



# COMMONWEALTH of VIRGINIA

Office of the Governor

Timothy M. Kaine  
Governor

May 27, 2008

Mr. Will Sloger  
Naval Facilities Engineering Command Southeast  
Attn: Code EV21 (Mr. Will Sloger)  
2155 Eagle Drive  
North Charleston, SC 29406

Dear Mr. Sloger:

The Commonwealth of Virginia submits this letter and attachment as its comments on the Draft Environmental Impact Statement (DEIS) for the proposed homeporting of additional surface ships at Naval Station Mayport, Florida (NAVSTA Mayport).

The Commonwealth has significant concerns regarding the DEIS. The purpose of an environmental impact statement under the National Environmental Policy Act (NEPA) is to ensure that the agency decision-maker have properly accounted for environmental impacts in making a final decision on a proposed action. This DEIS is flawed to a degree that the Navy cannot make an informed homeporting decision. Our concerns are amplified because many of the issues raised in the DEIS comments are the same issues that Virginia raised in our scoping comments, which our review of the DEIS indicates were not accounted for by the Navy.

As discussed in the attached detailed comments prepared by my Secretary of Commerce and Trade, Patrick O. Gottschalk, we have identified numerous problems within the DEIS: The scope of the DEIS is too narrow, the DEIS uses the wrong baseline year, the analysis of impacts are inadequate, and the EIS fails to properly consider impacts on threatened and endangered species and critical habitat.

As noted in my previous letter on this issue, it is important to provide a reasonable time period to review and prepare comments on a complicated DEIS. I appreciate that a 15 day extension was granted on this DEIS, however for the size of this document; a longer comment period would have been preferred to fully highlight our concerns.

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Given the importance of what is at stake, the potential for significant environmental impacts, and the millions of federal taxpayer dollars to be spent, the limited comment period will undercut the Navy's ability to make the most informed decision possible.

We respectfully request that you take these comments under advisement and modify the DEIS and the public comment period to ensure that the Navy has all of the vital information necessary to make the best, most informed decision. Please let us know if there is anything we can do to assist you in this effort.

Sincerely,

  
Timothy M. Kaine

TMK/dgd

Attachments (3)

c: The Honorable Patrick O. Gottschalk, Secretary of Commerce & Trade

**Comments to the Draft Environmental Impact Statement for Homeporting  
Additional Surface Ships at Naval Station Mayport, Florida**

Submitted by Patrick O. Gottschalk, Secretary of Commerce and Trade  
Commonwealth of Virginia

**1. The scope of the Draft Environmental Impact Statement (DEIS) is too narrow.**

The description of the proposed action – Chapter 1, Section 1.1 – provides a confused and contradictory explanation of the project. The description of the proposed action states in the first sentence of Section 1.1 that the “action being evaluated in this EIS is to homeport additional fleet surface ships at Naval Station (NAVSTA) Mayport, Florida.” The action is defined as including “permanent assignment of surface ships and personnel.” The action could include the “relocation of existing ships ... or assignment of newly acquired fleet ships ....” However, the DEIS expressly rejects any consideration of “actions at other Navy bases” that would be required in order to accomplish the proposed action. This description of the project creates several flaws in the DEIS, which as further discussed below, undermine the analysis of the alternatives included in the document.

**a. Connected actions not considered.**

The National Environmental Policy Act (NEPA) Council on Environmental Quality (CEQ) regulations at 40 C.F.R § 1508.25, require that an EIS consider “connected actions” in one EIS. A “connected action” is one that:

- 1) automatically triggers other actions which may require environmental impact statements;
- 2) cannot or will not proceed unless other actions are taken previously or simultaneously; or
- 3) is an interdependent part of a larger action and depends on the larger action for its justification. (40 C.F.R § 1508.25(a)(1))

Actions that meet any one of these three “connected actions” criteria must be considered in one EIS. Here, the proposed action in the DEIS clearly meets each of the three definitions of a “connected action.” Because the proposed action “includes permanent reassignment of surface ships and personnel [,]” a Record of Decision adopting any of the action alternatives in the DEIS will “automatically trigger” the reassignment of a ship from its current homeport to NAVSTA Mayport. Also, the completion of the project as defined in the DEIS can only happen once ships are reassigned to NAVSTA Mayport. Thus, the NAVSTA Mayport project “cannot proceed unless other actions are taken....” Finally, reassignment of ships from current homeports to NAVSTA Mayport clearly constitutes an “interdependent part of a larger action.” Moreover, without reassignment of ships to NAVSTA Mayport, the

expenditure of hundreds of millions of dollars to prepare NAVSTA Mayport for the proposed fleet configurations displayed in the 12 action alternatives is simply not justified.

Because the DEIS expressly rejects any attempt to consider “actions at other Navy bases” that would be contributing ships to NAVSTA Mayport, its scope is far too narrow to meet the requirements of 40 C.F.R. § 1508.25(a). The DEIS should be withdrawn and a revised or new DEIS issued that fully considers all impacts to homeports from which ships reassigned to NAVSTA Mayport would be drawn as a result of this proposed action.

**b. The failure to consider connected actions results in a range of alternatives that is not sufficient.**

The failure to consider the source of the ships to be reassigned to NAVSTA Mayport also damages the adequacy of the range of alternatives considered in the DEIS. For example, the Group 3 alternatives presume that a nuclear powered carrier (CVN) will be reassigned to NAVSTA Mayport. However, there is no consideration of alternatives for the source of that ship, which could be drawn from Japan, the Commonwealth of Virginia, the State of California or the State of Washington. An adequately scoped EIS would include a discussion of the possible sources for the reassigned ships and would present a reasonable range of alternatives informing both the decision maker and the public of the possible consequences of the action.

The DEIS must be revised to include a range of alternatives for the source of ships to be homeported at NAVSTA Mayport and then re-circulated for further public comment.

**c. The failure to consider connected actions results in an analysis of impacts that is too narrow.**

The failure to consider the connected actions causes the analysis of impacts in the DEIS to be incomplete. With the reassignment of ships from other ports to NAVSTA Mayport, the original homeports will suffer impacts similar in kind, if not intensity, as described in the DEIS as part of the No Action alternative. For example, the DEIS reports that the decommissioning of the USS JOHN F. KENNEDY resulted in a loss of 2,498 ships personnel in port. (DEIS, 2-7, fn. 6).<sup>1</sup> The reassignment of a CVN, which has a slightly larger crew complement, would result in similar impacts to the local economy, efficient use of port facilities, and other impacts described in the DEIS arising out of the No Action alternative. Also not disclosed in the DEIS is whether

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<sup>1</sup> It is not clear if the 2,498 number is the total crew complement of the Kennedy, or the number of the ship’s personnel based on the 73% loading factor. These comments address the inappropriate use of the 73% loading factor at page \*\*\*.

## Attachment 1

reassignment of ships from another location would result in the underutilization or even closure of facilities idled as a result of the reassignment. Because the DEIS lacks this information, any attempt to reassign ships would be made without any disclosure of impacts to the environment and economy of the original homeports. Such an action would be a prima facie violation of the twin goals of NEPA as described by the Supreme Court:

- 1) to require an agency to consider every significant aspect of the environmental impact of a proposed action; and
- 2) to ensure that the agency informs the public that it has in fact considered environmental concerns in making its decision. (*Baltimore Gas and Electric Co. v. Natural Resources Defense Council, Inc.*, 462 U.S. 87, 97 (1983))

Failure to disclose, analyze, and consider impacts to the homeports that would contribute ships to the alternatives considered in the DEIS constitutes a fatal flaw in the Navy's attempt to comply with NEPA's requirements for the proposed homeporting plan for NAVSTA Mayport.

### **2. The EIS uses the incorrect baseline year.**

The DEIS asserts that the baseline year for comparison of the alternatives is 2006 because that year "best represents recent operation at NAVSTA Mayport." (DEIS, 1-6) The year 2006 is the last year that the USS JOHN F. KENNEDY was in operation at NAVSTA Mayport. However, the use of 2006 to assess reasonably foreseeable impacts of the action alternatives is contrary to established NEPA practice. CEQ, in its "Forty Most Asked Questions" states that where an agency is proposing a project (as opposed to updating land management plans) the No Action alternative,

"would mean the proposed activity would not take place, and the resulting environmental effects from taking no action would be compared with the effects of permitting the proposed activity or an alternative activity to go forward. . . . This analysis provides a benchmark, enabling decision makers to compare the magnitude of environmental effects of the action alternatives."  
(NEPA's Forty Most Asked Questions, Answer 3)

The DEIS, however, rejects the use of the No Action alternative as the basis of the comparison of the impacts of the action alternatives with no explanation other than to say that 2006 reflects "recent activities." There is no rational justification for use of a "baseline" year for comparison of impacts, when the No Action alternative provides a more realistic indication of what environmental and economic impacts are likely to flow from implementation of any of the action alternatives.

Moreover, it was quite certain before the DEIS was published, that the USS JOHN F. KENNEDY would be decommissioned. The Chief of Naval Operations, in a message sent in December, 2006, unequivocally stated that the USS JOHN F. KENNEDY would be decommissioned in 2007. (Chief of Naval Operations, Navy Administrative Message 211940Z, December 06: Subject FY07 SHIP DECOMMISSIONING SCHEDULE (REV2)) (A copy of that message is attached to these comments). Thus, shortly after issuing the Notice of Intent (November 14, 2006), and well within the scoping period for the DEIS, the fact that the USS JOHN F. KENNEDY would be decommissioned in fiscal year 2007 was established. The "recent activities" used in the baseline year, particularly the impacts resulting from the homeporting of the now decommissioned USS JOHN F. KENNEDY, are in the past and no longer provide an accurate picture of impacts to the environment with the implementation of any of the action alternatives. There is simply no rational or justifiable explanation for choosing 2006 as the baseline year, except to make environmental impacts from homeporting a CVN at NAVSTA Mayport appear less intense than they would otherwise be if the Navy had properly used the No Action alternative as the baseline for assessing environmental impacts.

The use of the 2006 baseline skews the comparison of impacts in favor of placing a CVN at NAVSTA Mayport. Comparison to the 2006 baseline understates the severity of environmental impacts caused by the CVN capable alternatives (Alternative Groups 2 and 3), while at the same time understating the economic benefits to the local economy of the non-CVN alternatives (Group 1 alternatives).

The DEIS should be withdrawn and a new or revised DEIS issued for public comment, using the No Action alternative for a comparison of impacts.

### **3. The analysis of impacts is inadequate.**

The analysis of impacts in the DEIS is inadequate. The inadequacies include: unexplained or unwarranted assumptions, an inadequate analysis of the No Action alternative, inadequate analysis of cumulative and indirect impacts, and an inadequate analysis of impacts to specific resources, including air quality, dredging, traffic, housing, and endangered species.

#### **a. The EIS contains unexplained or unwarranted assumptions.**

The DEIS includes unexplained or unwarranted assumptions that lead to an inadequate analysis of impacts for each of the alternatives. Without a detailed explanation of the rationale for making assumptions in forecasting reasonably foreseeable environmental impacts, the DEIS fails to ensure that the decision maker has properly accounted for environmental impacts in making a final decision on the proposed action.

**b. Flawed assumptions for numbers of personnel result in an inaccurate estimate of impacts.**

Perhaps the most critical error flowing from flawed assumptions is found in the determination of the net daily population likely to result for each of the alternatives. The daily population is a critical component in the estimation of impacts on land and offshore use, water resources, air quality, traffic (vehicle), socioeconomics, general services, and utilities. Each of these impact areas is sensitive to population levels.

**i. The DEIS contains inaccurate information on the personnel level of the USS JOHN F. KENNEDY**

Even assuming that the use of the year 2006 as the baseline was proper (see section 2 above), the estimate of personnel attributable to the USS JOHN F. KENNEDY is incorrect. Table 2.1-2 notes (note 6) that the "baseline loading" for the USS JOHN F. KENNEDY in 2006 is 2,498 personnel. This constitutes nearly 41 percent of the 6,036 "ships personnel in port" for the 2006 baseline year. The category of "ships personnel in port" constitutes the largest variable across all of the alternatives displayed in Table 2.1-2, thus an accurate determination of "ships personnel in port" for the baseline year is critical to an accurate comparison of all of the action alternatives, as well as the No Action alternative on the multiple impact areas that are sensitive to population levels.<sup>2</sup>

However, according to published reports ([http://www.history.navy.mil/danfs/j3/john\\_f\\_kennedy.htm](http://www.history.navy.mil/danfs/j3/john_f_kennedy.htm)) by March 2005, the USS JOHN F. KENNEDY was no longer deployed for active air operations, and its ship's complement was reduced to 2,215. Thus, as of 2006, the ships personnel attributable to the USS JOHN F. KENNEDY was only 2,215, not the 2,498 used in Table 2.1-2. In addition, published reports indicate that just prior to the reduction of ships complement to 2,215, the USS JOHN F. KENNEDY's crew numbered 2,870. Applying the 73 percent deployment factor to 2,870 indicates that "ships personnel in port" attributable to the USS JOHN F. KENNEDY should be at most 2,095 ( $2,870 \times .73$ ), not 2,498. Using the actual number of ships crew in 2006 (2,215), the number of "ships personnel in port" attributable to the USS JOHN F. KENNEDY in 2006 should only be 1,616. Thus, the baseline year of 2006 should total 5,154, not 6,036. Even if 2,498 is the correct "loading" number for the USS JOHN F. KENNEDY in 2006, it is apparent that Table 2.1-2 does not reduce the 2,498 by 73 percent.<sup>3</sup> Clearly there is no factual foundation demonstrated for a key component of the 2006 baseline year.

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<sup>2</sup> We note that Table 2.1-2 does not contain information on the No Action alternative, rendering Table 2.1-2 incomplete. The table should be revised so that the No Action alternative information is included to allow for a satisfactory comparison among all of the alternatives being considered in the DEIS.

<sup>3</sup> If the 2,498 loading was derived by using the 73% deployment factor, then the DEIS is claiming that in 2006, the full crew complement for the KENNEDY was 3,422 ( $2,498 \div .73$ ). However, as published reports

**ii. Use of the assumption that ships will be in port for 73 percent of the year is not warranted in this analysis.**

The DEIS uses a deployment factor of 73 percent as a basis for its analysis of impacts. There are multiple problems with this approach, all of which result in a skewed analysis of impacts that generally underestimate the impacts at Mayport. First, the Navy has not provided – and we have not been able to identify – any credible basis for the use of 73 percent as an appropriate deployment factor. Second, there is no basis for the Navy to use this 73 percent deployment factor rather than actual Navy historic data. Indeed, the Navy’s own data indicates that the percentage of ships currently deployed Navy-wide is close of half of the 73 percent used for this analysis. Third, the DEIS uses this deployment factor in an inconsistent manner (*i.e.*, in one section the DEIS uses this factor to determine “time in port” of all homeported ships and in another section the DEIS uses this factor to determine the number of ships in each class that are deployed). Finally, use of this factor does not consider the types of ships in port, and therefore does not account for the fact that the number of personnel at port at any one time will vary based upon the type of ships that are in port.

The DEIS applies a deployment factor of 73 percent to determine ships personnel in port for the baseline year as well as for all of the other alternatives, including the No Action alternative. In footnote 2 to Table 1.3-1, the DEIS explains that the deployment factor is based on an estimate that “ships’ personnel are estimated to be in port 73 percent of the time (*i.e.*, a 73 percent deployment factor).” However, there is no reference of the source for a 73 percent deployment factor or any explanation of how that particular number was determined. Absent explanation of how the deployment factor was established, it is not possible for either the decision maker or the public to determine if the 73 percent deployment factor is suitable for determining environmental impacts in this DEIS.

No other explanation is given and no attempt is made to establish that the use of a 73 percent deployment factor represents an accurate depiction of actual conditions at NAVSTA Mayport. As described, a 73 percent deployment factor means that any ship assigned to NAVSTA Mayport will be in port for almost nine months out of every year. Thus a deployment would last only three months. Given that the DEIS is designed to analyze impacts at NAVSTA Mayport, there is no reason not to use actual deployment figures for ships based at NAVSTA Mayport. Moreover, the Navy’s own data indicates that Navy-wide, only 42 percent of the Navy’s deployable battle force ships are currently deployed, which is substantially different from the 73 percent deployment factor used on the DEIS, and would result in greater impacts on shore.<sup>4</sup>

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establish, in 2005, the Kennedy’s crew numbered only 2,870. It is simply not apparent how the DEIS arrived at a crew complement of 2,498.

<sup>4</sup> See [http://www.navy.mil/navydata/navy\\_legacy\\_hr.asp?id=146](http://www.navy.mil/navydata/navy_legacy_hr.asp?id=146)

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And even if there is an appropriate reason to use the 73 percent deployment factor in place of historical data, the DEIS should include the historical data to validate the use of the 73 percent factor.

The 73 percent deployment factor is inappropriate for the additional reason that computing the number of personnel at port at any one time using this factor will vary based upon the type of ships that are in port. For example, it would make a significant difference if a CVN, which holds 3,140 sailors, is assumed, as compared to a frigate that holds 215 sailors. The number of ships assumed to be in port would also make a difference for on-shore impacts. The DEIS does not identify the assumptions made with respect to the types or number of ships that are in port when using the 73 percent factor to determine impacts on-shore. Given the potential for such variances, it is only possible to accurately assess on shore impacts by utilizing and considering historical data from Mayport or from a similar port.

Not only is it unsuitable to use this unexplained 73 percent factor, but the DEIS also fails to use the factor consistently. Figure 2.4-2 purports to display a proposed berthing plan for Alternative 4 in the year 2014. The legend for the figure notes that "not all homeported ships [are] shown... [because] a 73 percent loading factor is applied to the *total number of ships in each class*." (DEIS, p. 2-55, emphasis added) Here rather than using the 73 percent loading factor as a function of "time in port" as in Table 1.3-1, fn. 2, the DEIS uses the 73 percent factor as a function of the number of ships in each class. Alternative 4 is configured to have 12 ships homeported in 2014. Using the 73 percent factor as used in Figure 2.4-2, there should be no more than nine ships in port at any one time. Figure 2.4-2, however, shows ten ships in port, including the CVN. It is not at all clear how the DEIS reconciles the use of the 73 percent loading factor based on "time in port" as in Table 2.4-1, and number of ships deployed at one time as in Figure 2.4-2.

Moreover, it is not clear how the 73 percent factor applies when part of the homeported fleet is a CVN. Given that a CVN always operates with a number of support ships, it is more likely that fewer than ten ships would be in port at the same time. Thus, it would appear that Figure 2.4-2 overstates the use of facilities at NAVSTA Mayport under Alternative 4.<sup>5</sup>

The 73 percent deployment should be explained or replaced by historical deployment history from NAVSTA Mayport. The DEIS should be withdrawn and a new or revised DEIS be prepared analyzing impacts based on the use of historical loading and deployment factors at NAVSTA Mayport. The new or revised DEIS should then be circulated for additional public comment.

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<sup>5</sup> This same analysis can be applied to all of the alternatives that include homeporting a CVN.

**c. Unexplained assumptions regarding sailor housing**

The DEIS at page 4-88, indicates that a public private venture (PPV) would be used to meet bachelor housing requirements. The DEIS fails to indicate, however, whether this assumption considers that the Navy recently stopped its Homeport Ashore program, which allowed sailors to live on shore while at home. Without this program, more sailors will likely live aboard ship while in their home port, which affects the amount of housing required and could potentially result in the termination of the PPV program at Mayport. Without further explanation regarding the housing assumptions, it is not clear whether the analysis of housing in the DEIS is adequate, and thus the decision maker cannot properly consider impacts on housing.

**d. Unexplained assumptions regarding costs**

Throughout the DEIS, costs estimates associated with the various alternatives are identified, but the DEIS fails to include any support for these costs and fails to adequately explain what the costs cover. For example, the DEIS include costs associated with dredging that would be required under several of the alternatives, but fails to provide any basis or support for the dredging costs. Similarly, the DEIS includes unsupported or unexplained estimates of construction costs. Without a detailed explanation of the rationale for making cost assumptions, the DEIS fails to ensure that the decision maker have properly accounted for cost impacts in making a final decision on the proposed action.

**e. Inadequate analysis of the No Action alternative.**

Throughout the DEIS there is very little analysis of the No Action alternative. Given that the primary purpose of the proposed action is to allow the Navy to “utilize the available facilities at NAVSTA Mayport in an effective and efficient manner, thereby minimizing new construction,” the lack of any rigorous analysis of the No Action alternative prevents the decision maker and the public from determining if the purpose of the project can best be met by taking no action at NAVSTA Mayport. Given that all of the alternatives require some effort to modernize or adopt the existing facilities, it would appear that the No Action alternative best meets one of the core goals of the project. Without an adequate analysis of the No Action alternative, however, the DEIS lacks an acceptable benchmark and the decision maker and public cannot discern whether the No Action alternative meets this core goal.

**f. Inadequate analysis of indirect impacts.**

The analysis of indirect impacts to the various resources considered in the DEIS suffers from two flaws. First, because indirect impacts are primarily based on the projected population at NAVSTA Mayport under each of the alternatives, the flaw in estimating the size of the population for each alternative (see discussion in parts 3(b)(i)

and 3(b)(ii) of these comments) causes the forecast of indirect impacts to be flawed. Second, the discussion of indirect impacts is vague and generalized. It lacks the level of analytical detail necessary to allow both the decision maker and the public to understand the full scope of indirect impacts. For example, the discussion of indirect impacts to land use is limited to one paragraph for all 12 of the action alternatives. The analysis is limited to inconclusive statements such as "there could be increasing demand on local parks and recreation area," and that the increase in population and personnel "would potentially result in increased demand for commercial and industrial services and housing in the local area." (DEIS, 4-21) These statements provide no level of analysis, but are generalized statements that could be made for any project. Absent a greater level of detail, the indirect impacts analysis is insufficient under NEPA. The Navy should prepare a new or revised DEIS that contains data and analysis of indirect impacts to allow a full consideration of all foreseeable environmental impacts flowing from the various alternatives.

**g. Inadequate analysis of cumulative impacts.**

The cumulative impacts analysis suffers from the same deficiencies as outlined in the discussion of indirect impacts above. The Cumulative Effects section of the DEIS (Chapter 6) falls well short of providing the type of facts and analysis to adequately review possible cumulative impacts from the proposed project.

**i. Cumulative impacts analysis of dredging is inadequate.**

The discussion of the cumulative impacts of dredging on the continued availability of the Jacksonville and Fernandina Ocean Dredged Material Disposal Site (ODMDS) (DEIS, 6-6) states that "assessing the feasibility of expanding existing ODMDS or creating a new ocean disposal site is warranted given the cumulative impacts of ongoing dredging and dredged material disposal in the region." However, the DEIS does not include any such assessment. The DEIS simply "recommends" that "new off-shore and/or inland disposal sites" be "identified" and that further research be conducted on potential beneficial reuse of the dredge material.

The discussion of the cumulative impacts of dredging also fails to consider the impacts of the dredging that is occurring in Jacksonville Harbor. The DEIS attempts to avoid analyzing cumulative impacts associated with dredging at Mayport and Jacksonville by contending that no decision has been made as to further dredging at Jacksonville and that a supplemental EIS is being prepared to analyze that issue (DEIS, 6-4 - 6-5). The DEIS concedes, however, that "with or without the Jacksonville Harbor deepening project . . . , there is also on-going maintenance dredging requirements for the Jacksonville Harbor (DEIS, 6-4). Thus, in addition to including a discussion of cumulative impacts associated with a disposal site (see above), the DEIS must also address other cumulative impacts associated with on-going dredging within the region.

**ii. The cumulative impacts analysis for housing is inadequate.**

The lack of cumulative effects analysis is also demonstrated in the discussion of housing needs. The DEIS simply notes that alternatives 10 and 12, "in combination with other actions in the area that have reduced affordable housing stock, could hinder attainment of affordable housing goals" established by local municipal jurisdictions. (DEIS, 6-15) Also, while the DEIS notes that several housing developments are underway in the area (DEIS, 11), it contains no analysis of cumulative impacts of the development of these housing projects would cause on air quality, traffic, and demands for social services. For example, the discussion of cumulative impacts on air quality focuses only on air quality impacts from construction and dredging under several of the alternatives. No analysis is included that covers the additional housing projects contemplated and underway in the area. Without an analysis of the cumulative air quality impacts of the housing projects, the DEIS is inadequate.

**iii. The cumulative impacts analysis on marine communities is inadequate.**

The DEIS states (DEIS, 6-21) that there are no cumulative impacts to marine fish and essential fish habitats (EHF) as a result of any of the alternatives. However, the DEIS makes no attempt to explain this conclusion. It offers no quantitative analysis of the effect of the dredging required for the implementation of Alternative Groups 2 and 3 combined with the dredging required for other projects in the study area. Its unsupported conclusion of no cumulative impact fails to provide the type of information and analysis that NEPA is designed to provide to both the public and the decision maker.

**iv. The cumulative impacts analysis on terrestrial communities is inadequate.**

As with the cumulative impacts analysis on marine communities, the DEIS discussion of cumulative impacts on terrestrial communities is lacking any quantitative analysis to support the conclusion. The DEIS (DEIS, 6-21), while acknowledging that other projects in the area will impact terrestrial communities, simply states that "long-term, permanent impacts to terrestrial biological resources are not expected from implementing any alternative individually or in combination with other past, present and reasonably foreseeable actions." This unsupported conclusion of no cumulative impact fails to provide the type of information and analysis that NEPA is designed to provide to both the public and the decision maker.

**v. The cumulative impacts analysis on federally threatened and endangered species is inadequate.**

The DEIS analysis of cumulative impacts on federally threatened and endangered species lacks any attempt to support its conclusion of no cumulative impacts with verifiable data. The DEIS makes no cumulative effects conclusion while at the same time acknowledging that “dredge disposal options for [other projects] have not yet been determined....” (DEIS, 6-22). While further consultation with the Fish and Wildlife Service is required (as the DEIS acknowledges), that consultation process is not a substitute for the NEPA process. The DEIS should be withdrawn and a new cumulative effects analysis should be prepared after the consultation process with the Fish and Wildlife service is completed. Only then will the Navy have sufficient information to determine the level of cumulative impacts likely to be imposed on federally threatened and endangered species.

**h. The DEIS should include all analysis needed to support ocean dumping of dredged material.**

The DEIS analysis of the impacts of dredging is incomplete. As a result, neither the public nor the decision maker are aware of the potential impacts resulting from dredging required for Alternative Groups 2 and 3. For example, the DEIS states (DEIS, 2-31) that the evaluation of the dredged material required by Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (the Section 103 Evaluation) “would be initiated prior to the issuance of the Final EIS.” The DEIS also states (DEIS, 2-32) that bioassay and bioaccumulation testing as determined necessary by the United States Environmental Protection Agency would be conducted [as part of the permitting process] to verify the materials’ suitability for ocean disposal.” Thus, by its own admission, the Navy is unaware if the eight alternatives that require extensive dredging of both the turning basin and the entrance channel will cause impacts. Given the acknowledged lack of adequate on-shore capacity to dispose of the over 5,000,000 cubic yards of dredged material, the lack of analysis to determine the suitability of material required to be dredged under 8 of the 12 action alternatives creates an analytical void that undercuts the validity of the DEIS. The Navy should allow for an accurate and fair comparison of all of the alternatives prior to making a decision.<sup>6</sup>

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<sup>6</sup> The uncertainty over the suitability of the dredged material for ocean disposal also adversely affects the adequacy of the analysis of impacts to ground water. The DEIS states (p. 4-24) that material determined not suitable for ocean dumping would be disposed of at an “existing, approved upland disposal site.” However, because, as the Navy acknowledges, it is not known how much dredged material may be ineligible for disposal in an ocean site, there is no way of knowing at this point if there is sufficient capacity in existing approved upland sites to accommodate all of the dredged material produced by any of the alternatives. Despite acknowledging this lack of information, the DEIS does not even attempt to meet the requirements of CEQ’s Incomplete Information regulation – 40 C.F.R § 1502.22. Here, there can be no question that the availability of sufficient capacity for disposal of the dredged material is “essential to a reasoned choice among alternatives” and there is no claim that the “costs of obtaining [the missing information] is not exorbitant” (40 C.F.R § 1502.22(a)). Thus, the Navy is obligated to include all of the relevant information about the impacts of dredging, including an analysis of the need for upland disposal sites, in the DEIS. It cannot wait until after the FEIS is published. To do so would prevent the decisionmaker from making a “reasoned choice among alternatives.”

The DEIS should be withdrawn and a revised or new DEIS issued that includes information on the results of testing conducted to verify that material is suitable for ocean disposal.

**i. Inadequate analysis of surface traffic impacts.**

The analysis of "off-station" traffic circulation for Alternatives 10 and 12 in the DEIS is based on unsupported data. The analysis presumes that under Alternatives 10 and 12, "20 percent of the traffic would be from the north, 40 percent would originate from the south and 40 percent would originate from the west. (DEIS, 4-82) However, no data or analysis is offered to support this data. Absent supporting data and analysis, there is no way to determine the validity of this information. Also, the DEIS compares traffic generated by Alternatives 10 and 12 against traffic for 2004 and offers no explanation for its determination not to use either the 2006 baseline year used for all other comparisons, or the No Action traffic levels, which NEPA requires. Also, the DEIS does not disclose what the projected Level of Service ("LOS") would be for each of the roads affected by changes in fleet sizes at NAVSTA Mayport. While the DEIS states (DEIS, 4-84) that the LOS for the corridor between State Route A1A and Wonderwood Drive would "experience a degradation of LOS," there is no indication if that degradation would be from LOS B to C or LOS C to D. Absent more complete data and analysis of traffic impacts, based upon a comparison with the No Action alternative, the DEIS does not adequately assess the reasonably foreseeable traffic impacts for each of the alternatives considered.

**j. Inadequate analysis of air quality impacts.**

The analysis of air quality impacts in the DEIS suffers from a major flaw. Nowhere in the analysis does the DEIS take into account emissions from the ships associated with each of the alternatives. The discussion of air quality impacts is limited to impacts likely to result from construction and dredging associated with each of the alternatives. Given that the number and types of ships varies with each alternative, it is expected that emissions from the ships while in port contribute in varying degrees. Moreover, based on the assumption used throughout the DEIS (*i.e.*, ships will be in port 73 percent of the year) air emissions from ships' typical port-based activities (*e.g.*, seamanship training, formation steaming, engineering/ damage control certification, fleet exercises) could amount to a significant level of emissions in the area. However, the DEIS does not account for this source of potential air emissions.

**k. Inadequate analysis of impacts on threatened and endangered species and critical habitat.**

The DEIS states that the Navy "is preparing a BA [Biological Assessment] for U.S. Fish and Wildlife Service (USFWS) to address the Florida Manatee," (DEIS, 4-67) and has prepared a BA for listed threatened and endangered whales found within the

## Attachment 1

project area. The Navy also acknowledges in the DEIS that the consultation process with the USFWS is not yet complete. While the consultation process required under Section 7 of the Endangered Species Act is a separate process governed by its own regulations, there is no justification for failing to include the BA or data generated for the BA for both species in the DEIS. Absent the data gathered on the protected species, it is not possible to compare impacts of the different alternatives on the species.

Indeed, the Florida Fish and Wildlife Conservation Commission has recognized the impacts that operations at NAVSTA Mayport could have on the Florida manatee. The Commission identified the area around NAVSTA Mayport as an area that manatees use "extensively as a migratory corridor . . ." and identified the potential for development, maintenance, and expansion of port facilities to effect the Florida manatee population due to "alteration of habitat, habitat use patterns and direct physical threats from dredging, material transport, vessel access, blasting and other construction activities." (<http://myfwc.com/manatee/habitat/portfac.htm>). Significantly, with respect to dredging, which would be required for the CVN homeporting and CVN capable alternatives:

Manatees may be injured or killed during port maintenance or expansion activities by, 1) being struck by vessels and/or propellers, or 2) being crushed between vessels and the bottom, or between vessels and docking facilities. Indirect effects may include the destruction of seagrass resources, loss of foraging sites, and alteration of essential behavior such as failing to use primary thermal aggregation sites and travel corridors.  
*Id.*

Also, the DEIS does not acknowledge the existence of critical habitat for the northern right whale in the study area. Indeed, a recent report prepared by Florida and Federal resource agency personnel, titled *Characterization of Ship Traffic in Right Whale Critical Habitat* ([http://www.nmfs.noaa.gov/pr/pdfs/shipstrike/critical\\_habitat\\_traffic.pdf](http://www.nmfs.noaa.gov/pr/pdfs/shipstrike/critical_habitat_traffic.pdf)) recognizes that collisions with ships are a significant threat to the right whale in its critical habitat. The report further found that the southeast area presents unique management challenges because pregnant right whale cows and cows with newly born calves frequent this area (citing Kraus et al., 1986), the only known calving grounds of the species. The failure of the DEIS to consider impacts to this species and its critical habitat is a flaw in the analysis of impacts for NEPA purposes. There should be an analysis of the impacts of the various alternatives on the northern right whale and its designated critical habitat included in the DEIS.

The DEIS indicates that "[t]he outcome of the section 7 consultation process, including any terms and conditions from the resulting Biological Opinions (BOs) prepared by USFWS and NMFS, will be incorporated into this EIS." (DEIS, 3-76). The Navy should not issue a Record of Decision approving any of the alternatives (except the No-Action Alternative) until Section 7 consultation is completed. Further, the

terms, conditions, commitments, or other requirements from the BOs or the Section 7 consultation process should become terms and conditions of the Record of Decision. This is consistent with the requirements of the *Endangered Species Consultation Handbook: Procedures for Conducting Consultation and Conference Activities Under Section 7 of the Endangered Species Act*, March 1998, which states : "At the time the Final EIS is issued, section 7 consultation should be completed. The Record of Decision should address the results of the section 7 consultation." Thus, the Navy should not issue its FEIS or Record of Decision until informal and formal consultation have been completed.

**1. Failure to consider impacts of homeported ship activities.**

While the DEIS purports to identify impacts associated with homeporting additional ships and constructing additional facilities at NAVSTA Mayport, the DEIS includes no analysis of the impacts related to the operations and activities of the additional ships that would be homeported at NAVSTA Mayport. For example, the DEIS does not analyze the impacts of ship movement on threatened and endangered species. Similarly, the DEIS does not study air emission from the ships associated with each alternative. The Council on Environmental Quality's (CEQ) NEPA regulations require that agencies study the "direct effects" of their actions, which are defined to include effects that "are caused by the action and occur at the same time and place." (40 CFR 1508.8) Agencies must also analyze the "indirect effects" of their actions, which include effects that "are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable." (40 CFR 1508.8) Ship operations clearly constitute direct or indirect effects of the Navy's proposed action. Without consideration of specific impacts from activities such as ship maneuvers, ingress and egress from the port, and local training operations, the public and the Navy cannot understand the full scope of the impacts of homeporting additional ships at NAVSTA Mayport.

**4. Inadequate Comment Period**

The Navy has failed to provide the public with a reasonable time period to review and prepare comments on the DEIS and its multiple technical appendices. The Navy set an initial comment period of 45 days, which is insufficient given the volume of material to review and the importance of the Navy's decision. On April 15, 2008, the Commonwealth of Virginia requested a 45-day extension in order for the Commonwealth to retain appropriate experts to review the DEIS so that the Commonwealth could provide the most valuable and meaningful comments possible. The Navy rejected this request, and instead provided a 15-day extension for a total of a 60 day comment period (and in doing so noted that the extension would not push back the planned December 2008 Record of Decision). The Commonwealth intends to provide additional comments based upon expert review of the DEIS following the Navy's brief DEIS comment period, and expects that the Navy will consider these comments when preparing the FEIS and will include them as part of the administrative

record for the Navy's decision. Given the importance of what is at stake, the potential for significant environmental impacts and the millions of federal taxpayer dollars to be spent, the Navy's refusal to provide a reasonable comment period is unwarranted and will undercut the Navy's ability to make the most informed decision possible.

## 5. Failure to Address Scoping Comments

The Navy has failed to address comments raised during the scoping process. For example, the scoping comments submitted by the Commonwealth of Virginia specifically stated that "impacts at other ports resulting from the reassignment of ships to NAVSTA Mayport should be included within the scope of this EIS." (The Commonwealth's scoping comments are enclosed.) Rather than include an analysis of impacts at other ports, or even provide an explanation as to why the DEIS does not include this analysis, the DEIS states that it "does not include actions at other Navy bases." (DEIS, ES-3) Similarly, the DEIS fails to address several technical scoping comments raised by Neil Armingeon, the St. Johns Riverkeeper, including the need for an impacts analysis of dredging during right whale migration and manatee travels, a comprehensive analysis of contamination levels in sediment to be dredged and the potential impacts to essential fish habitat and other wildlife habitat from changes to the St. Johns River's salinity regime.

The CEQ, in its guidance titled Memorandum for General Counsels, NEPA Liaisons and Participants in Scoping, (April 30, 1981) specifically addresses how agencies should respond to comments received during scoping:

You should be guided by [scoping] concerns, or be prepared to briefly explain why you do not agree. Every issue that is raised as a priority matter during scoping should be addressed in some manner in the EIS, either by in-depth analysis, or at least a short explanation showing that the issue was examined, but not considered significant for one or more reasons. . . . If a certain issue is raised and in your professional judgment you believe it is not significant, explain clearly and briefly in the EIS why it is not significant. . . . But you should address in some manner all matters that were raised in the scoping process, either by an extended analysis or a brief explanation showing that you acknowledge the concern.

It is the Commonwealth of Virginia's request that these questions be addressed in the FEIS. Failure to do so leaves a void in the decision maker's ability to adequately assess environmental impacts.

Attachment 2

RAAUZYUW RUENAAA0686 3551940-UUUU--RUCRNAD.  
ZNR UUUUU ZUI RUEWMCF4650 3551928  
R 211940Z DEC 06 ZYB MIN ZYW PSN 175881K30 FM CNO WASHINGTON  
DC//N8//  
TO NAVADMIN BT UNCLAS//N03120//  
NAVADMIN 373/06  
MSGID/GENADMIN/CNO WASHINGTON DC/-/N8/DEC/06//  
SUBJ/FY07 SHIP DECOMMISSIONING SCHEDULE (REV2)//  
REF/A/MSG/CNO WASHINGTON DC/082138Z SEP 06// AMPN/REF A IS  
NAVADMIN  
253/06 FY07 SHIP DECOMMISSIONING SCHEDULE AND REMAINING FY06  
(REV1)//  
POC/MS. B. LEWIS/CIV/N8F111/LOC: WASHINGTON DC/TEL: 703-695-4848//  
RMKS/1. THIS MESSAGE UPDATES REF A TO REFLECT THE ADDITION OF  
USS JOHN  
F KENNEDY (CV 67) TO THE FY07 DECOMMISSIONING SCHEDULE AND  
REVISES  
DECOM DATES FOR SEVERAL SHIPS SCHEDULED TO DECOMMISSION IN  
FY07.  
2. USFFC IS AUTHORIZED TO DECOMMISSION CV 67 NO LATER THAN 30 SEP  
07.  
USFFC WILL ASSIGN SPECIFIC DECOM DATE. CV 67 WILL BE PREPARED FOR  
A  
SAFE STOW INACTIVATION.  
3. FUTURE CHANGES TO SPECIFIC FY07 SHIP DECOM DATES LISTED IN THIS  
MESSAGE WILL BE COORDINATED AND RELEASED BY USFFC. OPNAV WILL  
PROMULGATE CHANGES TO THE INACTIVATION YEAR, AS REQUIRED.  
4. THE REVISED SHIP DECOMMISSIONING SCHEDULE IS AS FOLLOWS:  
SHIP PREVIOUS REVISED DISPOSITION  
NAME DECOM DATE DECOM DATE  
JOHN F KENNEDY(CV 67) NONE 30 SEP 07 TBD(NOTE 1)  
HERON (MHC 52) 01 OCT 06 16 MAR 07 FMS  
PELICAN (MHC 53) 01 OCT 06 16 MAR 07 FMS  
DOLPHIN (AGSS 555) 08 DEC 06 15 JAN 07 DISPOSAL  
CARDINAL (MHC 60) 30 DEC 06 07 JAN 07 FMS  
RAVEN (MHC 61) 30 DEC 06 07 JAN 07 FMS  
TRENTON (LPD 14) 17 JAN 07 NO CHG FMS  
SALVOR (ARS 52) 12 JAN 07 13 JAN 07 MSC  
OGDEN (LPD 5) 21 FEB 07 22 JAN 07 FMS  
H G RICKOVER  
(SSN 709) 01 MAR 07 NO CHG INACT (NOTE 2)  
SAIPAN (LHA 2) 27 APR 07 25 APR 07 EXPERIMENTAL  
SHREVEPORT (LPD 12) 28 SEP 07 NO CHG DISPOSAL  
SAFEGUARD (ARS 50) 26 SEP 07 NO CHG MSC  
MN-SAINT PAUL  
(SSN 708) 27 SEP 07 NO CHG INACT(NOTE 2)

Attachment 2

HONOLULU (SSN 718) 01 NOV 06 NO CHG INACT(NOTE 2)

NOTE (1): CV 67 IS SCHEDULED TO BEGIN ITS INACTIVATION  
AVAILABILITY ON  
OR ABOUT 31 MAR 07.

NOTE (2): THIS IS THE DATE INACTIVATION BEGINS AT A NAVAL SHIPYARD  
AND  
THE UNIT IS NO LONGER AVAILABLE FOR OPERATIONAL TASKING.  
DECOMMISSIONING WILL FOLLOW AT A LATER DATE.

6. DISPOSITION CATEGORIES:

TBD: FINAL DISPOSITION WILL BE DETERMINED AT A LATER DATE.

DISPOSAL: VESSEL WILL BE STRICKEN FROM THE NAVAL VESSEL  
REGISTER AND

DISPOSED OF VIA MEANS TBD.

EXPERIMENTAL: VESSEL WILL BE USED ISO R&D OR ACQUISITION  
PROGRAMS.

FMS: VESSEL HAS BEEN REQUESTED FOR FOREIGN MILITARY SALES.

LOGISTICS SUPPORT: VESSEL USED AS A MEANS OF CANNIBALIZATION  
PRIMARILY

IN SUPPORT OF REMAINING ACTIVE USN SHIPS IN ITS CLASS.

SINKEK: VESSEL WILL BE USED IN SUPPORT OF A FLEET TRAINING  
EXERCISE.

INACT: SHIP BEGINS ITS INACTIVATION AVAILABILITY.

7. RELEASED BY VADM J. W. GREENERT, N8// BT

#0686

## NAVSTA Mayport Scoping Comments

***1. The Navy has issued substantially different descriptions of the proposed project requiring a publication of a revised Notice of Intent (“NOI”) with a complete description of the decisions the Navy intends to be analyzed in its environmental impact statement.***

To date, the Navy’s public notices addressing the proposed Naval Station Mayport (“NAVSTA”) project are conflicting and require greater definition in order for there to be sufficient information to allow the public to prepare cogent comments on the scope of the proposed EIS. The Federal Register Notice of Intent contains several different formulations of the proposed action. For example, in the SUMMARY paragraph, the NOI states that the Navy’s intent in preparing the EIS is to “evaluate the potential environmental consequences of constructing and operating the facility and infrastructure associated with homeporting additional surface ships at . . . Mayport.” While indicating that “ultimately the homeporting could involve the relocation of existing ships to NAVSTA Mayport” the next sentence of the paragraph apparently disavows any intent to examine all impacts in ordering any relocations in fact as a result of the planned EIS. The NOI states: “The proposal includes only those required activities necessary to prepare and operate NAVSTA Mayport for the proposed homeporting and does not include actions at other Navy bases.” By specifically disavowing any intention to examine actions at other bases that would be required for deciding to change the homeport for existing ships, the NOI indicated that a change in homeport assignment for any existing ship would be outside the scope of this EIS. Thus, anyone reading the NOI would be lead to believe that the proposed EIS would not lead to a decision by the Navy to reassign ships from current homeports to a NAVSTA Mayport homeport.

The invitation to the Public Scoping Meeting, as found on the Navy’s website ([www.mayporthomeportingeis.com](http://www.mayporthomeportingeis.com)), also does not reference a possible decision to direct specific existing ships to change their homeport to NAVSTA Mayport. The invitation, however, unlike the NOI, does not state that the EIS will address only impacts at NAVSTA Mayport. The invitation states that additional information about the proposed action can be obtained at the public meeting.

At the public meeting, the Navy announced for the first time that its “proposed action could involve the relocation of existing ships to Naval Station Mayport. . . .” See December 2006 Fact Sheet - Proposed Action and Alternatives. As in the NOI, the “Fact Sheet” announces an intention to limit the scope of the EIS to “only those required activities that are necessary to prepare and operate Naval Station Mayport for the proposed homeporting and does not include actions at other Navy bases.” Because the actual relocation of existing ships to NAVSTA Mayport is not an element of the proposed action as described in the November 14, 2006 NOI, the Navy should issue a revised NOI that contains an accurate and complete description of the proposed action and that provides an additional thirty days for the submission of scoping comments. The revised NOI should clearly indicate whether the Navy intends to include the reassignment of ships from current homeports to NAVSTA Mayport.

***2. Before proceeding, the Navy should prepare a separate EIS to examine alternatives to the need for additional homeporting capabilities and a general reassignment of homeports.***

As stated above, the Navy has presented a conflicting and confused statement of the purpose for its proposed action. On the one hand, the Navy seems to desire to upgrade the NAVSTA Mayport facilities to allow it to serve as the homeport for various fleet configurations. On the other hand, the Navy seems to be announcing an intention to change homeport assignments for the part or all of the existing fleet. If this EIS is in fact intended to support a decision by the Navy to relocate existing ships to NAVSTA Mayport, then, as stated in comment 1 above, the Navy should either issue a new NOI announcing a separate study designed to examine impacts resulting from a realignment of the homeport for existing ships, or issue a revised NOI that specifically announces an intention to include the homeport relocation analysis as part of the NAVSTA Mayport facilities EIS. Absent a revised or new NOI, the Navy will have failed to provide the substantial portion of the public unable to attend the "public meeting" or unable to access the website adequate notice of its intended actions.

There can be little doubt that any reassignment of existing ships to NAVSTA Mayport is connected to the announced intent of analyzing different homeport capabilities for NAVSTA Mayport. As such, impacts at other port resulting from the reassignment of ships to NAVSTA Mayport should be included within the scope of this EIS. There is simply no independent utility to creating a homeport for additional ships, including homeporting a Nimitz class nuclearpowered aircraft carrier for the first time, if there is no plan to utilize the facility once built. The Navy cannot avoid an analysis of impacts to other ports by segmenting its environmental analysis as proposed in the NOI.

***3. The Range of Alternatives considered in the EIS should include the ports from which existing ships would be reassigned to NAVSTA Mayport.***

Should the Navy choose not to initiate a separate study of a general homeport relocation, then the NAVSTA Mayport EIS should present a range of alternatives that represent possible sources for ships to be reassigned to NAVSTA Mayport. Thus, for each of the 12 homeporting alternatives included in the December 2006 Fact Sheet (i.e., all alternatives except the No Action Alternative), the EIS should consider various alternatives for the source of the ships involved. For example, for Alternative 1 - Cruiser/Destroyer (CRU/DES), there should be a range of alternatives that consider from what current homeports the components of that alternative should be derived. Only by analyzing the alternative source homeports will the Navy be able to adequately assess the full range of environmental impacts that are reasonably foreseeable from its action.

Also, none of the alternatives included in the materials distributed by the Navy at the December 5, 2006 Public Meeting describe the nature of improvements needed to support the various fleet configurations listed. The Navy should issue a revised NOI that describes with more particularity the nature of new or refurbished facilities needed to support the specific configuration.

***4. The EIS should analyze several alternatives for dredging the NAVSTA Mayport turning basin, entrance channel, and the Jacksonville Harbor Bar Cut as well as alternative disposal sites for the dredged material.***

As indicated in the materials distributed at the December 5, 2006 Public Meeting, eight of the twelve alternatives identified for the NAVSTA Mayport project include provisions for either temporary or permanent presence of a CVN. Because depth requirements for a CVN Dredging - methods and disposal locations is more than seven feet deeper than the current depth requirements, there is little doubt that the dredging required for the NAVSTA Mayport Project will be unlike any previous dredging project for that facility. Rather than dredging up newly deposited silt, the dredging for the proposed project will uncover and remove materials that have been resting at the bottom of the port for decades or longer. For this reason, the NAVSTA Mayport EIS should include a complete analysis of the composition of the dredged material. The EIS should fully evaluate the suitability of the dredged material to be deposited at the Jacksonville ODMDS. The EIS should require a full range of testing for the material, including bioassay (toxicity and bioaccumulation) testing, required by federal and as further required by EPA's test manual: "Evaluation of Dredged Material Proposed for Ocean Dumping," commonly known as the "Green Book."

Also, given that the Navy currently estimates that approximately 5.7 million cubic yards of material must be removed to implement the various alternatives, the EIS should also analyze the ability of the Jacksonville Ocean Dredged Material Disposal Site ("Jacksonville ODMDS") disposal site to accept that amount of material. The management plan for the Jacksonville ODMDS, as established by the U.S. Army Corps of Engineers, currently limits disposal of dredged material to 2 million cubic yards per year. Because the Army Corps of Engineers has yet to determine the capacity of the Jacksonville ODMDS, the NAVSTA Mayport EIS should also include an analysis of the amount of material likely to be disposed of at the site for each of the alternatives and the amount of material that will be deposited as a result of periodic maintenance of the alternatives, once they are operational. Also, the NAVSTA Mayport EIS should consider alternative ocean disposal sites to accommodate the dredged material in the event that the existing disposal site does not have the necessary capacity to receive dredged material from the project and from maintenance activities likely to be needed in the immediate and near future.

***5. The EIS should consider the direct, indirect and cumulative impacts for the following resources:***

- **Homeports from which ships would be reassigned to NAVSTA Mayport** – The homeports from which existing ships would be reassigned to NAVSTA Mayport will suffer indirect impacts as a result of the decision to transfer ships. The EIS should consider the indirect environmental, social and economic impacts to those ports from which existing ships would be reassigned ports. For each of the 12 homeporting alternatives identified, the NAVSTA Mayport EIS should analyze from which existing homeports the ships for that particular configuration are likely to be drawn, and then analyze the impacts to the current homeport that could result from the reassignment.

### Attachment 3

- **Endangered Species/Right Whales** - Right Whales are a federally listed endangered species. The project could result in a substantial increase in the number of ships located at NAVSTA Mayport. Some of those ships, particularly any Nimitz class aircraft carrier, have different operating criteria than ships currently utilizing NAVSTA Mayport facilities. The EIS should contain an in-depth analysis of potential impacts on the Right Whales caused by each of the 12 action alternatives. In addition to the consultation requirements imposed by Section 7 of the Endangered Species Act, impacts to be considered in the EIS should include, at a minimum, the following:
  - *Impacts from the disposal of dredged material.* The current ocean disposal site is located approximately five miles from the Jacksonville Harbor Bar Cut. Because this disposal site is located in designated critical habitat for the Right Whale, a full analysis of the potential adverse effect on critical habitat must be part of any EIS.
  - *Impacts from increased ship traffic in designated critical habitat* - The EIS should analyze likely impacts to Right Whales and the designated Right Whale critical habitat resulting from any change in ship traffic likely to result from implementation of any of the 12 action alternatives. Only one of the 12 action alternatives does not result in the assignment of additional ships. The increase in ships will likely result in increased vessel activities in Right Whale critical habitat causing a possible unpermitted taking of a right whale or causing the destruction or adverse modification of critical habitat.
  - *Consistency with 2005 recovery plan* - The EIS should analyze impacts in light of the goals and objectives of the 2005 Recovery Plan for the Northern Right Whale.
  - *Other federally listed species* - The EIS should also consider impacts to other listed or protected species in the area.
- **Wetlands** - The EIS should fully evaluate likely impacts to wetlands and other waters of the United States that would be affected either by construction or renovation of onshore facilities or by construction or renovation of piers, wharfs and other structures that extend into navigable waters of the United States.
- **Air Quality** - The EIS should address impacts to air quality likely to result from construction activities and increased operations at NAVSTA Mayport. The analysis should include a study of how construction/dredging activities and increased traffic effect air quality in the area.
- **Aquatic Species** - The EIS should analyze likely impacts to aquatic species, both within the NAVSTA Mayport Turning Basin and the adjacent St. Johns River, resulting from the construction of new and renovation of existing wharfs.
- **Historic and culturally significant resources.** - The EIS should fully analyze possible impacts to historic and culturally significant resources. Because many of the alternatives

### Attachment 3

will require dredging the harbor to a deeper level than previous dredging activities, there is a significant risk that the dredging could displace previously undiscovered historic and culturally significant resources. As the Navy's own website states: "People have been flocking to the area surrounding the present site of Naval Station Mayport for more than 400 years." <http://www.nsmayport.navy.mil/> With increased dredging required by the proposed project, the EIS should fully evaluate whether the sediment at the bottom of the turning basin contains artifacts from the 400 years of human use of that resource.

***6. The EIS should fully analyze impacts from demolition of existing facilities.***

Nearly all of the action alternatives will require substantial reconfiguring of existing facilities at NAVSTA Mayport. The EIS should fully analyze likely impacts from the demolition effort needed to complete each alternative. The analysis should include a discussion of the presence of asbestos containing materials in the facilities to be demolished or reconfigured, and possible disposal options for the disposal of any asbestos containing material.

***7. The EIS should fully analyze likely economic impacts at the local and regional levels.***

Because the action alternatives all include a substantial increase in the likely number of ships and support personnel at NAVSTA Mayport, the EIS should analyze the economic effects likely to result from the action.

***8. The EIS should fully analyze impacts on the ability of local and state governments to provide support services and infrastructure likely to be needed as a result of the increased population from the reassignment of ships.***

For each alternative, the EIS should estimate the likely increase in population stemming from the proposed homeport assignments. The increase in population would be both direct - from newly assigned Navy personnel - and indirect - from people attracted to the area to provide services to the newly assigned ships. The analysis should, at a minimum, examine impacts to infrastructure (roads, water, sewer), educational facilities, courts, and traffic. Both on-base and off-base traffic impacts should be examined.