

Dated: April 14, 1999.

Ted Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 99-10248 Filed 4-22-99; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Designation of the Jacques Cousteau National Estuarine Research Reserve at Mullica River and Great Bay, New Jersey; and the Kachemak Bay National Estuarine Research Reserve, Alaska

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

ACTION: Notice of designation.

SUMMARY: Notice is hereby given that the National Oceanic and Atmospheric Administration (NOAA), U. S. Department of Commerce, has designated certain lands and waters of the Mullica River-Great Bay estuary in New Jersey as the Jacques Cousteau National Estuarine Research Reserve at Mullica River and Great Bay, and has designated certain lands and waters of Kachemak Bay in Alaska as the Kachemak Bay National Estuarine Research Reserve.

On April 3, 1998, Under Secretary of Commerce for Oceans and Atmosphere D. James Baker, signed findings of designation for the Jacques Cousteau National Estuarine Research Reserve in New Jersey pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461, and its implementing regulations at 15 CFR Part 921. The Reserve duly received certification from the State of New Jersey Coastal Zone Management Program that Reserve designation is consistent to the maximum extent practicable with its program. A copy of the official Record of Decision is available for public review from NOAA's Office of Ocean and Coastal Resource Management at the address below.

On February 12, 1999, Under Secretary of Commerce for Oceans and Atmosphere D. James Baker, signed findings of designation for the Kachemak Bay National Estuarine Research Reserve in Alaska pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461, and its implementing

regulations at 15 CFR Part 921. The Reserve duly received certification from the State of Alaska Coastal Zone Management Program that Reserve designation is consistent to the maximum extent practicable with its program. A copy of the official Record of Decision is available for public review from NOAA's Office of Ocean and Coastal Resource Management at the address below.

FOR FURTHER INFORMATION CONTACT:

Laurie McGilvray (301) 713-3155, Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1305 East West Highway, N/ORM5, Silver Spring, MD 20910. A copy of the Record of Decision for each Reserve is available upon request.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Research Reserves

Dated: April 16, 1999.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 99-10282 Filed 4-22-99; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for Pacific Missile Range Facility Enhanced Capability

AGENCY: Department of the Navy, Department of Defense.

ACTION: Notice of record of decision.

SUMMARY: The Department of the Navy, after carefully weighing the operational and environmental consequences, announces its decision to enhance the Pacific Missile Range Facility's (PMRF) capability to permit accommodation of the Department of the Navy Theater Ballistic Missile Defense (TBMD) and Department of Defense (DOD) Theater Missile Defense (TMD) testing, evaluation, and training.

FOR FURTHER INFORMATION CONTACT:

Ms. Vida Mossman, Pacific Missile Range Facility, P.O. Box 128, Kekaha, Kauai, Hawaii, 96752-0128, telephone number (808) 335-4740.

SUPPLEMENTARY INFORMATION: The text of the entire Record of Decision (ROD) is provided as follows:

The Department of the Navy, pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969; the Council on Environmental Quality regulations implementing NEPA procedures, 40 CFR parts 1500-1508; SECNAVINST 5090.6; OPNAV

Instruction 5090.1B; and Executive Order 12114, announces its decision to enhance the Pacific Missile Range Facility's (PMRF) capability to accommodate the Department of the Navy Theater Ballistic Missile Defense (TBMD) and Department of Defense (DOD) Theater Missile Defense (TMD) testing, evaluation, and training. These enhancements of PMRF capabilities were described in the preferred alternatives in the Pacific Missile Range Facility Enhanced Capability Final Environmental Impact Statement (EIS) of December 18, 1998.

This decision adopts both the continuation of current PMRF functions and the development of new sites and implementation of new activities. Existing PMRF functions include range and land-based training and operations, research, development, test, and evaluation (RDT&E), and ongoing base operations and maintenance activities. The new sites and activities adopted include construction and modification of target and interceptor launch facilities, launches of target and interceptor missiles by air, land and/or sea, construction and modification of instrumentation facilities, construction of support facilities, and transportation of missile propellant. Locations that will be affected by this decision are PMRF (PMRF/Main Base, Restrictive Easement; Makaha Ridge; Kokee; Kamokala Magazines; and Port Allen, Kauai) PMRF support sites (Niihau; Kaula; Maui Space Surveillance System, Maui; Kaena Point, Oahu; Wheeler Network Segment Control/PMRF Communications Sites, Oahu; Department of Energy Communication Sites, Kauai and Oahu; and the Ocean Area inside and outside of U.S. territory. Tern Island and Johnston Atoll were eliminated as sites in the Final EIS.

Related State of Hawaii decisions will permit the use of State lands in proximity to PMRF to support missile launch and storage requirements. These State decisions will allow the U.S. Government to: (1) Continue to exclude non-participants from the ground hazard area during missile launches at PMRF, (2) permit the Navy to construct additional ordnance storage facilities to accommodate missile storage requirements, and (3) establish and maintain safety zones around the ordnance storage facilities.

Process

The Navy has complied with all applicable Executive Orders including consideration of the environmental effects of its actions outside the United States or its territories under the provisions of Executive Order 12114

(*Environmental Effects Abroad of Major Federal Actions*) and the requirements of Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations).

The Notice of Intent and the State of Hawaii EIS Preparation Notice were published in both the **Federal Register** (62 FR 28451) and The Environmental Notice, a semi-monthly bulletin of the State of Hawaii Office of Environmental Quality Control, on May 23, 1997. Notification of public scoping was also made through local media, as well as through letters to Federal, State, and local agencies and officials, and interested groups and individuals. Four public scoping meetings were held in Hawaii from June 17-23, 1997. In addition a similar but modified meeting was held for the residents of Niihau.

The notice of Availability of the Draft EIS was published in The Environmental Notice on April 8, 1998 and in the **Federal Register** (63 FR 17857) on April 10, 1998. Public hearings were conducted at Waimea, Kauai, and Honolulu, Oahu, Hawaii, on April 25 and 28, 1998, respectively. A meeting was held on Niihau for the residents on April 23, 1998. Approximately 210 individuals, agencies, and organizations submitted comments on the Draft EIS. The Final EIS addressed all oral and written comments. The Notice of Availability for the Final EIS was published in the **Federal Register** on December 18, 1998 and in The Environmental Notice on December 23, 1998. Articles also appeared in the Kauai and Oahu newspapers announcing the release and summarizing the results of the Final EIS. Copies of the Final EIS were mailed to all those agencies, organizations and individuals who had provided comments and had requested a copy of the Final EIS.

Alternatives Considered

The alternatives considered were based upon Navy testing requirements and included sites within a 1200-kilometer radius of PMRF that were accessible and could be safely used for testing. These alternatives were the no-action alternative and the preferred alternative adopted in this decision.

No-Action Alternative

The no-action alternative was the continuation of all components of existing range and land-based operations, existing RDT&E activities and training, ongoing base operations maintenance of technical and logistical facilities, and those mitigation measures and standard operating procedures

which are in place to protect the environment without any of the enhancements included within the proposed action. The no-action alternative was not selected because it fails to build capability sufficient to meet the Navy TBMD and other DOD TMD mission requirements. The no-action alternative is the environmentally preferred alternative.

Action Selected

The selected action was presented as the Preferred Alternative in the EIS. It includes continued testing and training activities as currently conducted with the addition of facilities enhancements. The enhancements are described more particularly below. As noted above, the decision also includes pursuit of modification of existing restrictive easements with the State of Hawaii to support missile launches and acquisition, either through lease or purchase, of State lands located in proximity to PMRF to support missile storage requirements.

Actions Associated With the Decision

Support Facilities

The Navy will construct, renovate, and modify support facilities at PMRF, Kamokala Magazines, Makaha Ridge, Kokee, and Niihau. Enhancements at PMRF will be construction of temporary storage areas for liquid propellant and a new missile assembly building. Enhancements at Kamokala Magazines will be construction of two new missile storage buildings, with security fencing and associated road improvements on land acquired, through lease or purchase, from the State of Hawaii. Makaha Ridge and Kokee enhancements consist of improvements to radar and associated instrumentation support facilities. Enhancements at Niihau will be construction of target launch facilities at sites A and/or K, along with reinforced operations shelters, associated road improvements, and construction of an airstrip at site M on Niihau. These enhancements will be initiated when program requirements for PMRF are identified.

Instrumentation

This decision includes installation of new and upgraded radars, telemetry, and instrumentation at PMRF, Makaha Ridge, and Kokee. On Niihau, the Navy will install additional instrumentation and telemetry as well as operate an Aerostat from site C and one of four other sites (F, G, H, or I) when program requirements are identified. This decision also includes operation of an Aerostat from a mobile sea platform.

Target Missile Launches

The preferred methods of delivering target missiles are from aircraft and from land areas at PMRF/Kauai Test Facility. Target launches from a mobile sea platform or barge will also be used if required to satisfy mission requirements. Target launch facilities, consisting of launch pads and supporting facilities, will be built at PMRF and/or Niihau as and when program requirements are identified.

Interceptor Launches

The Navy will launch interceptor missiles in the open ocean from existing ships. Missile launch capabilities will also be established on PMRF for other land based DOD interceptor systems when required, and will include the use of the existing Strategic Target System (STARS) launch site. If program requirements are identified, interceptor launch facilities on Niihau will be developed at sites A and/or K in addition to the target launch facilities at those sites.

Real Property

The U.S. Navy will request the State of Hawaii to extend the existing Restrictive Easement at PMRF to December 31, 2030 and to revise the easement to include launches of additional target missiles. Current limitations on closures per year or length of closures will not change. The Navy will also acquire, through lease or purchase, State of Hawaii property adjacent to the Kamokala Magazines on which to build two missile storage magazines and establish an associated safety area.

Propellant Transport

The Navy will transport liquid missile propellants to PMRF by air if the appropriate transportation waivers can be obtained. If waivers cannot be obtained, the Navy will transport the liquid propellants by sea directly to PMRF. At this time transportation of liquid propellants to PMRF by road is not anticipated. If, in the future, transport of liquid propellants on public roads should become necessary, the Navy will consult with the Hawaii Department of Transportation and the Governor's staff prior to any shipments on the public roads.

Environmental Impacts

The Navy analyzed the potential impacts of the selected action in 14 resources areas: air quality, airspace, biological resources, cultural resources, geology and soils, hazardous materials and hazardous waste, health and safety, land use, noise, socioeconomics,

transportation, utilities, visual and aesthetic resources, and water resources. The Navy also considered the action's potential for cumulative effects and ensured consistency with federal policies addressing environmental justice and federal actions in areas outside the territorial limits of the U.S.

This decision when implemented will have significant impacts on airspace above Niihau and biological resources at Niihau. Ongoing Navy activities will continue to have significant impacts on geology and soils at Kaula and on the non-potable water supplies at Makaha Ridge and Kokee Park. Impacts on all other resources or functions analyzed will be less than significant.

Geology and Soils

Ongoing air-to-surface weapons delivery training being conducted at the southeast end of Kaula has caused permanent adverse soil and geologic effects associated with rock shattering explosions and the presence of both live and inert ordnance.

Non-Potable Water

Ongoing test activities at Makaha Ridge and Kokee Park will continue to have an adverse impact on the non-potable water supply system.

Airspace

Activation of new operating areas over Aerostat sites or missile launch sites on Niihau have the potential to impact the V-16 low altitude airway that crosses the middle of the island. When program requirements are identified, the Navy will request that a new Restricted Area be established by the Federal Aviation Administration. The Restricted Area will surround the proposed sites that lie within the boundaries of the airway. Whenever an operation is scheduled, the new Restricted Area will be activated, and air traffic using the V-16 airway will be required to use an alternate flight course. This represents a potentially significant adverse impact, as defined by the Federal Aviation Administration, on other regional airways.

Biological Resources

Additional traffic at the existing logistics landing sites and other landing craft landing areas on Niihau may disturb monk seals that haul out to bask, or possibly pup, on the sandy beach areas. Disturbance of green sea turtle nesting sites at the existing logistics landing sites and other sandy beach areas could also occur. The monk seal is a federally listed endangered species and the green sea turtle is a federally listed threatened species.

Mitigation

With regard to the significant impacts described above, the Navy will ensure that the following mitigation measures described below are implemented.

Geology and Soils

To minimize impacts to geology and soil at Kaula, the Navy will limit targeting for air-to-surface weapons delivery to the southeast tip of the island. This area constitutes approximately eight percent of the landmass of the island. The Navy is planning no new activities for Kaula.

Non-Potable Water

To minimize impact on the water supply at Makaha Ridge and Kokee, the Navy will continue existing water conservation measures in coordination with the State of Hawaii. The State Parks Department has drilled a new water well at Kokee Park that will be online within one to two years, and significant impacts associated with water supply will be reduced.

Airspace

Use of Notice of Airmen notification will minimize the impact to aircraft transiting Niihau.

Biological Resources

To protect biological resources at Niihau during construction, PMRF will use the measures discussed below, developed through consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service under the requirements of Section 7 of the Endangered Species Act.

The National Marine Fisheries Service, in a decision letter issued on October 21, 1998, concluded that the proposed actions would "not likely adversely affect listed species". The U.S. Fish and Wildlife Service, in a decision letter issued on October 22, 1998, concurred with the findings of the Navy's Biological Assessment and stated that the proposed action is "not likely to adversely affect endangered or threatened species."

During operations PMRF will ensure beaches are monitored for the presence of monk seals and green sea turtles, and either wait for their departure or conduct landings elsewhere. PMRF will provide fire suppression equipment at launch sites and will restrict project personnel to the facilities where their responsibilities will be carried out. PMRF will obtain prior approval from the landowner for all site alterations. Prior to construction of an airstrip, PMRF will develop a bird aircraft strike hazard plan to avoid bird impacts to aircraft. PMRF will also take measures

to eliminate the import of exotic wildlife species, and will conduct checks of equipment and personnel to minimize the risk of inadvertent pest transportation to the island.

In addition to implementing the above mitigation measures for significant impacts, the Navy will ensure the following mitigation measures are implemented to avoid potential significant impacts:

Air Quality

To protect the air quality during any construction activities, standard construction practices will be followed to control fugitive dust emissions. These practices may include periodic wetting of disturbed soils.

Airspace

To prevent indirect impacts to airspace use in the Ocean Area, PMRF will keep the public and pilots informed of activity that affects airspace use. PMRF will annually evaluate flight activities, including missile launch activities, and review mission changes with respect to supersonic operations, to ensure that every effort is being made to reduce any adverse indirect impacts.

Biological Resources

To protect biological resources at PMRF/Main Base, the following existing mitigation measures will be continued: (1) Discourage albatross from nesting on base, (2) reduce impacts on the Newell shearwater by the use of protective light shields, (3) monitor the beaches to identify and avoid turtle nesting before amphibious landings, and (4) monitor beaches to identify and avoid monk seals prior to test activities. To protect biological resources at Makaha Ridge and Kokee, protective shielding will be used for any new outdoor lighting. To protect biological resources at the Kamokala Magazines, PMRF will install light shields (if any site is lighted at night) to reduce effects on the Newell shearwater. To protect biological resources at Kaula, PMRF will use the area seasonally, when marine mammals are not present, and will survey waters off the island, delaying or moving operations if marine mammals are found. The impact area will continue to be on the south end of the island only.

To protect biological resources in Open Ocean areas, PMRF will use standard range warning and checking procedures to check for concentrations of marine mammals in hazard areas. If marine mammals are present, the Flight Safety Officer will determine whether to continue, delay, or move the test, as and if necessary for protection of the animals.

The Navy plans to continue periodic monitoring of bird populations on Kaula with assistance from the State of Hawaii Department of Land and Natural Resources and the U.S. Fish & Wildlife Service.

Cultural Resources

To protect cultural resources, PMRF will implement the mitigation measures contained in the March 18, 1999 Memorandum of Agreement (MOA) with the Hawaii State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation. Concerning Niihau, the MOA requires the involvement of the island's proprietors, the residents of Niihau, and the SHPO in determining the nature and scope of surveys to identify potential impacts to historic properties, including traditional cultural properties. The MOA also requires appropriate mitigation measures in the event that there are potentially adverse impacts to such properties from PMRF's actions on Niihau.

Geology and Soils

To protect geological and soil resources at PMRF/Main Base and Niihau, the following mitigation measures will be implemented: (1) PMRF will not launch solid propellant missiles when it is raining, (2) A water deluge system for cooling or noise suppression will not be employed, (3) Excavated material will be watered frequently, and (4) Soil additives will be used to bond exposed surface soils when necessary.

To protect geological and soil resources at PMRF/Main Base, Makaha Ridge, Kokee, Kamokala Magazines, and Niihau from erosion, PMRF will: (1) Minimize areas exposed during digging, (2) use soil stabilizers and sandbags, (3) add covering to slopes, and (4) revegetate slopes as necessary.

Hazardous Materials and Waste

PMRF will extend main base waste management procedures to include Niihau. Hazardous materials will not be permanently stored at Niihau, and hazardous wastes generated by Navy and other DOD activities will be shipped from Niihau for proper disposal. PMRF will construct all launch pads and storage devices with containment or sump systems to contain any potential spills and will conduct any required remediation.

Health and Safety

In the Restrictive Easement, PMRF will continue to clear the easement area during missile launches, in accordance

with the provisions of the lease with the State of Hawaii.

Land Use

To protect land resources on Niihau, PMRF will work with the landowner or Niihau residents to minimize operations that might exclude residents from traditional fishing areas during the best times of day or seasons.

Socioeconomics

To prevent potential negative socioeconomic impacts on Niihau, PMRF will periodically review and strengthen the protection protocol to help reduce construction and operational impacts, and provide cultural sensitivity training to off-island personnel who may come into contact with Niihau residents. To benefit the residents, the maximum feasible number of Niihau residents will be employed.

Transportation

To prevent minor ongoing transportation impacts (access to Polihale Park) expected as a result of implementation of the action within the Restrictive Easement, PMRF will: (1) Issue advance warnings of closures to citizens, (2) minimize closure times, and (3) reopen road access as soon as possible. Such actions shall be taken in accordance with the provisions of the state lease.

Visual and Aesthetic Resources

To protect visual resources at PMRF/Main Base and Niihau, PMRF will maintain as much natural vegetation around existing launch pads and newly constructed facilities as safety will allow. Emphasis will be placed along the ocean side of the launch pads and newly constructed facilities. To minimize impacts to visual resources at the Kamokala Magazines, the storage magazines will be covered with earth material except for entrance doors that will face the cliffs outside of public view. Grass and other limited height vegetation will be allowed to grow on the storage magazines to help reduce erosion. To minimize aesthetic effects on Niihau, PMRF will use earth-toned paint on all structures.

Response to Comments Received Regarding the Final EIS

The Department of Navy received three comment letters on the Final EIS. The U.S. Environmental Protection Agency (EPA) withdrew environmental objections raised during comments on the Draft EIS upon the removal of Term Island and Johnston Atoll from the sites under consideration. The EPA further

suggested that the Navy document, in the Record of Decision, any mitigation measures it intends to implement. This Record of Decision provides that documentation. Two comment letters were received from individuals who disagreed with the conclusions of the Final EIS. The subject of one of the letters was outside the scope of the EIS. The other letter renewed comments that had been made on the Draft EIS. The comments questioned analysis techniques used in the Final EIS and expressed concerns about risk of brush fires and U.S. treaty implications. Responses have been provided in the Final EIS, and some are reflected in this Record of Decision.

Conclusions

On behalf of the Department of the Navy, I have selected the Preferred Alternative of the PMRF EIS for implementation as set out in this Record of Decision. In determining whether and how to enhance the capabilities of the PMRF, I considered the following: existing assets and capabilities of PMRF; the Navy and DOD operational, testing, and training requirements; range improvements necessary to support PMRF as a TBMD test site; environmental impacts; costs associated with construction of facilities, the operation and maintenance of ships and aircrafts, and training of personnel; and comments received during the EIS process.

After carefully weighing all of these factors and analyzing the data presented in the Final EIS, I have determined that the Preferred Alternative best meets the requirements for the enhancement of the capabilities at PMRF.

Dated: April 14, 1999.

Duncan Holaday,

Deputy Assistant Secretary of the Navy, Installations and Facilities.

[FR Doc. 99-10241 Filed 4-22-99; 8:45 am]

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DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 24, 1999.