4 well. I concur with what the Judge said. There's
 5 no greater example of citizenship. You say
 6 something impressive about yourself just by showing
 7 up, so thank you.

8 The VACAPES Range Complex geographically
 9 encompasses offshore, near shore and onshore
 10 operating areas, ranges in Special Use Airspace
 11 adjacent to the coast of Delaware, Maryland,
 12 Virginia, and North Carolina. In addition to the
 13 VACAPES Range Complex, this Draft EIS/OEIS analyzed
 14 Navy training in the lower portion of the Chesapeake
 15 Bay. The EIS study area also includes the area from
 16 the mean high tide line seaward to the
 17 three-nautical-mile western boundary of the OPAREA.

18 The nature of modern warfare security
 19 operations has become increasingly complex. Threats
 20 are global, and the tactics, weapons and forces
 21 facing U.S. Military range from simple to extremely
 22 sophisticated. To effectively counter the wide
 23 range of threats, Naval Forces is bringing together
 24 thousands of Sailors and Marines, their equipment,
 25 vehicles, ships and aircraft and often other U.S.

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1 Also on my right is Shane Guan who is from
 2 National Marine Fisheries Service in Washington,
 3 D.C., and National Marine Fisheries Service is our
 4 cooperating agency on this document.

5 The VACAPES Range Complex Draft
 6 Environmental Impact Statement/Overseas
 7 Environmental Impact Statement, from now on I will
 8 refer to that as the document.

9 As part of a larger program where the Navy
 10 will manage its training on broad geographic areas,
 11 this document looks at all the training activities
 12 occurring in the VACAPES Range Complex. The
 13 document does not propose major changes to
 14 operations in training; rather, the document covers
 15 small-scale but critical enhancements.

16 One element of this larger program is the
 17 environmental planning documentation, and that's the
 18 document -- one of the documents that we're
 19 discussing tonight.

20 This document has been prepared in
 21 accordance with several environmental laws and
 22 regulations, some of which are listed on this slide.
 23 And we'll talk more about this later.

24 Right now, I would like to turn it over
 25 briefly to Commander Beckley to talk about some of

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1 services or coalition partners, all of which need to
 2 work together as a cohesive team to achieve success.
 3 Therefore, the purpose of the proposed action is to
 4 train U.S. Navy Sailors according to the training
 5 requirements and allow them to maintain proficiency.

6 The Navy's mandate for training is found
 7 in Title 10 of the U.S. Code 5062, Section 5062.
 8 This law requires the Navy to be organized, trained
 9 and equipped primarily for prompt and sustained
 10 combat incident to operations at sea. And the
 11 proposed action is to support and conduct current,
 12 emerging and future training operations.

13 Some examples of types of training that
 14 are conducted in the VACAPES Range Complex are mine
 15 warfare exercises, gunnery exercises, bombing
 16 exercises, missile exercises, air combat maneuvers
 17 and vessel movement. Three alternatives have been
 18 analyzed in this document, each of which meets the
 19 Navy's purpose and need.

20 And I'll now turn the remainder of the
 21 presentation back over to David Noble who will
 22 discuss the alternatives and the results of the
 23 document. Thank you.

24 MR. NOBLE: As Commander Beckley stated,
 25 the Navy examined three alternatives in the

<p style="text-align: right;">Page 17</p> <p>1 document. The No Action Alternative where the 2 continuing action provides for current levels of 3 operations. This means training operations and 4 major range events would continue at the same level 5 and locations as they are today. 6 Under Alternative 1, the Navy proposes to 7 increase training from current levels by 10 percent 8 for most operations to accommodate national security 9 contingencies and provide the flexibility for 10 training exercises. This alternative also provides 11 for the expansion of warfare missions. This means 12 the Navy proposes to use the VACAPES Range Complex 13 for preparing new configurations of surface ships, 14 aircraft, special forces, and Marine units -- Marine 15 Corps units for deployment. 16 The global war on terror has brought 17 increased request for rapid short-term Navy support 18 for maritime interception, homeland defense, 19 information operations and special operations. 20 Smaller groups can adequately respond to these 21 contingencies if properly configured and trained. 22 Alternative 1 also includes four 23 structured changes such as an increase in the MH-60S 24 helicopters and the associated training with them. 25 Alternative 2 is the Navy's preferred</p>	<p style="text-align: right;">Page 18</p> <p>1 alternative. In addition to the components of 2 Alternative 1, the Navy proposes to designate 3 instrumented mine warfare training areas, also to 4 further increase operations to cover activities that 5 would occur in those mine warfare training areas, 6 and reduction of live bombing exercises in the 7 OPAREA. 8 Twenty resources and issues were described 9 and analyzed in this document. Among others, these 10 include air quality, water quality, marine mammals, 11 sea turtles, fish, birds and socioeconomics 12 including recreational and commercial fishing. 13 The Navy used a screening process to 14 identify and evaluate aspects of the proposed action 15 that could act as stressors to these resource areas, 16 and those stressors included vessel movements, 17 aircraft overflights, the towed mine warfare 18 devices, temporary mine shapes, which will be 19 recovered, nonexplosive practice munitions, 20 underwater detonations with high explosive ordnance, 21 as well as expended materials from these operations. 22 The acoustic analysis focused on potential 23 effects to marine mammals, sea turtles and fish from 24 explosives. In addition, the impacts to fish were 25 determined to be minimal. Fish may exhibit a</p>
<p style="text-align: right;">Page 19</p> <p>1 behavioral response, but the response is likely to 2 be short term and biologically insignificant. 3 Furthermore, any effects from the use of explosives 4 would not result in a significant impact to the 5 population as a whole. 6 Based on the review of the literature and 7 our findings of potential effects to marine species, 8 the analysis focused on marine mammals including 9 whales, dolphins and seals, as well as sea turtles. 10 The nonacoustic analysis mainly focused on 11 potential effects as a result of the expended 12 training materials and disruptions to commercial and 13 civilian activities and vessel movements. The Navy 14 concluded that there would be no significant impact 15 to territorial waters under the National 16 Environmental Policy Act or significant harm in 17 nonterritorial waters under Executive Order 12114 18 from these stressors. 19 The Navy also concluded that there would 20 be no adverse impact in territorial waters to 21 essential fish habitat. 22 The Navy is consulting with National 23 Marine Fisheries Service for anticipated harassment 24 to marine mammals. The Navy is also consulting with 25 the National Marine Fisheries Service and U.S. Fish</p>	<p style="text-align: right;">Page 20</p> <p>1 and Wildlife Service for species protected under the 2 Endangered Species Act. 3 In addition to a significant reduction of 4 live bombing exercises, the Navy will also implement 5 a mitigation plan to further reduce potential for 6 harassment of marine resources. For example, the 7 Navy will continue to use lookouts during, before, 8 during and after exercises using explosives. Navy 9 lookouts are highly trained in spotting objects in 10 the water and also receive marine species awareness 11 training, many of which you've seen on the video 12 over on the computer here. 13 This training addresses the lookout's role 14 in environmental protection and includes general 15 observation information including more detailed 16 instruction for spotting marine mammals. It has 17 been reviewed by the National Marine Fisheries 18 Service and is considered suitable training for our 19 lookouts. If marine mammals or sea turtles are 20 seen, the exercise will be suspended or relocated. 21 For the North Atlantic right whale, Navy 22 vessels would also practice increased vigilance to 23 avoid vessel interactions during winter and spring 24 months when they are likely to be present. Vessels 25 will not approach whales head on and will not</p>

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1 approach within 500 yards. The Navy will also
 2 report sightings and reduce speed in the southeast
 3 critical habitat.
 4 The Navy is developing an integrated,
 5 comprehensive monitoring program for marine species
 6 in order to assess the effects of training
 7 activities on marine species, and investigate
 8 population trends in marine species distribution and
 9 abundance in various range complexes and geographic
 10 locations where Navy training occurs.
 11 The monitoring program will serve as the
 12 basis for establishing implementation plans for
 13 those training activities. These exercise specific
 14 implementation plans will describe the most
 15 effective, logistically and financially feasible
 16 means to monitor training events. The primary tools
 17 available for monitoring are listed here.
 18 The Navy has funded \$26 million in 2008
 19 towards marine mammal research. For the past
 20 several years, the Navy has provided ten to
 21 14 million per year to universities, research
 22 institutions, federal laboratories, private
 23 companies and independent researchers around the
 24 world to study marine mammals. In addition, the
 25 Navy sponsors approximately 70 percent of all U.S.

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1 research concerning the effects of human generated
 2 sound on marine mammals and approximately 50 percent
 3 of such research conducted worldwide. Major topics
 4 of Navy supported research are included on this
 5 slide.
 6 This slide concludes our presentation on
 7 the information and analysis contained in the
 8 document.
 9 Now, I would like to go to the schedule.
 10 Now, I would like to discuss the future
 11 steps and the process related to the project.
 12 This slide outlines the schedule beyond
 13 the release of the Draft document which is what
 14 you're seeing here today. A key characteristic of
 15 the entire process is the public's opportunity to
 16 comment. Four public hearings, including this one,
 17 are being held throughout this week. Your comments
 18 on the Draft document will be addressed in the final
 19 EIS/OEIS.
 20 The final step is the decision phase. A
 21 decision will not be made until at least 30 days
 22 after distribution of the final EIS/OEIS. This
 23 decision will be summarized and published as a
 24 record of decision in the Federal Register in April
 25 of 2009 under our current proposed schedule.

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1 That's all the comments I have. Thank
 2 you.
 3 JUDGE MAKSYM: Thank you ever so much.
 4 We'll now commence with our speakers this
 5 evening. First card I have before me is -- and I
 6 apologize, sir, to you -- the writing here is
 7 H-A-V-E-G-E-R.
 8 MR. HAVEGER: That's correct.
 9 JUDGE MAKSYM: Sir, if you could
 10 identify yourself, and we'll proceed. Thank you.
 11 MR. HAVEGER: Yes, sir. My name is
 12 Steven Haveger. At the moment, I'm the chairman of
 13 the Eastern Shore Defense Alliance.
 14 I've never done this before, Commander,
 15 and having heard your explanation of the process, I
 16 think I'm going to withdraw my request to speak. I
 17 was going to speak to the operational component.
 18 My experience, 24 years at Wallops Island,
 19 using the VACAPES OPAREA to do vital and critical
 20 work for the ships of the fleet, and the economic
 21 value that the activities of Wallops provides to
 22 Worcester County, Wicomico County and Accomack are
 23 apparently not germane to the process.
 24 JUDGE MAKSYM: Well, if you draw a nexus
 25 between none and the environmental impact, I'll

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1 permit you to speak because I don't want to close
 2 anyone down here.
 3 MR. HAVEGER: Thank you. My experience,
 4 24 years at Wallops Island working for the Navy, we
 5 have created a command there of 450 high-tech, clean
 6 jobs, and invested about three-quarters of a billion
 7 dollars worth of equipment there at Wallops Island
 8 to support the current and future ships of the Navy.
 9 As the Navy -- as the other forces in
 10 America become more interwoven, more network century
 11 dependent on one another, we need larger and larger
 12 spaces with more and more resources; ships,
 13 aircraft, satellites. And therefore, maintenance of
 14 the current operations is vital, and the preferred
 15 alternative is certainly a step in the right
 16 direction to improve the total force connectivity of
 17 the modern and future Navy.
 18 In 19 -- 2003, the Eastern Shore Defense
 19 Alliance commissioned the business school at
 20 Salisbury University to conduct an economic value
 21 study of the command at Wallops Island. This was in
 22 preparation for possible BRAC defense for the base.
 23 And it was determined by the business school at
 24 Salisbury University that the -- just the Navy --
 25 now, NASA is much bigger than the Navy, but this is

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1 about Navy -- the Navy activity contributes about
 2 \$100 million annually to the Eastern Shore economic
 3 impact; about 50 million of that falls into Accomack
 4 County because that's where the base is located and
 5 most of the military housing is located. But
 6 25 million a year flows into Worcester County. I've
 7 lived in Pocomoke for 24 years. And about
 8 25 million a year flows into Wicomico County, mostly
 9 housing and shopping. So the sustainment of that
 10 economic value over the last 20 years is important
 11 to -- to be maintained into the future. And I would
 12 support the preferred alternative.

13 JUDGE MAKSYM: Thank you ever so much,
 14 sir. I appreciate it.

15 The next individual wishing to be heard
 16 from. We'll open the proceeding up to private
 17 citizens now. Any private citizens that would like
 18 to make their views known or express comments are
 19 invited to do so.

20 MR. McCLURE: Do you have copies of your
 21 studies of the acoustical research you have that
 22 doesn't disturb the highly migratory fish?

23 JUDGE MAKSYM: Sir, I'm going to need
 24 you -- if you would like to speak, which I'm more
 25 than pleased to have you do, I need you to fill out

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1 migratory species.

2 I didn't get a chance to talk to your
 3 environmentalist to say that that doesn't matter,
 4 but I would just like to give you my personal
 5 experience that it seemed to matter from what I've
 6 seen and heard on the radio. And I really think
 7 that the fire, the acoustics can cause the fish to
 8 take different routes to migrate. You know, just
 9 because whales can hear a hundred miles or hundreds
 10 of miles doesn't mean it can bother tuna or other
 11 migratory species, but it might.

12 You know, that's mostly what I have to
 13 say.

14 As I was sitting here, I was in the Air
 15 Force, they used to bomb the land, you know, which I
 16 would think the Navy could also bomb the land and
 17 get your accuracy unless you're trying to bomb --
 18 see what the effect is on other vessels, and I guess
 19 you need it on the water. Maybe some of your fire
 20 for accuracy can be done on the land and not bother
 21 the fish. That's basically it.

22 JUDGE MAKSYM: Thank you, sir. Thank
 23 you, Mr. McClure, for your comments. And on a
 24 private note, thank you for your service in the Air
 25 Force.

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1 a speaker's card, and then we'll, of course, give
 2 you the floor. We'll provide you with one of those.

3 Any other speaker cards that have been
 4 prepared so I could summons someone at this time?
 5 For everyone's edification, in the
 6 National Register -- Federal Register listed the
 7 commentary period as running two hours. That's what
 8 it's going to run, you see. Now --

9 Thank you. Mr. McClure from Delaware.

10 MR. McCLURE: Hi. My name is Tom
 11 McClure, as I said. I don't have any research other
 12 than what I heard that -- and what I've done is, I
 13 know -- let's see, four years ago there were a lot
 14 of tuna and other highly migratory species off of
 15 Ocean City and Indian River.

16 On the radio I heard them say not to be in
 17 these areas because there's Navy live fire going on.
 18 And it must have been within 15 miles of, say, an
 19 area known as the Hot Dog for me to hear it on my
 20 radio. So it's probably more than just the Norfolk
 21 Canyon or the Washington Canyon.

22 But each year since four years ago, the
 23 tuna population seems to have gone down. This year
 24 I didn't hear of any Navy live fire, and the tuna
 25 fishing seems to be better, as well as other

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1 We'll now hear from Mr. John B. Stewart.
 2 Mr. Stewart.

3 MR. STEWART: Hello. I live at Ocean
 4 View, Delaware. My only real concern is -- I really
 5 like the presentation, and everything is pretty
 6 straightforward.

7 The only thing I don't see many comments
 8 on is this low frequency sonar. I would like to see
 9 some data on what's being done. From what I've read
 10 and what I've heard, it's very dangerous to the
 11 mammals. And I would like to know what the Navy
 12 depends -- what they decide that they're going to do
 13 with that kind of sonar. That's my only concern. I
 14 would like that to be considered, and maybe a little
 15 bit more information on that in the next
 16 presentation. Thank you.

17 JUDGE MAKSYM: Thank you, Mr. Stewart.
 18 I appreciate it.

19 We'll hear from Mr. Clark of Delaware.
 20 Mr. Clark.

21 MR. CLARK: My name is Eric Clark. I'm
 22 in the Merchant Marines. We bring lots of oil to
 23 the East Coast daily, yearly. We do a lot of
 24 ship-to-ship live ring operations bringing crude oil
 25 into the U.S.

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1 Speaking with Commander Beckley, it was --
 2 the amount of time that we might be given to know
 3 when an operation is going to take place, notice of
 4 mariners publications, possibly could be short when
 5 communicating that to the international U.S. --
 6 international tankers coming into the U.S.
 7 Obviously, if there's guns being fired and missiles,
 8 bombs, torpedoes, those are a real concern for our
 9 operation.
 10 We typically work between 30 and 50 miles
 11 offshore, and we move into the Delaware Bay sector
 12 near 700,000 barrels a day. I would ask for -- you
 13 stated possibly it was a minimum of three days'
 14 notification prior to the commencement of an
 15 operation. From the commercial side, I think that's
 16 too short for us to respond adequately. Obviously,
 17 on radios we listen and we maneuver accordingly, but
 18 for planning, the scope is much larger when you
 19 bring that much crude into the U.S. if you have to
 20 deviate from areas of water which you typically work
 21 for swell reasons, right whales, things that are
 22 happening offshore, cap -- port zones.
 23 Again, my comment being, the notice of
 24 mariners, if the time could be lengthier than the
 25 minimum with regards to the northern areas being

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1 encourage anyone that wants to speak to speak.
 2 This is Mr. Richard Meehan, I believe.
 3 Mr. Meehan from Ocean City, Maryland. Sir.
 4 MAYOR MEEHAN: Correct. For the record,
 5 I'm the Mayor of Ocean City, Maryland.
 6 JUDGE MAKSYM: Your Honor, welcome.
 7 MAYOR MEEHAN: Thank you. Thank you for
 8 being here this evening and for holding this public
 9 hearing.
 10 I am a little concerned that we don't have
 11 a large turnout this evening. And I would only
 12 suggest that maybe that is because notification
 13 wasn't sufficient or just wasn't out there enough to
 14 get people here. I know anytime somebody has a
 15 concern about that or something, they'll say, "Oh, I
 16 didn't know about it." I don't think that's the
 17 case. I think there's a lack of participation,
 18 particularly from the local fishing industry, and it
 19 can only be my conjecture that they don't know this
 20 hearing was taking place. So maybe, as always, we
 21 need to do a better job just to inform the public so
 22 we can get them out here, which is the purpose of
 23 the hearing, so that we don't have to take a
 24 20-minute recess. So hopefully we can improve upon
 25 that as all government tries to do.

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1 nominated, Delaware Bay being the second largest oil
 2 port in the U.S. Thank you.
 3 JUDGE MAKSYM: Thank you ever so much,
 4 Mr. Clark. And again, thank you for your service to
 5 the greatest Merchant Marine in the world.
 6 Any other questions or comments that
 7 anyone would like to place on the record at this
 8 time?
 9 All right. Going once, going twice, but
 10 really not gone because what we're going to do is, I
 11 simply am going to hold the hearing into a degree of
 12 abeyance for 20 minutes and put us in a state of
 13 recess. If during that period of time anyone has
 14 additional comments they would like to make, they
 15 just have to fill out a card. The staff here will
 16 collect those records. We'll come back up to home
 17 plate at 20 minutes from now, and we'll hear the
 18 comments of our fellow citizens that will have
 19 been -- we have a nominee. So we're going to hold
 20 off to my much vaunted recess for just a moment.
 21 When I really do -- I have to pony in
 22 this -- in the pokey, as it were, right here. I
 23 know about as much about this as you do. I reviewed
 24 it for the first time today. I met all these
 25 gentlemen for the first time today. So I really do

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1 From what I've talked to from the
 2 individuals at the different stations tonight, it
 3 doesn't appear that what's being proposed,
 4 specifically in the alternative to, really changes
 5 much of what's happening already today. Increases
 6 it to some degree in some capacities and maybe
 7 lessens it in others.
 8 As one gentleman I was listening to speak
 9 to some of these individuals tonight, basically made
 10 the statement, "Well, really, it's just that we
 11 didn't know it was happening before. Now we're
 12 aware of it." And maybe that's good because it
 13 gives us the opportunity to improve communications.
 14 And I think we all know that's one of the most
 15 important things we can do is communicate with each
 16 other. Let everybody know what's happening. I
 17 think anything we can do to improve communications
 18 with the public and the commercial fishing industry
 19 about the times that these different operations are
 20 going to take place would be very beneficial.
 21 We also are concerned about the migratory
 22 track of species in the Atlantic. We're also
 23 concerned about the fishing industry in the Ocean
 24 City area, both recreational and commercial. Large
 25 tournaments are held off the coast of Maryland,

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1 Delaware and Virginia. We need to work together so
 2 we don't disrupt each other.
 3 I know minor disruptions have taken place
 4 in the past, probably make it difficult for all
 5 concerned. So again, communication to try to make
 6 sure that doesn't happen I think will be beneficial
 7 to all.
 8 And also, the further offshore you are,
 9 the better off we all are. Fishing, once you get to
 10 about a hundred miles offshore, that's a long trip
 11 and it doesn't usually take place, particularly in
 12 the recreational community. So anything we can do
 13 to move it further in that direction I think
 14 certainly would probably limit the disruptions that
 15 take place for the fisherman and for the operations
 16 as well.
 17 Your services are very important to our
 18 country. What you're doing is very important. We
 19 support your efforts to do that. Thank you.
 20 JUDGE MAKSYM: Mr. Mayor, thank you.
 21 Any other comments at this juncture? Very
 22 well. Stand in recess for 20 minutes.
 23 (Whereupon, a recess was taken.)
 24 JUDGE MAKSYM: If everyone could take
 25 their seat, please. Okay. We're back on the record

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1 none of our fellow citizens asking to be recognized
 2 at this point, I'm keeping the record open until
 3 exactly 21:00 hours at which time I will then close
 4 these proceedings.
 5 The time now being 21:00 hours. The time
 6 exhausted, that being the time having been set forth
 7 and published in the Federal Register of the United
 8 States, these proceedings are now closed.
 9 (Whereupon, the public hearing concluded at 9:00
 10 p.m.)
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1 in our public hearing. I would, again, invite any
 2 individuals who wish to be heard to come forward and
 3 submit speaker cards so that their concerns might be
 4 addressed via the record where they otherwise might
 5 be heard from. Any individuals who have not yet
 6 spoken that wish to speak at this public hearing?
 7 Anyone at all?
 8 All right. Here's what we're going to do,
 9 then. I'm going to, again, recess the hearing until
 10 five minutes before the hour of 9:00, at which time
 11 we will, again, consider any matters any citizen
 12 wants to bring forward. Before I do that, again,
 13 any individual who would like to be heard at this
 14 juncture?
 15 All right. We stand in recess until
 16 20:55.
 17 (Whereupon, a recess was taken.)
 18 JUDGE MAKSYM: The hearing will come
 19 back to order. I, again, ask if there's any members
 20 of the public who wish to address the hearing at
 21 this point, they're welcome to do so. All you need
 22 to do is see the very loyal staff here who will have
 23 you fill out a speaker card and we'll move along
 24 smartly.
 25 If there are none, and there seem to be

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1 STATE OF MARYLAND
 2 WORCESTER COUNTY
 3 I, Kathy A. Zeve, a Notary Public and
 4 Registered Professional Reporter in and for the State
 5 of Maryland, do hereby certify that the PUBLIC HEARING
 6 was held before me at the time and place herein set
 7 according to law.
 8 I further certify that the Public Hearing
 9 was recorded stenographically by me and then
 10 transcribed from my stenographic notes to the within
 11 printed matter by means of computer-assisted
 12 transcription in a true and accurate manner.
 13 I further certify that the stipulations
 14 contained herein were entered into by counsel in my
 15 presence.
 16 I further certify that I am not of counsel
 17 to any of the parties, not an employee of counsel, nor
 18 related to any of the parties, nor in any way
 19 interested in the outcome of this action.
 20 AS WITNESS my hand and Notarial Seal this
 21 17th day of July, 2008, at Snow Hill, Maryland.
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PUBLIC HEARING #2

The second public hearing was held in Chincoteague, Virginia, at the Chincoteague Community Center, July 15, 2008. The public was invited to attend an open-house from 5-7 pm during which time the Navy displayed six poster stations on various information regarding the EIS/OEIS. Subject Matter Experts (SME) were present to answer questions. From 7-9 pm a formal hearing was held and public comments were solicited. No speakers from the general public made presentations. Twelve people attended the open house, the hearing, or both. One written comment was received during the meeting. The following pages are scanned copies of the sign-in sheets, speaker cards, comment forms, and transcript of the formal hearing.

Page 1

1
2 VACAPES RANGE COMPLEX DRAFT ENVIRONMENTAL IMPACT
3 STATEMENT/OVERSEAS ENVIRONMENTAL IMPACT STATEMENT
4 PUBLIC HEARING
5
6
7 Held on Tuesday, July 15, 2008, commencing
8 at 7:00 p.m., at the Chincoteague Community Center,
9 6155 Community Drive, Chincoteague, Virginia, before
10 Kathy A. Zeve, an RPR and Notary Public in and for
11 the Commonwealth of Virginia.
12
13 Reported by KATHY A. ZEVE, RPR
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Page 2

1 PROCEEDINGS
2 JUDGE MAKSYM: If I could have your
3 attention. Welcome to the public hearings on the
4 Navy's Draft Environmental Impact Statement, EIS,
5 Overseas Environmental Impact Statement, OEIS, the
6 Navy's proposed action in evaluating the potential
7 environmental impacts over a ten-year planning
8 horizon associated with Navy Atlantic Fleet training
9 Research, Development, Testing and Evaluation,
10 RDT&E, hereinafter, activities, and associated range
11 capabilities and enhancements within the existing
12 Virginia CAPES, hereinafter VACAPES, Range Complex.
13 The purpose for the proposed action is to:
14 One, achieve and maintain Fleet readiness using the
15 VACAPES Range Complex to support and conduct
16 current, emerging, and future training operations
17 and RDT&E operations; two, expand warfare missions
18 supported by the VACAPES Range Complex; and three,
19 to upgrade and modernize existing range capabilities
20 to enhance and sustain Navy training and RDT&E.
21 Let me begin by thanking each of you for
22 appearing here tonight. As I indicated at the
23 hearing yesterday evening, I can imagine no greater
24 contribution as a citizen than to come to one of
25 these entities to communicate with a government

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1 entity.
2 I am John Maksym. My role is to serve as
3 the hearing officer for this public hearing. In
4 order to ensure that everyone present can hear me
5 and understand what is going on and respect for your
6 fellow citizens who are going to be speaking this
7 evening, I ask everyone to take a moment now and
8 ensure your cell phones are secured or placed in a
9 silent mode.
10 I'm an Officer of the Judge Advocate
11 General's Corps of the United States Navy. More
12 importantly, I'm a member of the Navy's Judiciary,
13 Navy/Marine Corps Trial Judiciary. In fact, I'm the
14 Deputy Chief Judge of the Navy/Marine Corps Trial
15 Judiciary. The Navy/Marine Corps Trial Judiciary
16 lends a judge to preside over these hearings from
17 time to time.
18 I want to make something very clear at the
19 outset. I am not and have never been affiliated in
20 any way with the Department of the Navy's evaluation
21 of the potential environmental effects associated
22 with the proposed action I previously described to
23 you. Indeed, I read those for the first time
24 yesterday. I meet all these nice people appearing
25 here on behalf of the Fleet Forces Command

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1 yesterday.
2 As a sitting military judge, I'm required
3 to remain neutral and act impartially on all matters
4 under my cognizance which include this hearing. I
5 take a judicial oath to that effect. My job here
6 tonight is quite simple; to ensure that we have a
7 fair, orderly and impartial hearing consistent with
8 the tenets of the National Environmental Policy Act,
9 or NEPA. All who wish to provide comments will have
10 the opportunity to do so.
11 I expect there will be a wide range of
12 comments expressed this evening, and I ask that we
13 treat each other with courtesy and respect. I doubt
14 that will be an issue.
15 Throughout this hearing, I ask that you
16 keep in mind this is not an arena for debate. It is
17 not a popularity vote on the DEIS/OEIS, hereinafter
18 referred to as the document and the alternatives
19 described therein, nor is it a hearing in a question
20 or answer format, nor is it any kind of town format
21 or debate type process.
22 This public hearing provides an
23 opportunity to express your views on the adequacy or
24 indeed inadequacy of the document and to have those
25 comments made a part of the official record. This

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1 hearing is a part of the official record.
 2 In order to orient those attending who
 3 might not be entirely familiar with the document,
 4 this public hearing will begin with a brief
 5 introduction by two Navy representatives; Mr. David
 6 Noble, U.S. Fleet Forces Command in Norfolk,
 7 Virginia, and Commander Paul A. Beckley, Commanding
 8 Officer of the Fleet Area Control and Surveillance
 9 Facility of Virginia CAPES. These gentlemen will
 10 present information concerning the purpose and need
 11 for the proposed action and the three alternatives
 12 analyzed in the document. Their briefing will take
 13 15 minutes and is required by statute as part of the
 14 National Environmental Policy Act process.
 15 Following the introductory presentation,
 16 we will begin hearing your comments on the document.
 17 This hearing is being held in accordance with the
 18 provisions of the National Environmental Policy Act,
 19 or NEPA, and the regulations that are published by
 20 the Council on Environmental Quality. The purpose
 21 of this hearing is to provide a public forum to
 22 summarize the results of the document, and more
 23 importantly, to receive your comments on the
 24 document. These comments will be part of the
 25 official record, and it will be considered in

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1 The Navy representatives will not be allowed to
 2 respond to your comments, and that is important to
 3 know. Indeed, as articulated earlier by me, this is
 4 not a debate. This is a hearing, and it's your
 5 opportunity to speak.
 6 I will enforce the individual time limits
 7 previously established of three minutes so that all
 8 who wish to may have an opportunity to speak to us
 9 this evening. Please do not interrupt any speaker
 10 whether you agree or disagree with them.
 11 Interfering with a speaker will simply reduce the
 12 amount of time available for all those who desire to
 13 be heard. Likewise, applause or other outbursts
 14 will take valuable time away from the speakers and
 15 will hamper me in attempting to afford everyone a
 16 chance to speak.
 17 This hearing is scheduled to adjourn at
 18 9:00 p.m., 21:00. If necessary, I will not consider
 19 the time taken by the Navy representatives for the
 20 presentation to count against the full two-hour
 21 hearing time. I will allow additional time for the
 22 period available for individuals to speak. In other
 23 words, you'll have the full two-hour period time
 24 that is noted in the Federal Register.
 25 If after everyone who desires to speak has

Page 6

1 preparation of the final EIS/OEIS.
 2 Ladies and gentlemen, your comments and
 3 involvement in this hearing are very important to
 4 the decision-making process. Your input provides
 5 the decision-makers with the benefit of your
 6 knowledge of any environmental impact that you think
 7 might result from the proposed action.
 8 This hearing is a venue that the Navy uses
 9 to gather your concerns, whether they are through
 10 oral or written comments, about the adequacy of the
 11 environmental analysis and the environmental impacts
 12 identified under the proposed action and the
 13 alternatives.
 14 We ask that you focus your comments on
 15 environmental issues. Nonenvironmental issues will
 16 take time away from those who have come to comment
 17 on the analysis of environmental concerns, and
 18 comments on nonenvironmental issues will not add to
 19 the adequacy of the analysis used in the final
 20 EIS/OEIS. As long as there's a nexus between your
 21 comments on environmental and nonenvironmental
 22 issues, of course, I will permit you to address
 23 them.
 24 As I said earlier, it's my job to ensure
 25 that each of you has an equal opportunity to speak.

Page 8

1 had an opportunity to do so and there's time left, I
 2 will permit speakers to use additional time to
 3 continue to expand upon their earlier comments,
 4 again, observing the three-minute time limit.
 5 If you desire to speak, the stenographer
 6 will record your comments. We have a court reporter
 7 here. She's called a stenographer. And just like
 8 in my courtroom every day, it's the same kind of
 9 person that appears and takes everything down. I
 10 had the privilege of working with her yesterday.
 11 She's very good, and she'll take everything you have
 12 to say down. It will become part of the record
 13 because everything that happens tonight is, in fact,
 14 a part of the record.
 15 You're also encouraged to continue your
 16 comments or elaborate upon them through written
 17 submission. If you do not wish to speak at this
 18 public hearing but you have comments that you would
 19 like to have made part of the public record, I
 20 encourage you to submit those comments. There are a
 21 number of ways available for you to do so as
 22 indicated on the projection screen behind me.
 23 First, you may submit your written
 24 comments this evening at the comment table, or you
 25 may submit your comments online via the web site

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1 which appears behind me which is
 2 <http://www.vacapesrangecomplexeis.com>.
 3 As an additional alternative, you may fax
 4 your comments to (757)322-4894. Again, the fax
 5 number is (757)322-4894.
 6 Finally, if you prefer, you may mail
 7 additional comments to Naval Facilities Engineering
 8 Command, Atlantic, Attention, Code EV22ES, paren,
 9 all caps, (VACAPES EIS/OEIS PM) closed paren, 6506
 10 Hampton Boulevard, Norfolk, Virginia 23508-1278.
 11 Ladies and gentlemen, written comments
 12 will be accepted throughout the comment period which
 13 concludes on 11 August 2008. Comments made at all
 14 public hearings or provided in writing at any time
 15 during the public comment period are postmarked by
 16 11 August 2008 will be given equal consideration.
 17 All comments are part of the official record.
 18 Information is available at the comment table on all
 19 methods of submitting comments I have discussed.
 20 When you came in tonight, you should have
 21 signed in and received fact sheets. Also, you
 22 should have been asked to indicate if you wish to
 23 speak. Those who have said that they'd be
 24 interested in speaking this evening have signed
 25 speaker cards at the registration table like the

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1 speaker staging area.
 2 It's important that you speak clearly and
 3 slowly so the stenographer can do her duty. Please
 4 face the stenographer, which is very important,
 5 because the stenographer is taking down everything
 6 you say. And also because this is not a debate
 7 process. We're not trying to cater to an audience.
 8 We're simply trying to articulate our views so that
 9 the Navy can discern what those views might be.
 10 Just as in court, you should direct comments at the
 11 front of the room. That means at my desk.
 12 We're also asking that you state your full
 13 name, spell it so that we can record it correctly.
 14 In addition, please provide your state of residence,
 15 but don't provide any personal information in your
 16 comments such as your home address if you don't want
 17 that information to be published in the final EIS.
 18 If you're representing someone or some group other
 19 than yourself, please tell us the address of that
 20 group or organization.
 21 Each person will be allotted three minutes
 22 to speak. This applies to everyone; public
 23 officials, spokespersons for groups, and most
 24 notably, individual citizens. You do not have to
 25 speak for the full three minutes. However, if you

Page 10

1 ones that are up here on the desk. The speaker card
 2 will become part of the official record. Anyone who
 3 wishes to speak who has not yet signed a speaker
 4 card, please raise their hand and a member of the
 5 Navy staff will sign you up and get a sign-up card
 6 for you.
 7 I will call five speakers at a time to
 8 come forward. Elected officials who choose to
 9 comment will be given an opportunity to speak first,
 10 followed by officials representing government
 11 organizations. Members of the public will then be
 12 called up in the order in which they have signed up
 13 to speak this evening.
 14 When I ask for the first five speakers,
 15 all five should come forward and take a seat in the
 16 speaker staging area at the front of the room. The
 17 order in which I call speakers to the speaker
 18 staging area will also determine the order in which
 19 you provide your comments at this public hearing.
 20 At the conclusion of your comments, please return to
 21 your seat in the speaker staging area.
 22 After the first five speakers have
 23 completed their comments, I will ask them to please
 24 return to their seats in the audience. I will then
 25 call the next five speakers to come up to the

Page 12

1 do choose to speak for the three minutes, a green
 2 card will be raised when there's one minute
 3 remaining; a -- actually, a yellow card will be
 4 raised when there's one minute remaining; a green
 5 card will be raised when there's 30 seconds
 6 remaining; and then there's a red stop card. When
 7 you see the red stop card, please wrap up your
 8 comments.
 9 Out of respect for others who wish to make
 10 comments, I ask that you please honor the time limit
 11 and any request that I might have for you to stop
 12 speaking should you exceed the time limit. If you
 13 think you will have more comments than you have
 14 time, I invite you to make the most out of the time
 15 allotted by citing your most important comments
 16 first.
 17 Once again, as I've stated earlier, you
 18 can follow-up on your oral comments with written
 19 comments, and I encourage you to do so. If you
 20 don't have the opportunity to voice all your
 21 comments, you can and should submit them in writing.
 22 I can't overemphasize that fact. In addition, if we
 23 should run out of speakers, I'll then give speakers
 24 who have already spoken another chance to articulate
 25 their views if they haven't finished the first time

<p style="text-align: right;">Page 13</p> <p>1 satisfactorily. 2 I will now turn the floor over to the Navy 3 representative, Mr. David Noble, from the United 4 States Fleet Forces Command in Norfolk, Virginia. 5 Mr. Noble. 6 MR. NOBLE: Thank you, sir. 7 Good evening, and welcome to tonight's -- 8 I'll try that. Good evening, and welcome to -- 9 thanks for coming. 10 Welcome to tonight's public hearing on the 11 Navy's VACAPES Range Complex Draft Environmental 12 Impact Statement and Overseas Environmental Impact 13 Statement. 14 I'm David Noble with U.S. Fleet Forces 15 Command, and I want to thank you on behalf of the 16 United States Navy for attending this hearing 17 tonight. 18 I would like to introduce Commander Paul 19 Beckley who is Commanding Officer for the Navy's 20 Airspace and Operating Control Facility at Naval Air 21 Station Oceania in Virginia Beach. 22 On my right also is Shane Guan from the 23 National Marine Fisheries Service who is the 24 cooperating agency on this document. 25 The VACAPES Range Complex Draft</p>	<p style="text-align: right;">Page 14</p> <p>1 Environmental Impact Statement/Overseas 2 Environmental Impact Statement, from here on will be 3 referred to as the document. 4 As part of a larger program where the Navy 5 will manage its training on broad geographic areas, 6 this document looks at all the training activities 7 occurring in the VACAPES Range Complex. The 8 document does not propose major changes to 9 operations in training; rather, the document covers 10 small-scale but critical enhancements. 11 One element of this larger program is the 12 environmental planning documentation. This Draft -- 13 that's what we're discussing tonight. 14 This document has been prepared in 15 accordance with several environmental laws and 16 regulations, some of which are listed on this slide. 17 As Commander Beckley stated, the Navy 18 examined three alternatives -- I'm sorry. Let me 19 pass that to you. I'm getting ahead of myself. 20 COMMANDER BECKLEY: Thank you for the 21 introduction. Can everybody hear me? All right. 22 You can put the microphone back. 23 The VACAPES Range Complex geographically 24 encompasses offshore, near shore and onshore 25 operating areas, ranges in Special Use Airspace</p>
<p style="text-align: right;">Page 15</p> <p>1 adjacent to the coast of Delaware, Maryland, 2 Virginia, and North Carolina. In addition to the 3 VACAPES Range Complex, this Draft EIS/OEIS analyzed 4 Navy training in the lower portion of the Chesapeake 5 Bay. The EIS study area also includes the area from 6 the mean high tide line seaward to the 7 three-nautical-mile western boundary of the OPAREA. 8 The nature of modern warfare security 9 operations has become increasingly complex. Threats 10 are global, and the tactics, weapons and forces 11 facing U.S. Military range from simple to extremely 12 sophisticated. To effectively counter the wide 13 range of threats, Naval Forces bring together 14 thousands of Sailors and Marines, their equipment, 15 vehicles, ships and aircraft and often other U.S. 16 services or coalition partners, all of which need to 17 work together as a cohesive team to achieve success. 18 Therefore, the purpose of the proposed action is to 19 train U.S. Navy Sailors according to training 20 requirements and allow them to maintain proficiency. 21 The Navy's mandate for training is found 22 in Title 10 of the U.S. Code, Section 5062. The law 23 requires that the Navy organize, train and equip 24 primarily for prompt and sustained combat incident 25 to operations at sea. The proposed action is to</p>	<p style="text-align: right;">Page 16</p> <p>1 support and conduct current, emerging and future 2 training operations. 3 Some examples of types of training that 4 are conducted in the VACAPES Range Complex are mine 5 warfare exercises, gunnery, bombing, missile 6 exercises, air combat maneuvers and vessel movement. 7 The three alternatives have been analyzed in this 8 document, each of which meets the Navy's purpose and 9 need. 10 I'll now turn the remainder of the 11 presentation back over to Mr. David Noble who will 12 discuss the alternatives and the results of the 13 document. 14 MR. NOBLE: Thanks. As Commander 15 Beckley stated, the Navy examined three alternatives 16 in the document. The No Action Alternative where 17 the continuing action provides for current levels of 18 operations. This means training operations and 19 major range events would continue at the same level 20 and locations as they are today. 21 Under Alternative 1, the Navy proposes to 22 increase training from current levels by 10 percent 23 for most operations to accommodate national security 24 contingencies and provide the flexibility needed for 25 training exercises. This alternative also provides</p>

<p style="text-align: right;">Page 17</p> <p>1 for the expansion of warfare missions. This means 2 the Navy proposes to use VACAPES Range Complex for 3 preparing new configurations of surface ships, 4 aircraft, special forces, and Marine Corps units for 5 deployment. 6 The global war on terror has brought 7 increased request for rapid short-term Navy support 8 for contingencies such as anti-terrorism, maritime 9 interception, homeland defense, information 10 operations and special operations. Smaller groups 11 can adequately respond to these contingencies if 12 properly configured and trained. 13 Alternative 1 also includes four 14 structured changes such as an increase in 15 helicopters and the associated training with them. 16 Alternative 2 is the Navy's preferred 17 alternative. In addition to the components of 18 Alternative 1, the Navy proposes to designate 19 instrumented training areas for mine warfare 20 training, further increase operations to cover 21 activities that would occur in those mine warfare 22 areas, and very significantly we propose to reduce 23 live bombing exercises in the VACAPES OPAREA. 24 In our next analysis, 18 resources and 25 issues were described and analyzed in this document.</p>	<p style="text-align: right;">Page 18</p> <p>1 Among others, these include air quality, water 2 quality, marine mammals, sea turtles, fish, birds, 3 socioeconomics which include recreational and 4 commercial fishing. 5 The Navy used a screening process to 6 identify and evaluate aspects of the proposed action 7 that could act as stressors to these resource areas, 8 and those are listed on the slide behind me. 9 The acoustic analysis focused on potential 10 effects to marine mammals, sea turtles and fish from 11 explosives. In addition, the impacts to fish were 12 determined to be minimal. Fish may exhibit a 13 behavioral response, but the response is likely to 14 be short term and biologically insignificant. 15 Furthermore, any effects from the use of explosives 16 would not result in a significant impact to the 17 population as a whole. 18 Based on the review of the literature and 19 our findings of potential effects to marine species, 20 the analysis focused on marine mammals including 21 whales, dolphins and seals, as well as sea turtles. 22 The nonacoustic analysis mainly focused on 23 potential effects as a result of the expended 24 training materials and disruptions to commercial and 25 civilian activities including vessel movements. The</p>
<p style="text-align: right;">Page 19</p> <p>1 Navy concluded that there would be no significant 2 impact to territorial waters or nonterritorial 3 waters under both the National Environmental Policy 4 Act or under executive order 12114 from these 5 stressors. Furthermore, the Navy concluded there 6 would be no adverse effects to essential fish 7 habitat. 8 The Navy, again, is currently consulting 9 with the National Marine Fisheries Service for 10 anticipated harassment to marine mammals. And we're 11 also in consultation with both the National Marine 12 Fisheries Service and U.S. Fish and Wildlife Service 13 under the Endangered Species Act. 14 In addition to a significant reduction of 15 live bombing exercises, the Navy will also implement 16 a mitigation plan to further reduce the potential 17 for harassment of marine resources. For example, 18 the Navy will continue to use lookouts during, 19 before, during and after exercises using explosives. 20 Navy lookouts are highly trained in spotting objects 21 in the water and also receive marine species 22 awareness training. 23 This training addresses the lookout's role 24 in environmental protection and includes general 25 observation information including more detailed</p>	<p style="text-align: right;">Page 20</p> <p>1 instruction for spotting marine mammals. It has 2 been reviewed by the National Marine Fisheries 3 Service and is considered suitable training. If 4 marine mammals or sea turtles are seen during an 5 exercise, the exercise will be suspended or 6 relocated. 7 The Navy is developing an integrated, 8 comprehensive monitoring program for marine species 9 in order to assess the effects of training 10 activities on marine species, and investigate 11 population trends in marine species distribution and 12 abundance in the various range complexes and 13 geographic locations where Navy training occurs. 14 Some of our primary tools for monitoring are listed 15 on the slide behind me. 16 The Navy has funded \$26 million in 2008 17 towards marine mammal research. For the past 18 several years, the Navy has provided ten to 19 \$14 million per year to universities, research 20 institutions, federal laboratories, private 21 companies and independent researchers around the 22 world to study marine resources. In addition, the 23 Navy sponsors approximately 70 percent of all U.S. 24 research concerning the effects of human generated 25 sound on marine mammals and approximately 50 percent</p>

<p style="text-align: right;">Page 21</p> <p>1 of such research conducted worldwide. Major topics 2 of Navy supported research are on the slide behind 3 me. 4 This slide concludes our presentation on 5 the information and analysis contained in the 6 document. 7 Now, I would like to discuss, briefly, the 8 future steps and the process related to the project. 9 This slide outlines the schedule beyond 10 the release of the Draft document which is what 11 you're hearing about today. The Navy values your 12 input on that Draft Environmental Impact Statement. 13 Four public hearings, including this one, are being 14 held throughout this week. Your comments on the 15 Draft document will be addressed in the final 16 EIS/OEIS. 17 The final step is the decision phase. A 18 decision will not be made until at least 30 days 19 after distribution of the final EIS/OEIS. This 20 decision will be summarized and published as a 21 record of decision in the Federal Register in 2009. 22 JUDGE MAKSYM: Thank you, sir. Thank 23 you, Mr. Noble. 24 I have before me no written cards 25 requesting the floor. So at this juncture, I would</p>	<p style="text-align: right;">Page 22</p> <p>1 simply indicate that now would be the time for the 2 hearing to be open for public comment. If anyone 3 would like to make a comment, I would ask them to 4 raise their hand so that a member of the staff can 5 get you a public comment card so you can fill it 6 out. We have, I believe, someone. Anyone who needs 7 a card, please raise your hand. 8 Again, on the record, I want to be very 9 clear. At this juncture, this hearing is soliciting 10 comments from the general public. This period for 11 open comments will exist from now until 21:00, 9:00. 12 So if there are no requests to speak at this point, 13 I'm going to recess the hearing. I'm going to 14 recess the hearing until 8:00, or 20:00, at which 15 time, between now and then, individuals from Fleet 16 Forces staff will be available for the general 17 public to chat with where you can garner a greater 18 minutia about these issues, and during that period 19 of time, you could fill out one of the comment cards 20 and request to speak. 21 So until 20:00, this hearing stands in 22 recess. 23 (Whereupon, a recess was taken.) 24 JUDGE MAKSYM: The hearing will come 25 back to order. The time is 20:00, 8:00 in the</p>
<p style="text-align: right;">Page 23</p> <p>1 evening. An hour remaining whereby the record is 2 available to be made. Any comments are available to 3 be made as part of the public record of this 4 hearing. I now invite anyone to come forward and 5 speak. I have no requests for speaking cards in 6 front of me, but if anyone would like to come 7 forward and speak, I need you to fill out a card at 8 this time. Is there any member of the public who 9 would like to be heard today? 10 Negative response from our assembled 11 citizenry. 12 That being the case, I'm going to again 13 recess this hearing until 20:55 hours, that's 14 8:55 in the evening Eastern Standard Time, and we 15 will again come back on the record. Thank you. 16 (Whereupon, a recess was taken.) 17 JUDGE MAKSYM: It's 21:00 hours, or 18 9:00, in the evening, the time posted in the Federal 19 Register as the time for this meeting to be 20 exhausted, the meeting having been open for 21 commentary from 19:00 until 21:00. 22 That time now being exhausted, these 23 proceedings are closed. 24 (Whereupon, the public hearing concluded at 9:00 25 p.m.)</p>	<p style="text-align: right;">Page 24</p> <p>1 COMMONWEALTH OF VIRGINIA 2 ACCOMACK COUNTY 3 I, Kathy A. Zeve, a Notary Public and 4 Registered Professional Reporter in and for the 5 Commonwealth of Virginia, do hereby certify that the 6 PUBLIC HEARING was held before me at the time and 7 place herein set according to law. 8 I further certify that the Public Hearing 9 was recorded stenographically by me and then 10 transcribed from my stenographic notes to the within 11 printed matter by means of computer-assisted 12 transcription in a true and accurate manner. 13 I further certify that the stipulations 14 contained herein were entered into by counsel in my 15 presence. 16 I further certify that I am not of counsel 17 to any of the parties, not an employee of counsel, nor 18 related to any of the parties, nor in any way 19 interested in the outcome of this action. 20 AS WITNESS my hand and Notarial Seal this 21 17th day of July, 2008, at New Church, Virginia. 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000</p>

PUBLIC HEARING #3

The third public hearing was held in Virginia Beach, Virginia, at the Virginia Beach Resort and Conference Center, July 16, 2008. The public was invited to attend an open-house from 5-7 pm during which time the Navy displayed six poster stations on various information regarding the EIS/OEIS. Subject Matter Experts (SME) were present to answer questions. From 7-9 pm. a formal hearing was held and public comments were solicited. Three speakers from the general public made presentations. Twelve people attended the open house, the hearing, or both. One written comment was received during the meeting. The following pages are scanned copies of the sign-in sheets, speaker cards, comment forms, and transcript of the formal hearing.

Page 1

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6 DEPARTMENT OF THE NAVY VIRGINIA CAPES RANGE COMPLEX
7 ENVIRONMENTAL IMPACT STATEMENT/OVERSEAS ENVIRONMENTAL
8 IMPACT STATEMENT PUBLIC HEARING
9
10
11 JULY 16, 2008 - 7:00 - 9:00 p.m.
12
13
14 Virginia Beach Resort and Conference Center
15 2800 Shore Drive
16 Virginia Beach, Virginia
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22 REPORTED BY ROBIN STEWART, CSR, COURT REPORTER
23
24

Page 3

1 tonight, please take a moment now to turn off or silence
2 somehow your cell phones, your pagers, any other
3 noise-making devices that you have.
4 I am a member of the Navy Judge
5 Advocate General's Corps and I am assigned as a military
6 judge in the Central Judicial Circuit here in Norfolk.
7 The Chief Judge of the Navy Marine Corps Trial Judiciary
8 has assigned me to preside over these public hearings.
9 I am not and I have never been
10 affiliated in any way with the Department of the Navy's
11 evaluation of the potential environmental effects
12 associated with the proposed actions that I previously
13 described to you.
14 As a sitting military judge, I am
15 required to remain neutral, and I will remain neutral,
16 and I'm required to act impartially in all matters under
17 my cognizance, which includes this hearing.
18 My job here tonight is simple. It is
19 to insure that we have a fair, orderly, and impartial
20 hearing, consistent with the tenets of the National
21 Environmental Policy Act.
22 All who wish to provide comments will
23 have the opportunity to do that. There may be a wide
24 range of comments expressed during this hearing this
25 evening, and I ask that we treat each other with courtesy

Page 2

1 COMMANDER BOOKER: Good evening,
2 Ladies and Gentlemen, and welcome to the public hearing
3 of the Navy's Draft Environmental Impact
4 Statement/Overseas Environmental Impact Statement on the
5 Navy's proposed action of evaluating the potential
6 environmental impact over a 10-year planning horizon
7 associated with Navy Atlantic Fleet training; research,
8 development, testing, and evaluation activities; and
9 associated range capabilities enhancements within the
10 existing Virginia Capes Range Complex.
11 The purpose of this proposed action is
12 first to achieve and maintain Fleet readiness using the
13 Virginia Capes Range Complex to support and conduct
14 current emerging and future training operations and
15 research, development, testing and evaluation operations;
16 expand warfare missions supported by the Virginia Capes
17 Range Complex; and upgrade and modernize existing range
18 capabilities to enhance and sustain Navy training and
19 research, development, testing and evaluation.
20 Thank you for coming tonight. I'm
21 Commander Tom Booker and my role is to serve as the
22 hearing officer for this public hearing.
23 In order to ensure everyone present
24 can hear me and understand what is going on, and out of
25 respect for your fellow citizens who will be speaking

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1 and respect.
2 Throughout this hearing, I will ask
3 that you keep in mind that this is not an arena for
4 debate. It is not a popularity vote on the environmental
5 impact statements and it is not a popularity vote on the
6 alternatives described in the document, nor is it a
7 hearing in a question-and-answer format.
8 This public hearing provides an
9 opportunity for you to express your views on the adequacy
10 or the inadequacy of the environmental impact statements
11 and to have those comments made a part of the official
12 record. This hearing is part of the official record.
13 In order to orient those attending who
14 might not be entirely familiar with the environmental
15 impact statements, this public hearing will begin with a
16 brief introduction by two Navy representatives, Mr. David
17 Noble, who is immediately to my left, who is with the
18 Fleet Forces Command in Norfolk; and Commander Paul
19 Beckley, who is the Commanding Officer of the Fleet Area
20 Control and Surveillance Facility Virginia Capes.
21 They will present information
22 concerning the purpose and the need for the proposed
23 action and three alternative courses analyzed by the
24 document.
25 Seated at the far left is a

<p style="text-align: right;">Page 5</p> <p>1 representative from NMFS Mr. Shaun Guan. 2 The briefing takes about 15 minutes 3 and is required by statute as part of the National 4 Environmental Policy Act process. 5 Following the introductory 6 presentation, we will begin hearing your comments on the 7 document. The hearing is being held in accordance with 8 the provisions of the National Environmental Policy Act 9 and the regulations that are published by the Council on 10 Environmental Quality. 11 The purpose of this hearing is to 12 provide a public forum to summarize the results of the 13 document and more importantly, to receive your comments 14 on the document. These comments will be part of the 15 official record and will be considered in preparing the 16 Final Environmental Impact Statements. 17 Your comments and your involvement in 18 this hearing are very important to this decision-making 19 process. Your contributions provide the decision-makers 20 with the benefit of your knowledge of any environmental 21 impacts that you think might result from this proposed 22 action. 23 This hearing is the venue that the 24 Navy uses to gather your concerns, whether they are 25 through oral or written comments, about the adequacy of</p>	<p style="text-align: right;">Page 6</p> <p>1 the environmental analysis and the environmental impact 2 identified under the proposed action and the alternative 3 courses. 4 We ask that you focus your comments on 5 environmental issues. Non-environmental issues will take 6 time away from those who came to comment on the analysis 7 of the environmental concerns and comments on 8 non-environmental issues will not add to the adequacy of 9 the analysis used in the Final Environmental Impact 10 Statement. 11 As I said earlier, it is my job to 12 insure that each of you has an equal opportunity to 13 speak. The Navy representatives will not be allowed to 14 respond to your comments and that is important for you to 15 know. This is not a debate. This is a hearing and it is 16 your opportunity to speak. 17 We typically have a time limit of 18 three minutes. I have indications that only three people 19 have expressed a desire to speak. If there is no 20 objection from anybody, I am going to make that five 21 minutes so that we don't have to go through the 22 officiality of running through allowing three minutes 23 each and then calling people back up for another 24 30 seconds. 25 Is there any objection to my taking</p>
<p style="text-align: right;">Page 7</p> <p>1 that course of action? Apparently not. 2 I will enforce the time limits. I 3 will hold up a yellow card when you have a minute 4 remaining. I will hold up a green card when you have 30 5 seconds remaining. When I hold up the red card, please, 6 stop. We actually have words on them that you can see. 7 Please do not interrupt any speaker 8 whether you agree or disagree with the speaker. 9 Interfering with the speakers will simply reduce the 10 amount of time that's available for all those who want to 11 be heard. Similarly, applause or other outbursts will 12 take valuable time away from the speakers and will hamper 13 me in trying to afford everyone a chance to speak. 14 This hearing is scheduled to end at 15 9 p.m. If necessary, I will not consider the first 15 16 minutes or so that the Navy speakers occupy as part of 17 that time. You will get the full two hours to comment if 18 the full two hours is necessary. 19 I will also add that if people run out 20 of steam after the first round of speakers, we may recess 21 our proceedings, but we will be here until nine o'clock. 22 I will assure you of that. 23 If after everyone who wants to speak 24 has had an opportunity to do so and there is any time 25 left, and I suspect that there will be, I will permit</p>	<p style="text-align: right;">Page 8</p> <p>1 speakers to use the additional time to continue to expand 2 upon their earlier comments, again, observing the 3 five-minute time limit. We may go to three minutes if 4 there is a second round. 5 If you decide to speak, the 6 stenographer here on my right will record your comments, 7 and I ask, therefore, that you speak clearly and slowly 8 and look to the greatest extent possible at the 9 stenographer because she picks up visually cues as well 10 as oral cues. 11 You're also encouraged to continue 12 your comments or elaborate on them through a written 13 submission. You will have up here on the screen for much 14 of the presentation an address and a variety of options 15 for submitting your written comments. 16 If you don't want to speak at the 17 public hearing but you do have comments that you would 18 like to make a public record, I encourage you to submit 19 those comments. There are a number of ways available for 20 you to do that as indicated on the projection screen just 21 off to my left. 22 You first may submit your written 23 comments tonight at the comment table. You may submit 24 your comments online via the website, and the website 25 address is www.vacapesrangeplexeis.com. As an</p>

<p style="text-align: right;">Page 9</p> <p>1 additional alternative, you may fax your comments to 2 757-322-4894. All that information, I believe, is up on 3 the screen. 4 Finally, if you prefer, you may mail 5 your additional comments to Naval Facilities Engineering 6 Command Atlantic and their address is also up on the 7 screen. It goes to Attention: Code EV22ES, 6506 Hampton 8 Boulevard, Norfolk, Virginia 23508-1278. 9 Written comments will be accepted 10 throughout the comment period which ends on the 11th of 11 August 2008. Comments made at all the public hearings or 12 provided in writing at any time during the public comment 13 period or postmarked by the 11th of August 2008 will be 14 given equal consideration. All comments are part of the 15 official record. Once again, the deadline is the 11th of 16 August 2008. 17 Information is available at the 18 comment table, that you passed when you came in, on all 19 of the methods of submitting comments that I've 20 discussed. 21 When you came in tonight, you should 22 have signed in and you should have received fact sheets; 23 also, you should have been asked to indicate if you 24 wanted to speak. I have three cards from people who 25 indicated that they wanted to speak. The speaker cards</p>	<p style="text-align: right;">Page 10</p> <p>1 themselves will become a part of the official record. 2 If anyone who wishes to speak who has 3 not yet signed the speaker card, please raise your hand, 4 a member of the staff will give you a card. Apparently, 5 there's nobody else. 6 Do we have any elected officials who 7 wish to comment? No response. 8 At the conclusion of your comments, 9 please return to your seat and we will see if there's a 10 need for additional time for any individual speaker. 11 I am going to ask when you take your 12 place at the podium, that you state your full name and 13 spell it so that we can record it correctly. Please 14 provide your state of residence but do not provide any 15 personal information in your comments such as your home 16 address if you do not want that information to be public 17 in the Final Environmental Impact Statement. 18 If you are representing someone or 19 some group other than yourself, please state that as well 20 and provide the address of the group or the organization. 21 Bear in mind that while I will limit 22 you to five minutes, you do not need to take the entire 23 five minutes. If you are done after three minutes, 24 please sit down and we'll move on to the next speaker. 25 Out of respect for those who would</p>
<p style="text-align: right;">Page 11</p> <p>1 like to make comments, I would ask that you please honor 2 the time limits and any request I might have for you to 3 stop speaking, should you exceed the time limit. 4 If you think you will have more 5 comments than you have time, I invite you to make the 6 most of the time allotted by citing your most important 7 comments upfront. 8 Once again, as I stated earlier, you 9 can follow up your oral comments with written comments 10 and I encourage you to do that. If you do not have the 11 opportunity to voice all your comments, you can and you 12 should submit them in writing. I cannot overemphasize 13 that fact. 14 I will now turn the floor over to the 15 Navy representative Mr. Noble, from the Fleet Forces 16 Command in Norfolk. Thank you very much. 17 MR. NOBLE: Thank you, sir. 18 Good evening and welcome to tonight's 19 public hearing on the Navy's Virginia Capes, also known 20 as VACAPES Range Complex Draft Environmental Impact 21 Statement/Overseas Environmental Impact Statement. 22 I'm Dave Noble with U.S. Fleet Forces 23 Command and I want to thank you on behalf of the U.S. 24 Navy for attending this hearing tonight. 25 As previously introduced, Commander</p>	<p style="text-align: right;">Page 12</p> <p>1 Beckley is here from our Fleet Forces -- or excuse me, 2 Fleet Surveillance and Control Facility out of Naval Air 3 Station Oceana, Commander Beckley; and Shaun Guan with 4 National Marine and Fisheries Service from 5 Washington, D.C. 6 Tonight we will be discussing the 7 VACAPES Range Complex Draft Environmental Impact 8 Statement/Overseas Environmental Impact Statement and 9 from hereon, I'll just refer to that as the "document." 10 As part of a larger program where the 11 Navy will manage its training in broad geographic areas, 12 this document looked at all the training activities 13 occurring in the Virginia Capes or VACAPES Range Complex. 14 The document does not propose major 15 changes to operations and training, rather this document 16 does cover small scales of critical enhancements. One 17 element of this larger program is environmental planning 18 documentation and that's the document we're discussing 19 this evening. 20 This document has been prepared in 21 accordance with several environmental laws and 22 regulations, some of which you see on this slide. 23 Now I would like turn it over to 24 Commander Beckley to discuss some of the operational 25 details.</p>

<p style="text-align: right;">Page 13</p> <p>1 COMMANDER BECKLEY: Can everyone hear 2 me? I'll take that as a "yes." I'd also like to say 3 thank you for showing up this evening. Taking the time 4 out to do that, says quite a bit about yourselves and 5 about citizenship, how much you value this and thank you 6 very much for taking the time.</p> <p>7 The VACAPES Range Complex 8 geographically encompasses offshore, near-shore and 9 onshore operating area ranges in special reserved 10 airspace adjacent to the coast of Delaware, Maryland, 11 Virginia and North Carolina.</p> <p>12 In addition to the VACAPES Range 13 Complex, this draft EIS/OEIS and live Navy training in 14 the lower portion of the Chesapeake Bay, the EIS study 15 area also includes the area for the mean high tide line 16 seaward three nautical miles western boundaries of the Op 17 area.</p> <p>18 The nature of modern warfare and 19 security operations has become increasingly complex, such 20 as global tactics, weapons and forces facing the U.S. 21 military, range from simple to truly sophisticated.</p> <p>22 To effectively encounter the wide 23 range of threats, Naval forces bring together thousands 24 of sailors, marines, their equipment, vehicles, ships and 25 aircraft and often other U.S. Services or coalition</p>	<p style="text-align: right;">Page 14</p> <p>1 partners from all overseas to work together as a cohesive 2 team to achieve success.</p> <p>3 And therefore, the purpose of this 4 proposed action is to train U.S. Navy sailors according 5 to training requirements and allow them to maintain 6 proficiency.</p> <p>7 The Navy's mandate for training is 8 found in Title 10 of the United States Code, Section 9 5062. It still requires the Navy to be organized, 10 trained and equipped primarily for prompt and sustained 11 combat, and includes operations at sea.</p> <p>12 The proposed action is to support and 13 conduct current, emerging, and future training 14 operations. Some examples of the type of training that 15 are conducted at the VACAPES Range Complex such as here, 16 mine warfare exercises, gunnery, bombing, missile 17 exercises, air-combat maneuvers and vessel movement.</p> <p>18 Three alternatives have been analyzed 19 in this document, each of which meets the Navy's purpose 20 and needs.</p> <p>21 And I'll return the remainder of the 22 presentation back to Dave Noble who will discuss the 23 alternatives as denoted in the document. Thank you.</p> <p>24 MR. NOBLE: As Commander Beckley 25 stated, the Navy examined three alternatives in the</p>
<p style="text-align: right;">Page 15</p> <p>1 document. The No-action Alternative or the continuing 2 action provides the current levels of the operation. 3 This means training operations and major range events 4 would continue at the same levels and locations that they 5 are today.</p> <p>6 Under Alternative 1, the Navy proposes 7 to increase training from current levels by 10 percent 8 for most operations to accommodate national security and 9 contingencies and provide the flexibility needed for 10 training exercises.</p> <p>11 This alternative also provides for the 12 expansion of warfare missions. This means the Navy 13 proposes to use VACAPES Range Complex for preparing new 14 configurations of surface ships, aircraft, special forces 15 and Marine Corps units for deployments.</p> <p>16 The global war on terror has brought 17 increased requests for rapid, short-term Navy support 18 with contingencies such as anti-terrorism, maritime 19 interception, homeland defense, information operations 20 and special operations. Just smaller groups can actually 21 respond to these contingencies if properly configured and 22 trained.</p> <p>23 Alternative 1 also includes changes 24 such as an increase in helicopters and the associate 25 training with them.</p>	<p style="text-align: right;">Page 16</p> <p>1 Alternative 2 is the Navy's preferred 2 alternative. In addition to the components of 3 Alternative 1, the Navy proposes to designate instrumented 4 training areas for mine warfare training, further 5 increase operations to cover activities that would occur 6 in those mine warfare training areas, and most 7 significantly, from an environmental standpoint, we 8 proposed to reduce the use of live bombing exercises in 9 the VACAPES Ops area.</p> <p>10 In our effects analysis, 18 resources 11 and issues were prescribed and analyzed in this document. 12 Among others, these include air quality, water quality, 13 marine mammals, sea turtles, fish, birds, and 14 socioeconomics, including commercial and recreational 15 fishing.</p> <p>16 The Navy used a screening process to 17 identify and evaluate the aspects of the proposed actions 18 that could act as stressors to these resources. These 19 stressors are listed here on the slide to my left.</p> <p>20 The acoustical analysis focused on the 21 potential effects to marine mammals, sea turtles and fish 22 from explosives.</p> <p>23 In addition, the impact to fish were 24 determined to be minimal. Fish may exhibit a behavior 25 response but the response is likely to be short-term and</p>

<p style="text-align: right;">Page 17</p> <p>1 biologically insignificant. Furthermore, any effects 2 from the use of explosives would not result in a 3 significant impact to the population as a whole. 4 Based on the review of the literature 5 and our findings of potential effects to marine species, 6 we are now focused on marine mammals including whales, 7 dolphins and seals, as well as sea turtles. 8 The nonacoustic analysis mainly 9 focused on the potential effects as a result of the 10 extended training materials and disruptions to commercial 11 and marine activities from vessel movements. 12 The Navy concluded that there would be 13 no significant impact to territorial waters or 14 nonterritorial waters under the National Environmental 15 Policy Act or under Executive Order 12114 for these 16 structures. 17 The Navy also concluded there would be 18 no adverse impact in territorial waters to the essential 19 fish habitat. The Navy is consulting with the National 20 Marine Fisheries Service for anticipated harassment to 21 marine mammals, and we're also, in consultation with both 22 the National Marine Fisheries Services and the U.S. Fish 23 and Wildlife Service under the Endangered Species Act. 24 In addition to a significant reduction 25 of live bombing exercises, the Navy will also implement a</p>	<p style="text-align: right;">Page 18</p> <p>1 mitigation plan to further reduce the potential for 2 harassment of marine resources. For example, the Navy 3 will continue to use lookouts during, before, and after 4 exercises using explosives. 5 Navy lookouts are highly trained for 6 spotting objects in the water and also receive marine 7 species awareness training. This training addresses the 8 lookouts' role in environmental protection and includes 9 general observation information, including more detailed 10 instructions for spotting marine mammals. 11 It has been reviewed by the National 12 Marine Fisheries Service and is approved for our sailors 13 for training. If a marine mammal or sea turtle is seen 14 during an exercise, the exercise will be suspended or 15 relocated. 16 The Navy is developing an integrated, 17 comprehensive monitoring program for marine species in 18 order to assess the effects of training activities on 19 marine species and investigate population trends of 20 marine species as well as distribution in abundance at 21 various range complexes and geographic locations where 22 Navy training occurs. These are some of the primary 23 tools that we use in our monitoring program. 24 The Navy has funded \$26 million in 25 2008 towards marine mammal research. For the past</p>
<p style="text-align: right;">Page 19</p> <p>1 several years, the Navy has provided \$10 to \$14 million a 2 year to universities, research institutions, Federal 3 laboratories, private companies and independent 4 researchers around the world to study marine mammals. 5 In addition, the Navy sponsors 6 approximately 70 percent of all U.S. research concerning 7 the effects of human-generated sound on marine mammals 8 and approximately 50 percent of such research worldwide. 9 Major topics of Navy-supported research are included here 10 on this slide. 11 This slide concludes our presentation 12 on the information and analysis contained in the document 13 and now I would like to focus briefly on the scheduling 14 way ahead. 15 The future steps in the process 16 related to this project from here on, today, tonight and 17 the Draft Environmental Impact Statement and the public 18 hearing, this slide outlines the schedule beyond release 19 of the DEIS and the Navy values your input for this DEIS. 20 Four public hearings, including this 21 one, are being held throughout the week in this week. 22 Your comments on the draft document will be addressed in 23 the Final EIS/OEIS. 24 The final step is the decision phase. 25 A decision will not be made until at least 30 days after</p>	<p style="text-align: right;">Page 20</p> <p>1 the distribution of the Final EIS/OEIS. This decision 2 will be summarized and published as a record decision in 3 the Federal Register in April 2009. Thank you. 4 COMMANDER BOOKER: Thank you, 5 Mr. Noble, Commander Beckley. We're now moving to the 6 comments phase. 7 Mr. James, you may take the podium. 8 MR. JAMES: Thank you, Commander 9 Booker. My name is Ellis W. James. And I reside at 2021 10 Kenlake Place. That's all one word, K-E-N-L-A-K-E Place, 11 Norfolk, Virginia. Zip is 23518-5305. 12 First, let me indicate strongly that 13 those of us who are concerned about the environment and 14 appear before you, also support our troops in our efforts 15 to protect our Nation. And being a resident of Norfolk 16 all my life, I'm very familiar with the Navy and its 17 role. 18 There are compliments that should be 19 made to the Navy at this point. I am very, very 20 encouraged and pleased to see the extent to which the 21 Navy and advisors have provided the kind of total 22 assessment of what we're confronted with, especially with 23 respect to your plans. 24 There are some areas of concern, of 25 course. The suggestion and proposal of 50 percent</p>

Page 21

1 increase of the helicopter flights raises questions about
2 the impact on those who are fishing for a living in the
3 Bay and what those extra flights might suggest or portend
4 for them. I think that's an area we need to take a good
5 look at.

6 The area of great concern to me
7 personally is the question of how we can effectively
8 address the right whale corridor. That has to do with
9 something that I read in your literature, which is the
10 watchstanders' role in this whole process.

11 That, of course, from a practical
12 standpoint, raises the question of how many watchstanders
13 do we have per vessel depending upon whether it's a task
14 force or an individual vessel, but their numbers would be
15 extremely important.

16 If we're talking about on a vessel,
17 two on the bow, one on the stern during an operation, you
18 could see that the numbers of nine to 12 would be very
19 significant from a standpoint of availability and their
20 ability to do their job.

21 There is that complicated area in all
22 of this that deals with sonar and the question of sound
23 as it relates to explosives. I am delighted to see that
24 you are pulling back from the numbers of bombs to be
25 detonated or ordnance to be detonated. I think that's a

Page 23

1 there. I have seen what the Navy has done for our
2 community and I'm 100 percent behind it.

3 But I was shocked when I opened up the
4 newspaper Sunday and I read the headlines and underneath
5 the headlines, I said I have come to this meeting tonight
6 to express my feelings.

7 I couldn't believe that you are
8 reducing the number of live bombs from 450 to 20. I was
9 so thrilled, I just shook my husband and said, Look what
10 the Navy is doing. And as I continued to read the
11 article, I am thrilled at what you're doing with this
12 impact statement.

13 I realize that we have to have Fleet
14 readiness and I can see how you're trying to adequately
15 answer all the questions that what you're doing impacts
16 our environment.

17 Again, I'm not going to spend much
18 time. I want to say that you have definitely -- when I
19 look over the list of the Federal environmental
20 regulations and the other people that you have involved,
21 is very impressive. I totally agree that your
22 alternative is a preferred one. I wouldn't even see
23 where there would be any questions.

24 And when I heard from the people here
25 tonight about your latest science of technology that

Page 22

1 plus.

2 And I think until we can, from a
3 scientific standpoint, pin down the impact and the
4 potential for harm when we conduct these training
5 exercises, we have that very complicated aspect to
6 density of layers of water, cold water, warm water, all
7 of those issues that you're so familiar with.

8 And it strikes me that certainly we
9 would be in a position, a much better position, if we can
10 really hone in on the question of what's the usages of
11 different sonars, whether we're talking about high
12 frequency, mid-range or whatever, and those are the areas
13 that I personally have a great concern.

14 I also talked with a number of people
15 about those issues and they share those concerns too.
16 Thank you very much.

17 COMMANDER BOOKER: Thank you,
18 Mr. James. Ms. Mosher.

19 MS. MOSHER: Thank you, Commander, and
20 everyone that's in this room that has contributed, to my
21 knowledge, of what we're dealing with right now.

22 My name is Debora, that's D-E-B-O-R-A,
23 Mosher, M-O-S-H-E-R and I live in Norfolk, Virginia --
24 for many years. My husband was in the Navy. I love the
25 Navy. I visited Annapolis and saw how they're trained up

Page 24

1 you're looking towards protecting our whales, again, I am
2 with Mr. James, the right whale does concern me.

3 The idea that you're implementing all
4 these things with your science and with your research,
5 the only thing I'm going to say is I hope the Navy
6 continues with the very thorough way that you're doing
7 with this operation because I think that is what's going
8 to help us in the future.

9 And I thank you for allowing me to
10 express my feelings. And I am a little afraid.

11 COMMANDER BOOKER: Thank you,
12 Ms. Mosher. Ms. Barco.

13 MS. BARCO: Thank you. I'm Susan
14 Barco, and S-U-S-A-N B-A-R-C-O. I live in Virginia Beach
15 and I'm representing the Virginia Aquarium and Marine
16 Science Center.

17 I would also like to say that I'm very
18 impressed with the amount of work that the Navy and its
19 contractors have put into this EIS process, this one and
20 others that I've seen recently.

21 And I hope that they continue and
22 continue to improve this process because I do think
23 there's still some areas that all of us need to work on,
24 not just the Navy but the science community as well.

25 The things that I am most concerned

<p style="text-align: right;">Page 25</p> <p>1 about are the Navy's vessels make up a fairly significant 2 percentage of the large vessel traffic, particularly, 3 fast vessel traffic that moves in and out of the 4 Chesapeake Bay, and I encourage the Navy to consider the 5 trend of those vessels to and from training exercises and 6 their impact and their mitigation measures because I am 7 not convinced that that is being considered as much as it 8 should.</p> <p>9 The Navy vessels are very high-speed 10 vessels, they're relatively large and an observer is not 11 going to have enough time to really make a difference in 12 how it should move if the ship is moving at 20 knots or 13 more. So the best observers in the world really can't 14 help you a lot if you don't have any distance to play 15 with in avoiding a whale collision.</p> <p>16 I'm also still concerned that the 17 densities the Navy are using for determining impacts and 18 determining times of the year when it would be of the 19 least impact to schedule these trainings is still lacking 20 data, and that's not the Navy's fault, that's the fault 21 of all of us who have not been able to survey this area, 22 the VACAPES area very well.</p> <p>23 But I do think that that's an area 24 where we should consider -- the Navy should consider 25 default minimal densities for different species in</p>	<p style="text-align: right;">Page 26</p> <p>1 different times of the year when their survey data is 2 lacking.</p> <p>3 Because it seems in some of the 4 density documents that I've read, that a lack of data has 5 been treated as no animals in the area, not that no one 6 has looked in that area. And it's very important that 7 the Navy continue to both support survey efforts and to 8 incorporate that data into their density documents and I 9 hope that will continue to be the case.</p> <p>10 Finally, I'm concerned, that the 11 posted observers on the vessels that, while important, 12 are not going to be as effective as the Navy implied.</p> <p>13 Certainly, if you have perfect 14 sighting conditions and your vessel is going at six or 15 eight knots and you have plenty of people posted and you 16 have immediate communications to the ship's bridge to 17 change behavior as you see it, et cetera, that's great, 18 but those perfect conditions do not exist at most times, 19 even when you're actually trying to conduct a survey.</p> <p>20 And so while I applaud the 21 visually-based mitigation measures, I certainly don't 22 think they should be relied on solely in any cases and 23 they should only, if possible, be accompanied by other 24 measures such as acoustic monitoring and things like 25 that.</p>
<p style="text-align: right;">Page 27</p> <p>1 So I think that visual-based 2 monitoring is important but it does have its drawbacks 3 and I wanted to make sure you knew that. Thank you for 4 letting me speak and continue the good work.</p> <p>5 COMMANDER BOOKER: Thank you, 6 Ms. Barco.</p> <p>7 Is there anyone else who would like to 8 make any comments at the moment? Apparently not.</p> <p>9 What I propose to do then is we will 10 recess until about 8 p.m. At 8 p.m. we'll reconvene and 11 see whether anyone at that point has any comments to make 12 and we will take things from there.</p> <p>13 Is there any objection to my recessing 14 until 8 p.m.? It's a negative response. We're in 15 recess. Carry on.</p> <p>16 17 (Recess taken from 7:35 to 8 p.m.) 18</p> <p>19 COMMANDER BOOKER: Ladies and 20 Gentlemen, it's 8 p.m., is there anybody who has any 21 further comments with respect to the environmental impact 22 statement? Apparently not.</p> <p>23 Any objection to my recessing until 24 8:45? Apparently not. We're in recess. Carry on. 25</p>	<p style="text-align: right;">Page 28</p> <p>1 (Recess taken from 8:02 to 8:45 p.m.) 2 3 4 COMMANDER BOOKER: It's 8:45, the 5 hearing will come to order. Anyone have any further 6 comments? Apparently not. We're in recess until 8:59. 7 8 (Recess taken from 8:45 to 8:59 p.m.) 9 10 COMMANDER BOOKER: The hearing will 11 come to order. Is there anyone who wishes to make any 12 further comments on the proposed consideration of our 13 actions? Apparently not. The hearing is adjourned. 14 15 (The public hearing adjourned at 16 9:00 p.m.) 17 18 --- oOo ---</p>

1 C E R T I F I C A T E

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3

4 COMMONWEALTH OF VIRGINIA

5 CITY OF VIRGINIA BEACH, to wit:

6

7 I, Robin Stewart, CSR, Court Reporter, do

8 hereby certify that the foregoing pages are a true and

9 correct transcript of my Stenotype notes of the proceedings

10 held at the time and place in the caption mentioned.

11 This _____ day of _____,

12 2008.

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PUBLIC HEARING #4

The fourth and final public hearing was held in Kitty Hawk, North Carolina, at the Hilton Garden Inn, July 17, 2008. The public was invited to attend an open-house from 5-7 pm during which time the Navy displayed six poster stations on various information regarding the EIS/OEIS. Subject Matter Experts (SME) were present to answer questions. From 7-9 pm a formal hearing was held and public comments were solicited. No speakers from the general public made presentations. Two people attended the open house, the hearing, or both. One written comment was received during the meeting. The following pages are scanned copies of the sign-in sheets, speaker cards, comment forms, and transcript of the formal hearing.

<p style="text-align: right;">Page 5</p> <p>1 Consistent with the tenants of the National 2 Environmental Policy Act, or NEPA, all who wish to 3 provide comments will have the opportunity to do 4 so. 5 I expect that there will a wide range of 6 comments expressed this evening, and I ask that 7 each of you treat each other with courtesy and 8 respect. 9 Throughout the course of this hearing I ask 10 that you keep in mind that is not an arena for 11 debate. It is not a popularity vote on the 12 DEIS/OEIS, hereinafter referred to as "The 13 Document," and the alternatives described to you 14 therein. 15 Nor is it a hearing in a question-and-answer 16 format. This public hearing provides an 17 opportunity to express your views on the adequacy 18 or inadequacy of The Document and to have those 19 comments made part of the official record. 20 This hearing is part of the official record. 21 In order to orient those attending who may not be 22 entirely familiar with The Document, this public 23 hearing will begin with a brief introduction by two 24 Navy representatives: Mr. David Noble, United 25 States Fleet Forces Command, Norfolk, Virginia, and</p>	<p style="text-align: right;">Page 6</p> <p>1 Commander Paul A. Beckley, Commanding Officer of 2 Fleet Area Control and Surveillance Facility, 3 Virginia Capes. 4 These gentlemen will present information 5 concerning the purpose and the need for the 6 proposed action and the three alternatives analyzed 7 in the document. 8 The briefing is required by statute as part of 9 the National Environmental Policy Act process and 10 will take about 15 minutes. 11 Following the introductory presentation we will 12 begin hearing your comments on the document. This 13 hearing is held in accordance with the provisions 14 of the National Environmental Policy Act, or NEPA, 15 and the regulations that are published by the 16 Counsel on Environmental Quality. 17 The purpose of this hearing is to provide a 18 public forum to summarize the results of The 19 Document and more importantly to receive your 20 comments on this document. 21 These comments will be part of the official 22 record and will be considered in preparation of the 23 final EIS/OEIS. Your comments and involvement in 24 this hearing are very important to the 25 decision-making process. Your input provides the</p>
<p style="text-align: right;">Page 7</p> <p>1 decision-makers with the benefit of your knowledge 2 of any environmental impact that you might have 3 resulted -- excuse me -- result from the proposed 4 action. 5 This hearing is a venue that the Navy uses to 6 gather your concerns whether they are through oral 7 or written comments about the adequacy of the 8 environment analysis and the environmental impacts 9 identified under the proposed action and the 10 alternatives. We ask that you focus your comments 11 on environmental issues. Non-environmental issues 12 will take away time from those who came to comment 13 on the analysis of the environmental concerns and 14 comments on non-environmental issues will not add 15 to the adequacy of the analysis used in the final 16 EIS/OEIS. 17 As I stated earlier, it is my role tonight to 18 ensure that each of you has an equal opportunity to 19 speak. The Navy representatives will not be 20 allowed to respond to your comments and that is 21 very important to know. This is not a debate. 22 This is a hearing and it is your opportunity to 23 speak. 24 I will enforce the individual time limits 25 previously established of three minutes. So that</p>	<p style="text-align: right;">Page 8</p> <p>1 all who wish to speak may have an opportunity to do 2 so. 3 Please do not interrupt any speaker whether you 4 agree with them or disagree with them. Interfering 5 with the speakers will simply reduce the amount of 6 time available for all those who wish to be heard. 7 Similarly I ask you to refrain from any 8 applause or other outbursts as they will take 9 valuable time away from the speakers and hamper me 10 in my efforts to afford everyone an opportunity to 11 speak. 12 This hearing is scheduled to adjourn at 9 p.m. 13 If necessary, I will not consider the time taken by 14 the Navy representatives for the presentation to 15 count against the full two-hour hearing time. 16 I will add -- I will add that additional time 17 to the period available for folks to speak. In 18 other words you will have the full two-hour hearing 19 time that is noted in The Federal Registry. 20 If after everyone who desires to speak has had 21 an opportunity to do so and there is any time left, 22 I will permit speakers to use the additional time 23 to continue to expand upon the earlier comments, 24 again observing the three-minute time limit. 25 If you decide to speak the stenographer will</p>

<p style="text-align: right;">Page 9</p> <p>1 record your comments. You are also encouraged to 2 continue your comments or elaborate on them through 3 a written submission. 4 If you do not wish to speak at this public 5 hearing but do have comments that you would like to 6 be made part of the public record, I encourage you 7 to submit those comments. 8 There are a number of ways available to you to 9 do so as indicated on the projector screen here in 10 the center of the room. 11 First you may submit your written comments 12 tonight at the comment table, or you may submit 13 your comments online via the website, 14 www.vacapesrangecomplexeis.com. 15 As an additional alternative you may fax your 16 comments to area code 757.322.4894. Again that fax 17 number is area code 757.322.4894. 18 Finally, if you prefer you may mail additional 19 comments to the Naval Facilities and Engineering 20 Command Atlantic, Attention Code EV 22 ES, VACAPES 21 EIS/OEIS PM at 6506 Hampton Boulevard, Norfolk, 22 Virginia, 23508-1278. 23 Written comments will be accepted throughout 24 the comment period which concludes on August 11, 25 2008. Comments made at all public hearings or</p>	<p style="text-align: right;">Page 10</p> <p>1 provided in writing at any time during the public 2 comment period, or postmarked by August 11, 2008, 3 will be given equal consideration. All comments 4 are made part of the official record. 5 Information is available at the comment table 6 on all of the methods of submitting comments as I 7 have just discussed. 8 When you came in tonight you should have signed 9 in and received fact sheets. Also you should have 10 been asked to indicate if you wish to speak. Those 11 who said they wish to speak signed speaker cards at 12 the registration table like the ones... actually I 13 don't have any here at the moment. The speaker 14 cards will become part of the official record. 15 If anyone wishes to speak who has not yet 16 signed a speaker card, please raise your hand and a 17 member of the Navy staff will sign you up. 18 Elected officials who choose to comment will be 19 given an opportunity to speak first, followed by 20 officials representing government organizations. 21 Members of the public will then be called up in the 22 order in which they signed up to speak. 23 At the conclusion of any comments you may 24 return to your seat in the audience. It is very 25 important that you speak clearly and slowly because</p>
<p style="text-align: right;">Page 11</p> <p>1 our stenographer will be taking down everything 2 that you say tonight. 3 We are going to ask that you state your full 4 name and spell it so we can record it correctly. 5 Additionally, please provide your state of 6 residence, but do not provide any personal 7 information in your comments, such as your home 8 address, if you do not want that information to be 9 published in the final EIS. 10 If you are representing someone or some group 11 other than yourself, please state that as well and 12 provide the address of the group or organization. 13 Each person will be allotted three minutes to 14 speak. This applies to everyone, whether they are 15 public officials, spokesperson or individual. 16 You do not have to speak for the entire three 17 minutes; however, if you do choose to speak for the 18 three minutes, a green card will be raised when 19 there is one minute remaining. A yellow card will 20 be raised when there is 30 seconds remaining to 21 give you a cue that you have only 30 seconds to 22 conclude your comments. 23 When your three minutes have concluded the red 24 card will be raised. At that point please conclude 25 your statement.</p>	<p style="text-align: right;">Page 12</p> <p>1 Out of respect for others who would like to 2 make statements I ask you to please honor the time 3 limit and any request that I might have for you to 4 stop speaking should you exceed that time limit. 5 If you think you will have more comments than you 6 have time, I invite you to make the most of the 7 time allotted by citing your most important 8 comments first. 9 Once again, as I stated earlier, you can also 10 follow-up your oral comments with written 11 submissions, and I encourage you to do that. 12 If you do not have the opportunity to voice all 13 of your comments you can and should submit them in 14 writing. I cannot over emphasize that enough. 15 I will now turn the floor over to the Navy 16 representative, Mr. David Noble, from the United 17 States Fleet Force Command in Norfolk, Virginia. 18 Thank you. 19 MR. DAVID NOBLE: Yes, sir. 20 Good evening and welcome to tonight's public 21 hearing on the Navy's Virginia Capes, also known as 22 VACAPES Range Complex Draft Environmental Impact 23 Statement, Overseas Environmental Impact Statement. 24 I am David Noble, with US Fleet Forces Command 25 and I want to thank you on behalf of the US Navy</p>

<p style="text-align: right;">Page 13</p> <p>1 for attending this hearing tonight. 2 I'd like to reintroduce Commander Paul Beckley 3 who is the Commanding Officer for the Navy's 4 Airspace and Operating Control Facility at Naval 5 Air Station Oceana in Virginia Beach. 6 And also on my left again is Shane Guan from 7 National Marine Fisheries Service, a cooperating 8 agency on this document, and Shane is down today 9 from Washington DC. 10 The VACAPES Range Complex Draft Environmental 11 Impact Statement/Overseas Environmental Impact 12 Statement, from here on I'll just call that "The 13 Document." 14 As part of a larger program where the Navy will 15 manage its training on broad geographic areas, this 16 document looks at all the training activities 17 occurring in the Virginia Capes, or VACAPES Range 18 Complex. The Document does not propose major 19 changes to operations in training, rather The 20 Document covers small scale but critical 21 enhancements. 22 One element of this larger program is 23 environmental planning documentation, The Document 24 we are discussing tonight. 25 This Document has been prepared in accordance</p>	<p style="text-align: right;">Page 14</p> <p>1 with several environmental laws and regulations, 2 some of which you see here on the slide. 3 Now, I'd like to turn it over to Commander 4 Beckley to talk about some of the operations that 5 are conducted out in the VACAPES Range Complex. 6 COMMANDER PAUL BECKLEY: Thank you very much, 7 David. 8 As stated I'm the Commanding Officer of SFAC 9 VACAPES and I just want to take a moment to thank 10 you for showing up tonight. It's -- your time is 11 valuable and we appreciate those of you that have 12 come here. 13 The VACAPES Range Complex geographically 14 encompasses off shore, near shore and on shore 15 operating areas, ranges and Special Use Airspace 16 adjacent to the coast in Delaware, Maryland, 17 Virginia and North Carolina. 18 In addition to the VACAPES Range Complex, this 19 Draft EIS/OEIS analyzed Navy training in the lower 20 portion of the Chesapeake Bay. The EIS study area 21 also includes the area from the mean high tide line 22 seaward to three nautical mile western boundary of 23 the operational area. 24 The nature of modern warfare and security 25 operations has become increasingly complex.</p>
<p style="text-align: right;">Page 15</p> <p>1 Threats are global and the tactics, weapons and 2 forces facing US Military range from simple to 3 extremely sophisticated. 4 To effectively counter the wide range of 5 threats Naval forces bring together thousands of 6 sailors and marines, their equipment, vehicles, 7 ships and aircraft, and often other US services and 8 coalition partners, all of which need to work 9 together as a cohesive team to achieve success, and 10 therefore the purpose of this proposed action is to 11 train US Sailors according to the training 12 requirements and allow them to maintain 13 proficiency. 14 The Navy's mandate for training is found in 15 Title 10 of the US Code Section 5062. The law 16 requires the Navy to be organized, trained and 17 equipped primarily for prompt and sustained combat 18 incident to operations at sea. 19 The proposed action is to support and conduct 20 current emerging and future training operations. 21 Some examples of tactical training that are 22 conducted in the VACAPES Range Complex are mine 23 warfare exercises, gunnery exercises, bombing 24 exercises, missile exercises, air combat maneuvers 25 and vessel movement.</p>	<p style="text-align: right;">Page 16</p> <p>1 The three alternatives have been analyzed in 2 this document, each of which meets the Navy's 3 purpose and need. 4 And I'll now turn the remainder of the 5 presentation back to Mr. David Noble who will 6 discuss the alternatives and results of the 7 document. 8 MR. DAVID NOBLE: Thank you, sir. 9 As Commander Beckley stated, the Navy examined 10 three alternatives in the document: The No Action 11 Alternative or the Continuing Action provides for 12 current levels of operations. 13 This means training operations and major range 14 events would continue with the same level and 15 locations as they are today. 16 Under Alternative One, the Navy proposes to 17 increase training from current levels by 10 percent 18 for most operations to accommodate national 19 security contingencies and provide the flexibility 20 needed for training exercises. 21 This Alternative also provides for the 22 expansion of warfare missions. This means the Navy 23 proposes to use the VACAPES Range Complex for 24 preparing new configurations of surface ships, 25 aircraft, special forces, and Marine Corps Units</p>

<p style="text-align: right;">Page 17</p> <p>1 for deployment.</p> <p>2 The global war on terror has brought increased</p> <p>3 requests for rapid short-term Navy support for</p> <p>4 contingencies such as anti-terrorism, maritime</p> <p>5 interception, homeland defense, information</p> <p>6 operations and special operations.</p> <p>7 Smaller groups can adequately respond to these</p> <p>8 contingencies if properly configured and trained.</p> <p>9 Alternative One also includes changes such as</p> <p>10 an increase in the helicopters and associated</p> <p>11 training with them.</p> <p>12 Alternative Two is the Navy's preferred</p> <p>13 alternative. In addition to the components of</p> <p>14 Alternative One the Navy proposes to designate</p> <p>15 instrumented training areas for mine warfare</p> <p>16 training.</p> <p>17 Further increase operations to cover activities</p> <p>18 that would occur in those mine warfare training</p> <p>19 areas, and most significantly from an environmental</p> <p>20 standpoint, the reduction of live bombing exercises</p> <p>21 in the VACAPES Range Complex OPAREA.</p> <p>22 Under our effects analysis 18 resources and</p> <p>23 issues were described and analyzed in this</p> <p>24 document, among others these include air quality,</p> <p>25 water quality, marine mammals, sea turtles, fish,</p>	<p style="text-align: right;">Page 18</p> <p>1 birds and socioeconomics including commercial and</p> <p>2 recreational fishing.</p> <p>3 The Navy used a screening process to identify</p> <p>4 and evaluated aspects of the proposed action that</p> <p>5 could act as stressors to these resource areas.</p> <p>6 Some of these stressors are listed on the slide to</p> <p>7 my left.</p> <p>8 Under our acoustic analysis we focused on</p> <p>9 potential effects to marine mammals, sea turtles</p> <p>10 and fish from explosives. In addition the impacts</p> <p>11 to fish were determined to be minimal. Fish may</p> <p>12 exhibit a behavioral response but the response is</p> <p>13 likely to be short term and biologically</p> <p>14 insignificant.</p> <p>15 Furthermore, any effects from the use of</p> <p>16 explosives would not result in a significant impact</p> <p>17 to the population as a whole. Based on the review</p> <p>18 of the literature and our findings of potential</p> <p>19 effects to marine species, this analysis focused on</p> <p>20 marine mammals including whales, dolphins, seals,</p> <p>21 as well as sea turtles.</p> <p>22 The non-acoustic analysis, mainly focused on</p> <p>23 potential effects as a result of the expended</p> <p>24 training materials and disruptions to commercial</p> <p>25 and civilian activities and vessel movements.</p>
<p style="text-align: right;">Page 19</p> <p>1 The Navy concluded that there would be no</p> <p>2 significant impact in territorial waters or</p> <p>3 non-territorial waters under the National</p> <p>4 Environmental Policy Act or under Executive Order</p> <p>5 12114.</p> <p>6 The Navy also concluded that there would be no</p> <p>7 adverse impact in territorial waters to essential</p> <p>8 fish habitat.</p> <p>9 The Navy is currently consulting with the</p> <p>10 National Marine Fishery Service for anticipated</p> <p>11 harassment to marine mammals, and the Navy's also</p> <p>12 in consultation right now under the Endangered</p> <p>13 Species Act with both the National Marine Fishery</p> <p>14 Service and US Fish and Wildlife Service.</p> <p>15 In addition to a significant reduction of live</p> <p>16 bombing exercises, the Navy will also implement a</p> <p>17 mitigation plan to further reduce the potential for</p> <p>18 harassment of marine resources. For example, the</p> <p>19 Navy will continue to use lookouts before, during</p> <p>20 and after exercises using explosives.</p> <p>21 Navy lookouts are highly trained in spotting</p> <p>22 objects in the water and also receive marine</p> <p>23 species awareness training. This training</p> <p>24 addresses the lookout's role in environmental</p> <p>25 protection and includes general observation</p>	<p style="text-align: right;">Page 20</p> <p>1 information, including more detailed instruction</p> <p>2 for spotting marine mammals.</p> <p>3 It has been reviewed by the National Marine</p> <p>4 Fishery Service and has been approved for such</p> <p>5 training.</p> <p>6 If marine mammals or sea turtles are seen</p> <p>7 during an exercise the exercise would be suspended</p> <p>8 or relocated.</p> <p>9 For the Northern Atlantic right whale Navy</p> <p>10 vessels would also practice increased vigilance to</p> <p>11 avoid vessel-whale interactions during winter and</p> <p>12 spring months when they are likely to be present.</p> <p>13 Vessels will not approach whales head-on and will</p> <p>14 not approach within 500 yards. The Navy will also</p> <p>15 report sightings and reduce speed in the southeast</p> <p>16 critical habitat.</p> <p>17 The Navy is developing an integrated</p> <p>18 comprehensive monitoring program for marine species</p> <p>19 in order to assess the effects of training</p> <p>20 activities on marine species and investigate</p> <p>21 population trends in marine species distribution</p> <p>22 and abundance in various range complexes and</p> <p>23 geographic locations where Navy training occurs.</p> <p>24 The primary tools available for monitoring are</p> <p>25 listed here.</p>

Page 21

1 The Navy has funded \$26 million in 2008 towards
 2 marine mammal research. For the past several years
 3 the Navy has provided 10 to 14 million to
 4 universities, research institutions, federal
 5 laboratories, private companies and independent
 6 researchers around the world study marine mammals.
 7 In addition, the Navy sponsors approximately 70
 8 percent of all US research concerning the effects
 9 of human-generated sound on marine mammals and
 10 approximately 50 percent of such research conducted
 11 worldwide.
 12 Major topics of Navy-supported research are on
 13 this slide. This slide concludes our presentation
 14 on the information and analysis contained in the
 15 document, and now I'd like to briefly discuss the
 16 future steps in the process related to the project.
 17 This slide outlines the schedule beyond the
 18 release of the draft document. The Navy values
 19 your input on this Draft Environmental Impact
 20 Statement tonight and up until the end of the
 21 comment period.
 22 Four public hearings, including this one, are
 23 being held throughout this week. Your comments on
 24 this draft document will be addressed in the final
 25 EIS/OEIS. The final step is the decision phase.

Page 23

1 The time is now 20:55 and as of yet we have not
 2 received any request from the public to make the
 3 comment at this hearing tonight.
 4 Therefore, I'm going to recess the hearing once
 5 again until 21:00.
 6 We're in recess.
 7 (A recess was taken.)
 8 MAJOR LEE: This hearing is called to order.
 9 Ladies and gentlemen, it is now 9 p.m. eastern
 10 standard time. The time has now expired.
 11 I would like to remind those in attendance that
 12 written comments may be submitted and will continue
 13 to be accepted and made part of the public record
 14 until August 11, 2008.
 15 Ladies and gentlemen, thank you very much for
 16 your courtesies and for your participation this
 17 evening.
 18 This public hearing is now closed.
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Page 22

1 A decision will not be made until at least 30
 2 days after distribution of the final EIS/OEIS.
 3 This decision will be summarized and published as a
 4 record of decision in The Federal Register in April
 5 2009.
 6 Thank you, sir. We're done.
 7 MAJOR LEE: Thank you, gentlemen.
 8 Why don't I open the floor up for any comments.
 9 I haven't been provided with any speaker cards.
 10 Are there any speakers or individuals present
 11 tonight who would like to make a comment?
 12 It appears that there are none. As such why
 13 don't we take a half an hour recess.
 14 This public hearing is in recess.
 15 (Time 7:21 p.m.)
 16 MAJOR LEE: This hearing is called to order.
 17 This time I'll once again open the floor to
 18 anybody who desires to make a statement.
 19 I've been informed that there are no speakers
 20 at this time.
 21 We will recess this hearing once again until
 22 20:55.
 23 This hearing is in recess.
 24 (A recess was taken.)
 25 MAJOR LEE: This hearing is called to order.

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NORTH CAROLINA
 PITT COUNTY CERTIFICATE

I, Kay W. Westbrook, Registered Professional Reporter and Notary Public, do hereby certify that I stenographically recorded the verbatim minutes of the foregoing proceedings at the time and place aforesaid, and then reduced same to typewritten form; that the record appearing in the preceding pages is a true and correct transcript of said proceedings to the best of my ability and understanding; that I am not related to any of the parties to this action; that I am not of counsel; and, that I am not interested in the event of this cause.

This the 23rd day of July, 2008.

 Kay W. Westbrook, RPR

Notary Number 19941960051
 My commission expires: July 23, 2009