



Don Hoch  
Director

STATE OF WASHINGTON

## WASHINGTON STATE PARKS AND RECREATION COMMISSION

1111 Israel Road S.W. • P.O. Box 42650 • Olympia, WA 98504-2650 • (360) 902-8500

TDD (Telecommunications Device for the Deaf): (800) 833-6388

[www.parks.wa.gov](http://www.parks.wa.gov)

February 11, 2021

### **Item E-1: Clarification of Commission Intent – Naval Special Operations Training in Washington State Parks – Requested Action**

**EXECUTIVE SUMMARY:** This item asks the Washington State Parks and Recreation Commission to clarify its action during its January 28, 2021 meeting concerning Navy special operations training. This item advances the Commission’s strategic goal: “Resource Protection: Protect and preserve park system resources for the future”.

#### **SIGNIFICANT BACKGROUND INFORMATION:**

In February 2021, staff began formal review of 29 applications from the Navy proposing to use sites in 28 state parks for special operations training exercises. Information related to this proposal can be found on State Parks’ website at the following address:

<https://parks.state.wa.us/1168/Navy-training-proposal>.

On January 28, 2021, the State Parks and Recreation Commission delegated authority to the Director to issue permits to the Navy for this purpose in a subset of parks meeting certain site selection criteria and under specific mitigating conditions. These criteria and conditions were included in Appendix 2 of the Commission agenda item. The formal action requested by staff was that the Commission:

1. Delegate to the Director authority to issue permits to the U.S. Navy to allow proposed training activities consistent with the site criteria and conditions detailed in Appendix 2.
2. Direct staff to periodically report to the Commission on training activities and any issues that arise.

During its deliberation, the Commission adopted an amendment to staff’s requested action. The amendment as written stated:

*In consideration of how these park supporters feel and their concerns for diminished spiritual, philosophical and emotional attachment to the parks, I move to amend staff’s recommendation to add to the criteria and conditions set forth in Appendix #2 permit issuance is restricted to the time period when daytime visitors would normally not be permitted in the park per WAC 352.32.050. Nine months after the issuance of the first permit the Director will present to the commission a detailed report on permitted naval activity including interactions and issues arising involving park visitors and navy personnel, park visitors and park staff and comments to public information materials posted in the parks and bring forth any recommendations for policy changes if warranted.*

This written amendment, however, appears inconsistent with the discussion of commissioners during the meeting. Specifically, the written amendment appears to require that after a nine-month trial period, further Commission action would be required to lift the restriction on training during daylight hours. Discussion among commissioners however, indicated that the intent of the amendment was to delegate authority to the Director to make an independent evaluation and decision to permit training activities during daylight hours at the end of the nine-month review period (Appendix 3).

**STAFF RECOMMENDATION:**

Staff recommends the Commission modify its amendment to staff's requested action to ensure that the Commission's intent is clear. Specifically, to adopt clarifying language to reflect that the Commission intended for the Director to have authority to permit the Navy to conduct training activities during daylight hours if, after a nine-month period following first issuance of a permit, the Director determines the training activities have been conducted satisfactorily and consistently with all permit conditions.

Staff recommends the Commission adopt the following amendment to replace the amendment approved during the January 28, 2021 meeting:

*Amend staff's requested action to add to the criteria and conditions set forth in Appendix #2 an additional condition that any permits issued to the Navy will restrict training activities to the time period when daytime visitors would normally not be permitted in the park per WAC 352.32.050.*

*Further amend staff's requested action to add an additional provision to authorize the Director to remove or modify this daytime limitation at the Director's discretion if, after a minimum of nine months from the issuance of the first permit, the Director determines that the Navy has conducted training consistent with all permit conditions.*

*Further amend staff's requested action to direct the Director to report, at the first regularly scheduled Commission meeting following a nine-month period from the issuance of the first permit, any interactions and issues arising involving park visitors and navy personnel, park visitors and park staff, and any additional comments received from the public.*

**LEGAL AUTHORITY:** RCW 79A.05.030 and RCW 79A.05.070.

**REQUESTED ACTION:** *That the Washington State Parks and Recreation Commission:*

1. Modify its amendment of staff's requested action concerning Navy special operations training on January 28, 2021, as recommended by staff.

**SUPPORTING INFORMATION:**

Appendix 1: Map of Navy Requested Sites

Appendix 2: Navy Personnel Training Activity Permit Conditions and Limitations

Appendix 3: Amendment Discussion Unofficial Transcript

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**Author(s)/Contact:**

Steve Brand, Partnership and Planning, and Real Estate Programs Manager

[steve.brand@parks.wa.gov](mailto:steve.brand@parks.wa.gov) (360) 902-8651

Jessica Logan, Environmental Program Manager

[jessica.logan@parks.wa.gov](mailto:jessica.logan@parks.wa.gov) (360) 902-8679

**Reviewer(s):**

**Jessica Logan, SEPA Review:** Staff has determined that this Commission action is exempt from the procedural requirements of issuing a threshold determination pursuant to WAC 197-11-800(19)(b). No additional review is needed.

**Van Church, Fiscal Impact:** Action requested has nominal direct fiscal impact.

**Andy Woo, AAG Review:** Reviewed February 9, 2021

**Peter Herzog, Assistant Director – Parks Development**

**Approved for Transmittal to Commission**



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**Don Hoch, Director**

# APPENDIX 1

## Map of Navy Requested Parks



## **APPENDIX 2**

### **Navy Personnel Training Activity**

### **Permit Conditions and Limitations**

If authorized by the Commission, permits to allow Navy Special Operations training could be issued for up to five years at each approved site. Each permit will include specific site constraints appropriate to each individual park in addition to the general conditions listed below. For each permit, a map of the park or area where training is authorized will be included delineating the approved training area. Separate and additional park exclusion areas may be identified by park staff and specific to each park/park property at the time of notification.

The following list of site criteria and conditions captures the mitigating criteria detailed in the State Environmental Policy Act (SEPA) Mitigated Determination of Non-significance (MDNS), Best Management Practices and Standard Operating Procedure detailed within the Navy's Environmental Assessment and Real Property Agreement application as well as additional park operating conditions identified to moderate staff workload and permit issuance.

#### **Site Criteria and Mitigating Conditions\***

##### **Best Management Practices Affirmed and Incorporated**

- The Navy will follow all conditions and Best Management Practices (BMPs) described in the “2019 Final Environmental Assessment for Naval Special Operations Training in Western Washington” to avoid, minimize or otherwise mitigate public or environmental impacts.

##### **Cultural Resource Monitoring Plan Required**

- No permit will be issued until the Navy provides a monitoring plan consistent with the measures agreed upon with the Washington Department of Historic Preservation during the Navy's Section 106 consultation as required under the National Historic Preservation Act (Section 106 consultation concluded on July 23, 2019) and as conditioned below.

##### **Prior Notification**

No less than two weeks prior to a training event the Navy will Make the following Notifications:

- Park Area Manager - No training activity may proceed without an affirmative response from the area manager. The Park Area Manager may redirect or prohibit the proposed training for any reason.
- Tribal Law Enforcement - as identified in the site specific permit.
- Local Law Enforcement Official (County or City) - as identified in site the specific permit.

Additional restrictions and conditions may be applied at any time as deemed necessary by Washington State Parks

##### **Recreation and Visitor Protection Measures**

- Surveillance of members of the public is prohibited.

- Approved training areas will be, at minimum, 500 feet from camp areas and overnight accommodations except as conditioned in this section. This distance has been determined by park staff to be the minimum distance appropriate to avoid interaction with the public. To address public concern/comfort, most exclusion areas will be increased from the minimum of 500 feet to 1,000 feet to provide an additional buffer and typical training areas will be at least 1,000 feet from campground areas and other overnight accommodations. Exceptions to this extended buffer would occur only when permitting staff determine that geological features or site characteristics exist that would provide equal adequate separation from the public.
- No trainings may occur if there is an existing public presence in or approaching the training area or, if the public enters the training area, training will either cease or be redirected to a different approved training area.
- Replica weapons may be carried to simulate the bulk and weight of the gear that would be carried by personnel during an actual mission. Use or carrying of weapons capable of launching or firing projectiles of any sort for training or otherwise is prohibited.
- Boat launches may be used for launch and recovery trainings only and are otherwise exempted from exclusion areas.
- Vehicle and pedestrian ingress and egress access for support staff and staging may be exempted from certain exclusion areas. Vehicles will remain on park roadways or designated parking areas at all times.
- The public will not be excluded by the Navy from any area that is otherwise open to public access. Observers and safety personnel may intervene in the event of imminent detection of the training in progress by a non-participant. Such intervention will be limited to informing the non-participant of the activity or to prevent injury. Safety personnel will be stationed at logical points of entry to the training area as required by the Park Area Manager (such as trail heads and intersections).
- For in-water activities, the Coast Guard Navigation Rules and Regulations Handbook will apply. Vessels underway may be redirected from transiting the training area or temporarily stopped only as necessary for the safety of personnel in the water.

#### **For the Protection of Sensitive Plant Species**

- The Navy will follow all conditions and Best Management Practices (BMPs) described in the “2019 Final Environmental Assessment for Naval Special Operations Training in Western Washington” to avoid, minimize or otherwise mitigate impacts to plants.
- The Navy will monitor the presence of listed state and federal species and trainees will stay on developed trails only in areas where sensitive species are presents.
- Trainees will avoid steep slopes and feeder bluffs.
- Trainees will avoid active restoration sites or any restored areas off limits to the public.
- All Natural Area Preserves (a Washington State Parks Classification and Land Management Plan classification) will be excluded from use areas.

#### **For the Protection of Wildlife**

- The Navy will follow all conditions and Best Management Practices (BMPs) described in the “2019 Final Environmental Assessment for Naval Special Operations Training in Western Washington” to avoid, minimize or otherwise mitigate impacts to animals.

- The Navy will monitor the presence of listed state and federal species will not harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.
- The Navy will avoid conducting trainings during nesting windows for listed species in parks where those species exists.
- The Navy will avoid areas within 300 feet of nest sites for identified raptor species during breeding seasons
- No boats will be landed within shores designated within the Natural Areas classification.

### **For the Protection of Cultural Resources**

- No permit will be issued until the Navy provides a monitoring plan consistent with the measures developed during Section 106 consultation (The NHPA Section 106 process concluded on July 23, 2019) which are as follows:
  1. Reopen consultation per 36 CFR 800.5(d) if necessitated by a change in the undertaking.
  2. Ensure a Secretary of Interior (SoI) qualified archaeologist reviews new and renewed real estate agreements for new information such as the presence of eroding archaeological deposits or features.
  3. Implement the Inadvertent Discovery Plan.
  4. Ensure a SoI qualified archaeologist provides awareness training prior to the start of each training block; and
  5. Navy's SoI qualified archaeologist would periodically no less than annually confirm to SHPO staff that adverse effects are being avoided.
- No trainings may occur in areas where Tribal members are engaging in treaty fishing/hunting/gathering or conducting other traditional or cultural practices. If any member of Tribe enters the training area, training will either cease or be redirected to a different approved training area.
- Any area identified by Tribes as an area of concern will require additional analysis and may be excluded from permitted training activities.
- Digging or otherwise disturbing the substrate is prohibited.

### **Post Activity Site Review**

State Parks staff may observe training activities upon mutually agreed upon conditions. The Navy will report activity within two weeks of each training event and will offer a follow-up site visit with personnel familiar with the training activity conducted if requested by Park Staff. Notification will be to the Park Area Manager and Real Estate Program designee.

**APPENDIX 3**  
**Amendment Discussion**  
**Unofficial Transcript**

Unofficial partial transcript, transcribed by Jessica Logan based on audio recording of the January 28, 2021 Commission meeting beginning at approximately 1:36:06 of the TVW recording.

**Commissioner Whaley:** Ok, and then my next clarifying question is the language with respect to a detailed report presented to the commission - at the end of a nine-month period. And the language that says, “bring forth any recommendations for policy changes if warranted,” can you explain for me, you know, what you’re envisioning with that? Is that a report to the commission or to the director?

**Commissioner Milner:** That is a report to the commission and the intent is to summarize the findings of the site activity reports that are mentioned in Appendix 2, and to add to it any interactions observed between the navy and our visitors – and uh, our other visitors I should say- and between our staff and all visitors and any reactions or responses to any published information that is provided in the parks or on our website to inform people as to what these exercises are about.”

**Commissioner Whaley:** “And So then at conclusion of that nine month period, assuming that the report, um, indicated that, there had not been any negative impacts - is it anticipated that the director at that point would bring to the commission, another action item to remove the restrictions with respect to, the WAC?”

**Commissioner Milner:** “The reason that this motion -er that this issue came to the Commission is because the directors advise that whenever there is a controversial matter that comes before them, he has the ability to, bring that issue forward to the commission for deliberation, and that’s where we are right now. If at the end of nine months, the director ascertains that this is no longer -uh - an issue that needs to be brought to the commission the director will act on their authority. That’s the intention. If the director, determines that based on the 9 month period that further deliberation is required with the commission, the director will bring it to the commission. But it is not my intention to necessarily cause this come back to us, in fact I hope the opposite is what will happen.”

**Commissioner Whaley:** “So, let me follow up with that. With respect to the 9 month period at the end, the director can make the determination to delete the restriction with respect to day use?”

**Commissioner Milner:** “That is correct.”