



DEPARTMENT OF THE NAVY
NAVAL AIR STATION WHIDBEY ISLAND
3730 NORTH CHARLES PORTER AVENUE
OAK HARBOR, WASHINGTON 98278-5000

5090
Ser N46/1569
August 20, 2019

Mr. Brad Thompson
Washington Fish and Wildlife Office Supervisor
Western Washington Field Office
510 Desmond Drive SE, Suite 102
Lacey, WA 98503-1273

Dear Mr. Thompson,

In accordance with section 7 of the Endangered Species Act (ESA), the United States Navy (Navy) requests reinitiation of formal consultation on EA-18G Growler Airfield Operations at Naval Air Station (NAS) Whidbey Island, Oak Harbor, Washington. The existing Biological Opinion (BO) and Incidental Take Statement (ITS) remain in place during the reinitiated consultation. This letter further documents the Navy's compliance with section 7(a)(2) and section 7(d) of the ESA during this reinitiation period.

Background

The Navy completed formal consultation with your office, via U.S. Fish and Wildlife Service (USFWS) BO (Reference 01EWF00-2017-F-0826), on June 14, 2018. USFWS determined that EA-18G Growler airfield operations, as described, are not likely to jeopardize the continued existence of the marbled murrelet (*Brachyramphus marmoratus*), and issued an ITS. There is no critical habitat designated for the marbled murrelet within the lands or waters on or near NAS Whidbey Island or the Outlying Landing Field (OLF) at Coupeville.

The Navy requests reinitiation of formal consultation for two specific purposes: first, to clarify the surrogate used for the ITS and the monitoring or annual reporting component within the Terms and Conditions. Second, reinitiation of formal consultation would allow for refinement of the analysis of the Navy's EA-18G Growler flight operations pertaining to the alternative implemented by the Record of Decision (ROD) for the Navy's Final Environmental Impact Statement (FEIS) signed March 12, 2019.

Planned Growler Operations During Reinitiated Formal Consultation Period

The Navy commits to limit Growler flight operations to the level analyzed by the existing BO during the reinitiated consultation period. The ITS states that marbled murrelets may be exposed to 1,981,560 incidents of harassment (created by 2,899,530 pattern maneuvers) over 30 years (2018-2048) when in the marine habitat during Growler aircraft overflights. Based on an average year of total Growler flight operations, the BO assumed and analyzed 66,053 annual incidents as a result of 96,651 annual pattern maneuvers. From January 2019 through August 10, 2019, the Navy conducted 56,787 pattern maneuvers, or approximately 59 percent of the annual total. Projecting for the remainder of the calendar year, the Navy estimates a total of 77,802

pattern maneuvers (resulting in 55,160 incidents) during 2019 (80 percent of the annual maneuvers and 84 percent of the annual incidents considered in the BO). The total number of pattern maneuvers for 2019 is, therefore, expected to be below the annual average, in part because the Navy is not yet operating at full capacity as analyzed in the FEIS and documented in the ROD (full complement of pilots and aircraft has not yet occurred).

Further, because habitat exposure was a key element of the 2018 BO, the Navy has compared the amount of habitat exposure analyzed in the BO with the habitat exposure resulting from the Navy's actual and forecasted operations for calendar year 2019. This comparison shows that, overall, the Navy's Growler flight operations during 2019 will expose less habitat than was analyzed as the annual average within the BO. This is because a slight increase in Interfacility Flights (slightly over 2,000 projected as opposed to 1,924 average analyzed) is more than offset by a much greater reduction in Ground Controlled Approaches (less than 6,000 projected as opposed to 14,586 average analyzed).

Section 7(d) Analysis and Determination

Section 7(d) of the ESA provides that "after initiation of consultation required under subsection (a)(2), the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a)(2)." Planned Growler flight operations do not constitute an irreversible or irretrievable commitment of resources because the operations are transient in nature and the planned operations would not inhibit the potential development of reasonable and prudent alternatives.

The Growler flight operations at issue here are intermittent and temporary increases in sound to the marine foraging area. In the original BO, the USFWS was mindful of the fact that the incidents of take consisted of a temporary auditory disturbance mixed with long periods of no activity; that the impact exists only for the duration of the flight activities; and that the action area will continue to function as foraging habitat. Further, USFWS determined that action would not result in direct mortality to breeding marbled murrelets, nor would it reduce the existing potential breeding population in the Conservation Zone or range-wide. The Service expected marbled murrelets to be able to compensate for most behavioral responses to overflights and for the habitat to continue to function for foraging.

Thus, given that USFWS made a non-jeopardy determination and that the Navy will operate within the bounds of the existing BO during reinitiated formal consultation, the Navy's planned Growler operations do not violate section 7(d). To the extent USFWS or the Department of the Interior disagree, please notify our agency immediately.

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Conclusion

We appreciate USFWS working with us to clarify the surrogate used for the ITS and the monitoring or annual reporting component within the Terms and Conditions. Total operations, incidents of exposure, and habitat exposure will all be lower during the reinitiated formal consultation period than the levels previously analyzed and authorized by the USFWS. Because of the nature of the impact, the planned Growler flight operations during the pendency of reinitiated formal consultation will not impair the USFWS ability to formulate, and the Navy's ability to implement, any reasonable and prudent alternative measures. Therefore, the additional planned Growler flight operations authorized in the Navy's ROD to be conducted during the reinitiated formal consultation period are consistent with section 7(a)(2) and 7(d) of the ESA.

We look forward to concluding the reinitiated formal consultation as soon as possible. Although there is no specific reinitiation timeframe under law or regulation, we hope the process may conclude within the 135-day formal consultation timeframe set forth under the ESA and regulations. The Navy welcomes dialogue during this time to assist in your understanding of our activities and requests any additional information (e.g., white papers) that USFWS is using to support its analysis.

We appreciate your continued support in helping the Navy to meet its environmental responsibilities. Please direct any written response and additional inquiries to [REDACTED] available at [REDACTED]

Sincerely,



M. L. ARNY
Captain, U.S. Navy
Commanding Officer

Copy to: Mr. Jim Muck, USFWS Lacey
Mr. Lee Corum, USFWS Lacey
Ms. Katherine Fitzgerald, USFWS Lacey
Ms. Amy Farak, USFF N46544