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Tuesday, July 4, 2006

**Judge bars shrill Navy sonar**  
Temporary order issued in suit seeking to protect whales, porpoises

By ROBERT McCLURE  
P-I REPORTER

The Navy is forbidden to use an intense form of sonar -- known to have spooked Puget Sound orcas in the past -- during combat exercises this month in the Pacific, a federal judge ruled Monday.

Environmentalists suing to halt the sonar use offered "considerable convincing scientific evidence" that the exercise would harm or even kill whales, porpoises and other marine creatures, U.S. District Judge Florence-Marie Cooper ruled in Los Angeles in granting a temporary restraining order.

Among the areas the Navy had previously obtained permission to use the midfrequency sonar were the biologically rich waters of the northwest Hawaiian Islands. Last month, President Bush proposed creating the largest marine sanctuary on the planet there.

"Whales and other marine species shouldn't have to die for practice. The Navy can accomplish its national security mission in a manner that's consistent with environmental protection," said Joel Reynolds, a Natural Resources Defense Council lawyer involved in the case. "It simply makes no sense for the Navy not to incorporate the full range of practical, common-sense measures available to it to reduce the harm to whales, porpoises and other marine creatures."

The Navy was preparing a statement in response to the ruling, Navy spokesman Lt. John Gay said, but it was not available by late Monday.

In the past, though, the service has said a new generation of super-quiet submarines is being developed by nations such as Iran and North Korea.

"Without active sonar, our young men and women serving aboard ships are blind and vulnerable to attack from submarines," the Navy said in a 2003 statement responding to a study in the science journal Nature that said naval sonar kills whales.

The Navy's June 26-July 28 RIMPAC 2006 exercise, which includes seven Pacific Rim nations, is designed to train sailors in the detection of the stealthy new subs.

That apparently also was what was going on in the San Juan Islands when the USS Shoup, a guided missile destroyer, started using sonar in a

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2003 exercise at Haro Strait.

The intense, screechy whistling was loud enough to be heard above the water by boaters more than 10 miles away.

Witnesses said orcas halted their feeding and huddled close to shore in an odd configuration.

Dall's porpoises also gathered in a bay, and a minke whale swam off as if in a panic.

Fifteen harbor porpoises were found dead on beaches in the region in the days that followed, an unusually high number for that time of year.

A scientific inquiry said the levels of sound were high enough to affect the porpoises' behavior, but it was inconclusive about whether the sonar actually caused the deaths.

Fish may be at risk, too.

Environmentalists point to anecdotes suggesting that midfrequency sonar kills or drives away fish, and the National Marine Fisheries Service has cited scientific evidence it interferes with fish spawning.

And the Navy admitted that its sonar was "highly likely" the cause of the deaths of whales that beached themselves in the Bahamas in March 2000.

The incidents in which naval sonar deployment is suspected of harming marine mammals include exercises in Puerto Rico in 2002, 2000 and 1998; the U.S. Virgin Islands in 1999; Portugal's Madeira Islands in 2000; the Canary Islands in 2002; Greece in 1996; the Gulf of Alaska in 2004; and off North Carolina last year.

Recently, the National Marine Fisheries Service said sonar was a "plausible, if not likely" cause of the stranding of 150 melon-headed whales in a bay in Kauai during the RIMPAC 2004 naval exercise.

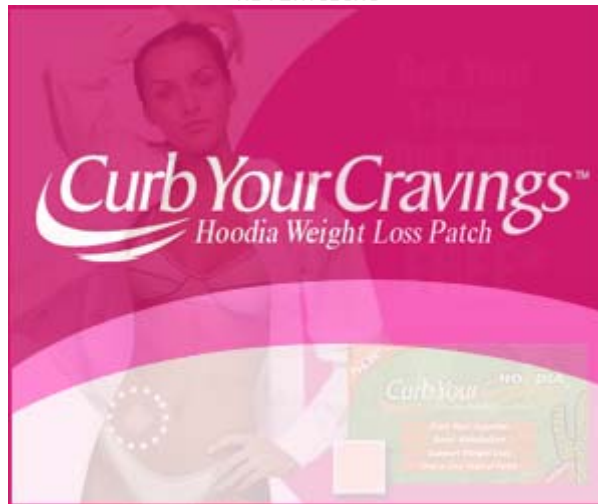
Environmentalists last year filed suit to rein in the Navy's longtime use of the midfrequency sonar, saying years of their pleas to the service yielded no result.

Last week, in preparation for the current naval exercises, the Navy obtained an exemption to the Marine Mammal Protection Act permitting the current exercises.

However, environmentalists already were in court protesting a determination by the National Marine Fisheries Service that it would have "no significant impact" on marine creatures.

Judge Cooper's ruling noted that the current exercises contemplated turning on the sonar at 235 decibels when evidence shows that levels

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over 173 decibels constitute illegal harassment of marine mammals.

The measures the Navy should consider to lessen the effect on marine creatures, said Reynolds, the plaintiff's lawyer, should include:

- Posting two or three sailors with binoculars on the decks of ships using sonar to be on the lookout for marine mammals. Currently, only one is required.
- Agreeing not to use the sonar near areas where marine mammals are known to congregate.
- Shutting down the sonar at night, when there is no way to detect marine mammals.
- Using a less intense form of the sonar when marine mammals may be nearby.

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**Should the Navy be allowed to use sonar in war games if it might harm whales and other sea creatures?**

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