

For Immediate Release

August 14, 2001

## COURT URGED TO DISMISS SUIT TO HALT NAVY BOMBING OF PACIFIC ISLAND

*(Center for Biological Diversity v. Pirie)*

The Washington Legal Foundation (WLF) filed a brief with the United States District Court for the District of Columbia opposing a lawsuit filed by the Center for Biological Diversity (CBD) against the Department of the Navy to halt all live-fire training exercises on the small uninhabited island of Farallon de Medinilla (FDM). The environmental group claims that the bombing of the island results in the unintentional killing of a handful of unendangered migratory sea birds which are protected by the Migratory Bird Treaty Act (MBTA).

FDM is a 200-acre island located in the Western Pacific in the Commonwealth of the Northern Mariana Islands near Guam. FDM, which has been leased to the United States since 1971, is the only suitable island in the Western Pacific for maintaining the combat readiness of "forward deployed" United States military units. Training entails joint operations involving the Navy and U.S. Marine Corps, including the use of troops, ships, and aircraft. The Navy has taken costly measures to mitigate any environmental harm caused by the training exercises. The islanders support the Navy's presence.

WLF argued in its brief that the CBD did not have standing to challenge the military exercises. CBD claims that one of its members is a birdwatcher who lives in Guam, and that if a bird is killed on FDM, that is one less bird to observe that could have flown from FDM to Guam or another island in the chain where the birdwatcher visits. WLF argued that this injury was too speculative to constitute standing, especially where there is no showing that the species as a whole is diminishing. In fact, some of the migratory birds in question are very common on the islands. WLF also argued that if the MBTA were applied to the facts in this case, it would unconstitutionally encroach on the President's Commander in Chief power under Article II.

A similar lawsuit was filed by activists led by Robert F. Kennedy, Jr. to stop the bombing exercises on the Puerto Rican island of Vieques. President Bush recently agreed to stop using the island in 2003. Another lawsuit is pending to stop military exercises on an Hawaiian island. WLF is opposing these coordinated attacks on our national security.

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