

**FOR IMMEDIATE RELEASE****August 19, 2008**

WLF URGES SUPREME COURT TO ALLOW NAVY TO USE SONAR (*Winter v. Natural Resources Defense Council*)

The Washington Legal Foundation (WLF) filed a brief last week with the U.S. Supreme Court urging it to reverse a ruling by the U.S. Court of Appeals for the Ninth Circuit that upheld an injunction severely restricting the Navy's use of sonar on its submarines during scheduled training exercises in the Pacific Ocean off the coast of Southern California. The lower court agreed with environmental groups that even though there was *no* evidence of any sonar-related harm to marine mammals over the last 40 years, there was a possibility the sonar *might* harm such mammals. Accordingly, despite testimony by Navy officials that the use of such sonar is critical to its training mission and the national security, the court restricted the use of sonar until a full environmental impact statement is prepared under the National Environmental Protection Act (NEPA).

In its brief filed on behalf of itself, Rear Admiral James J. Carey, U.S. Navy (Ret.), the National Defense Committee, and the Allied Educational Foundation, WLF argued that the restriction on the Navy's use of sonar will have a significant detrimental impact on our nation's military readiness during this time of war as well as violate the separation of powers by intruding upon the President's power as Commander in Chief. In this case, the President invoked his authority under both the Constitution and the relevant statutes that the use of sonar was "essential to national security;" in addition, the President's Council on Environmental Quality (CEQ) ruled that emergency circumstances existed justifying exemptions from NEPA.

"This is an outrageous case of activist judges and environmental groups using environmental laws to second-guess our military leaders and the Commander in Chief," said Paul Kamenar, WLF's Senior Executive Counsel. "When you have a federal judge boarding a submarine and inspecting its sonar, as happened here, and then ordering severe restrictions on its use, the judiciary has clearly overstepped its role," Kamenar added.

WLF's brief was drafted with the *pro bono* assistance of Andrew G. McBride, Thomas R. McCarthy, Andrew M. Miller, and William R. Dailey of the Washington, DC law firm of Wiley Rein LLP. Because of the importance of this case, the Supreme Court has scheduled oral argument on October 8, 2008, the first week the Court returns from its summer recess.

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For further information, contact Paul Kamenar, WLF's Senior Executive Counsel, at 202-588-0302. A copy of WLF's brief is available on its website at www.wlf.org.