

The Navy has authorized us to share this document with the request that we disclose that this is a working document, subject to change in response to additional inputs and considerations by the Navy and Project stakeholders. This represents the Navy's positions as of January 6, 2020.

6 January 2019 – Navy Responses

Navy responses follow each item in the “Desired Changes that Could be Incorporated by the Navy” below in blue italics, and reflect the discussion at the November 18, 2019 meeting held in Carson City, Nevada and the further discussion on December 19, 2019, also in Carson City, Nevada. In addition to the responses, and as discussed at that meeting, Navy affirms the following:

- *The Navy will hold a public information meeting associated with the release of the Final Environmental Impact Statement (EIS) on Tuesday, January 28, 2020 from 5:00-8:00 PM in Fallon, Nevada. The Final EIS will be released on Friday, January 10, 2020. The focus of the meeting will be to provide the public information on the notable changes from the Draft EIS to the Final EIS, and a summary of the Navy's responses to the main comment topics received during the public review of the Draft EIS. The Navy will also discuss anticipated Record of Decision (ROD) commitments. Beginning at 5:00 PM, Navy representatives will be available to answer individual questions in an open house style meeting format. At 6:00 PM the Navy will give a presentation. Following the presentation there will be an opportunity for anyone in attendance to provide an oral comment (up to three minutes). The comments will be transcribed and considered before the Navy issues the ROD (following the 30 day wait period from the Final EIS release). Following the public comment session, the open house will resume, with Navy representatives available to answer individual questions. The Navy will advertise the meeting throughout the study area and include information about the meeting in all the Final EIS release materials.*
- *The ROD is the formal document that governs implementation of the proposed action and documents Navy commitments, including mitigation commitments and follow-on actions from the EIS. Examples include a Navy commitment for a sage grouse aircraft noise study, development and implementation of a fire management plan, access plan, and updating various plans and agreements to reflect the additional withdrawn lands, pending Congressional action. As discussed at the 19 December meeting, the Navy will provide the language from the draft ROD that pertains to the Navy commitments for follow-on actions for review and comment. The Navy proposes to have a meeting to discuss this language in Fallon on 30 January at 9:00 AM at NAS Fallon. That meeting will also include a discussion of the overall projected project schedule for implementation.*
- *The Navy will continue engagement with all interested Tribes. The Navy held a tribal consultation meeting on 18 December. All area tribes were invited; three tribes were represented, as well as the Inter-Tribal Council of Nevada and the Nevada Indian Commission. At that meeting, the Navy agreed to provide a letter documenting the topics discussed at the meeting, particularly as they relate to the Navy's commitments for follow-on actions. The Navy will create a Tribal Liaison Office (TLO) at NAS Fallon to assist in the continuing engagement that will occur past the ROD, as the modernization program is implemented over the coming years, to include:*
 - *Implementation of an amended Programmatic Agreement to consult with Tribes on the identification of cultural resources, the potential effects of actions, and measures to avoid and minimize effects. When adverse effects are unavoidable, the Navy will consult with ACHP, SHPO, and interested Tribes to develop mitigation measures, consistent with the Programmatic Agreement and 36 CFR 800.6.*
 - *Partnering with Tribes on measures for the protection and appropriate treatment of any burials and associated items, consistent with Native American Grave Protection and Repatriation Act (NAGPRA).*

- *Consulting with Tribes to develop access protocols to be managed in partnership with Tribes prior to implementing any actions on the ordnance ranges that would affect access, the Navy will. Navy will investigate options such as Inter-Governmental Support Agreements to hire Tribal Range Access Managers who would coordinate Tribal access to ordnance ranges.*
- *Conducting an ethnographic survey in partnership with Tribal representatives to assist in the identification of sites of religious and cultural significance within the FRTC. The Navy will continue to request funding for progressive survey for cultural resources, including studies and consultation to identify Traditional Cultural Properties (TCPs) and other sensitive sites. The Navy will use results of these investigations in continuing consultation with Tribes to adjust and refine the managed access program over time.*
- *As a follow-up from the 18 November meeting, the Navy has worked with Nye County to ensure information regarding the calculation of Payment In Lieu of Taxes (PILT) impacts for Nye County in the EIS is correct. Based on the information provided by the county, the Final EIS is being updated to more accurately reflect the potential impacts from lost PILT to Nye County as a result of the proposed withdrawal.*
 - *Specifically, based on discussions with Dr. Harris of UNR, and Ms. Dionna Kiernan of the Department of Interior (DOI) PILT program, the Navy has verified that for the year PILT was calculated for the FRTC EIS (2018), the correct calculation method for estimating PILT was Alternative A. This Alternative was selected based on population, receipt-sharing payments made in 2017, and the amount of federal land within an affected county, and was the greater PILT value calculated for 2018 when compared to the calculation methods of Alternative B. For estimating potential impacts to PILT payments in the Final EIS and using the 2018 information, even with the reduced acreage as proposed under Alternative 1, 2 or Alternative 3, the methodology is proposed to remain the same (Alternative A) and there would be no impact to the potential PILT payment. However, if there is a change in receipt-sharing payments from contributing agencies relative to previous years, or population changes, there is the potential for the calculation method to change to Alternative B. If Alternative B becomes the method for calculation of PILT, the potential removal of acreage under any of the Proposed Alternatives would decrease the authorized PILT payment to Nye County. Sections 3.13.3.2.3, 3.13.3.3.3, and 3.13.3.4.3 (Potential Impacts on Regional and Local Economy) are being updated to reflect the potential PILT loss if the calculation methodology were to change to Alternative B.*
 - *As a follow-up from the 19 December meeting, Nye County has provided the additional reference that they requested to be included in the FEIS discussion of PILT impacts to Nye County from the Nevada Test and Training Range (NTTR) and FRTC projects. The study and discussion has been updated in the cumulative impacts section of the Final EIS.*

(NOTE: Text in black below is from original Nevada consolidated proposal)

I. Desired Changes that Could be Incorporated by the Navy:

The below listed changes could be made by the Navy through its NEPA process and presented to Congress as part of the Navy's formal recommendation for the FRTC Modernization Project. If these changes are not incorporated by the Navy, then the signatories would request that Congress incorporate them into the National Defense Authorization Act (NDAA) and/or other appropriate

legislation.

I.A Specific to Private Property (Including Land, Mineral Claims and Water Rights): All private landowners within the proposed withdrawal area must be properly notified (i.e. certified mail) and compensated for any and all losses.

- *NAVY: The Navy provided a general notification to the public including potential property owners as part of the NEPA process beginning with the Notice of Intent in 2016 and again with the release of the Draft EIS in September 2018. Specific notifications regarding potential property acquisition would begin to all known property owners after the ROD is signed. As explained in the EIS, the Navy would provide just compensation for the acquisition of real property.*
- *Following up from the 19 December meeting, the Navy has updated the Final EIS to confirm that the maps depicting non-federal land acquisition proposals do not include Bench Creek. The Navy does not propose to purchase this non-federal property. Navy will evaluate whether other property in Dixie Valley that may serve as "base property" for grazing permit purposes should be acquired fee title or less than fee title; intent is to acquire the minimum real property interest necessary to preserve the training environment while accommodating continued grazing consistent with Navy training requirements.*

I.B Specific to all Bravo Ranges: The Navy should reduce all Bravo Range withdrawal areas to match the proposed Weapons Danger Zone(s) by utilizing the smallest possible sectional breakdown. See Map Item I.B.

- *NAVY: Between the Draft EIS and the Final EIS the Navy reduced the withdrawal request by decreasing the aliquot parts down to the quarter section from the original application for areas that are outside the weapons danger zones (WDZ). As a result, the Navy has reduced the total proposed withdrawal by 4,800 acres. At the 18 November meeting the Navy agreed to research whether the withdrawal could be further reduced to even more closely match the composite WDZs associated with B-17 and B-20. That research determined that a further reduction may be practicable in some areas, but not practicable in all areas. This is because BLM survey data indicated many of the areas around B-17 and B-20 are un-surveyed. Safety considerations require that the withdrawal fully contain the composite WDZs so that the Navy fully controls the land. With uncertain survey data, the Navy could not be sure a smaller aliquot part would accurately capture the composite WDZ. The Navy cannot accept this uncertainty given our unwavering commitment to safe range operations. However, where survey data exists the Navy will work with BLM to further reduce the withdrawal and/or areas that are closed to public access. As the modernization is implemented (pending approvals and legislation) the Navy will restrict access to the smallest possible area required for Navy requirements and public safety.*

I.C Specific to Bravo 16: The Navy should reduce the boundaries of B-16 in order to:

1. Avoid the West-wide Energy corridor, existing power transmission line and existing access road along the western edge of the withdrawal area (See Map Item I.C.1);
 - *NAVY: The Navy withdrawal would avoid the existing power transmission line and access road. The Final EIS Section 3.2 (Land Use), Figure 3.2-4 (Land Use, Land Management, and Energy Corridors Within Existing and Proposed B-16 Area for Alternatives 1 and 2) has been updated to more clearly show the withdrawal in this area. Both would be outside of the surface danger zone (SDZ) and fencing. Regarding the west-wide energy corridor, the Navy agreed to re-validate with Naval Special Warfare Command and Naval Aviation Warfare Development Command (NAWDC) the spatial requirements for the B-16 proposed expansion, in terms of impacts of a reduced withdrawal. Based on this review, reducing the withdrawal to avoid the planning corridor within the withdrawal would create unacceptable impacts to the training requirements, specifically by shrinking the free maneuver area by as much as a mile. Shifting the free maneuver area to the east would remove complex terrain required for training (more than 25%), overlap the free maneuver SDZ's over the static ranges, place buildings and infrastructure into line of fire, place Salt Cave (historic resource) into line of fire, and limit concurrent operations with aviation static ranges. Following discussions at the 19 December meeting, the Navy will examine whether it is possible to relinquish the area of the currently withdrawn land on the eastern side of B-16, north of Sand Canyon Road, which is outside of SDZs. If relinquished, this may provide enough area to the east of B-16 to accommodate a power transmission corridor that transits around B-16.*
2. Allow re-routing of Sand Canyon Road / Red Mountain Road around the north perimeter of the withdrawal area. Portions of other existing dirt roads may be utilized to accomplish this depending on how far the withdrawal area is reduced (See Map Item I.C.2);
 - *NAVY: The Navy is not proposing to re-route Sand Canyon Rd around the north perimeter. Such a re-routing is problematic as a road constructed to county code standard across the northern boundary of B-16 must cross the outlet of Sheckler Reservoir which has historically experienced major washouts (some as deep as 10 feet). Crossing this area would require a complex, expensive engineering solution. Existing roads would provide access to the north and east side of the proposed withdrawal area without the need for a new road. The Navy is committed to working with Churchill County on potential routing options to provide access to these areas north and east of B-16. However, we note that as part of managing the integrity of the bombing range perimeter fence, the Navy would create a trail in otherwise inaccessible areas on the northern edge of B-16 that could be publicly accessed by those with appropriate vehicles (e.g., off-road vehicles).*
3. Allow enough corridor (1 mile minimum) for the I-11, B-2 Corridor between the northeast corner of withdrawal area and existing private property at the end of Lone Tree Road (See Map Item I.C.3); and,

- *NAVY: The Navy could accommodate a potential future Right-of-Way (ROW) in this area without impacting training requirements. The Final EIS Section 4.4.5 (Transportation) updated to reflect this position and commitment. As a follow-on to the 19 December meeting as noted above the Navy is examining if the currently withdrawn area north of Sand Canyon Road and outside the SDZ could be relinquished.*
4. Avoid Simpson Road to the south of the withdrawal area (currently included in Alternative 3).
- *NAVY: At the request of the State of Nevada, Alternative 3 does not withdraw Simpson Road and the area to the south. This change is reflected in the Final EIS description of Alternative 3 in the EIS Section 2.3.6 (Alternative 3 – Bravo-17 Shift and Managed Access [Preferred Alternative]).*

I.D Specific to Bravo 17: Adjust the withdrawal area to avoid: existing corrals, laydown area and water well (associated with stockwater right) immediately adjacent to SR 839, approximately 12 acres (See Map Item I.D.1).

- *NAVY: The Final EIS Section 5.10.3.3 (Proposed Mitigation) has been updated to reflect that the Navy would relinquish this 12-acre area from being included in the renewal, such that the well and access road area could be incorporate by BLM back into the public domain and the Navy would not be proposing any changes to the water rights and well.*

Avoid target placement in areas of high biological and cultural values (i.e. Bell Flat, **See Map Item I.D.2**). Targets should also be placed in a manner that accommodates controlled access (i.e. avoid Earthquake Fault and Bell Flat Roads, **See Map Item I.D.3**).

- *NAVY: The Navy would place targets to avoid impacts on cultural resources and sensitive biological resources to the extent possible while meeting training requirements. If impacts to cultural resources cannot be avoided, the Navy would follow the amended Programmatic Agreement, Section 106 regulations, and NAGPRA, as applicable. The Navy would minimize impacts to the extent possible on natural resources. The pronghorn and mule deer management priority habitat areas, such as Bell Flat, would be avoided to the maximum extent possible. Regarding controlled access, the Navy would place targets to minimize impacts but still meet Navy requirements. The specific roads for various controlled access would be determined through agreements to accommodate the controlled access while still meeting Navy requirements. Following up from the December 19th meeting, the Navy has added the map from NDOW depicting the sensitive habitat areas.*

I.E Specific to Bravo 19: Work with appropriate tribal representatives to address the existing contamination issue on the Walker River Reservation.

- *NAVY: While this is not an issue within the scope of the modernization, the Navy is committed to resolving the off-range ordnance (ORO) issue with the Walker River Paiute Tribe. The Navy implemented operational changes in November*

1989 to eliminate off-range munitions, including reorienting strafing/bomb run-in lines and increasing surveillance of all drops. These operational changes have been effective in reducing ORO occurrences. A Memorandum of Understanding between NAS Fallon and the Walker River Paiute Tribe establishing protocols for both the Indian Tribe and the Navy to follow in responding to potential future ORO incidents (e.g., notification and access to reservation lands) was signed on May 14, 2007. An updated Memorandum of Agreement between the Indian Tribe and Navy was signed on May 24, 2017 that clarified procedures for addressing any future ORO incidents on the Reservation. The Navy is actively working with the Indian Tribe to seek a resolution for the issue of historical ORO present on the Reservation.

I.F Specific to Bravo 20: Reduce the boundaries of B-20 in order to:

1. Allow re-routing of Pole Line Road around the northwest perimeter of the withdrawal area. Portions of existing Pole Line Road may be utilized to accomplish this depending on how far the withdrawal area is reduced (See Map Item I.F.1);
 - *NAVY: Reducing the WDZ on B-20 to keep Pole Line Road outside the WDZ would reduce range capability by 50%-80% across weapons classes, an unacceptable reduction in meeting the Navy's FRTC Modernization requirements. A smaller WDZ requires a reduction in the target areas. Therefore, the JDAM target area size would decrease by approximately 88%, from 902 acres to 112 acres. This area would be tactically unacceptable for training. The EIS Chapter 2 analyzes various B-20 alternative configurations that were considered and the reasons they would not meet the Navy's training requirements. Pole Line Road traffic was studied as part of the EIS and associated traffic study – although the road supports a low volume of traffic, the EIS does acknowledge the impacts of the loss of access. At the 18 November meeting, the Navy agreed to research whether, while not reducing the WDZ and withdrawal, limited access could be provided for large convoys of equipment. Based on our review, the Navy has determined that this is impractical as safety requirements would necessitate a costly, time consuming, and labor intensive inspection and clearance of potential UXO along the entire road each time before the road was made available for public access.*
 - *At the 19 December meeting, there was further discussions about potential alternative routes and allowing re-routing of the road outside the WDZ to meet the stated needs for access to this area. The Navy looks forward to continuing this discussion at the proposed meeting on 30 January at NAS Fallon.*
2. Avoid the Fallon National Wildlife Refuge (**See Map Item I.F.2**);
 - *NAVY: As discussed above, and in Chapter 2 of the EIS, the Navy evaluated whether B-20 could be shifted to avoid the Fallon National Wildlife Refuge. The*

proposed location and configuration of B-20 is driven by WDZ requirements and surrounding terrain features. Moving B-20 south so that Pole Line Road is not encumbered would result in the required withdrawal overlapping most of the Fallon National Wildlife Refuge and Stillwater National Wildlife Refuge. Moving B-20 west would encumber US Route 95. Moving it north would encumber privately owned irrigated agricultural land. Moving it east would encumber East County Road. The Navy located B-20 in a manner that has the least impacts on surrounding land uses. The overlapping Navy withdrawal of 2,270 acres of Fallon National Wildlife Refuge would only affect public access to that area; the rest of the refuge would remain open to public access. The U.S. Fish and Wildlife Service (FWS) would continue to manage the entire refuge. FWS access to and management of the withdrawn area would be formalized in an agreement between and Navy and FWS. The Navy and Department of Interior are discussing ways to mitigate this impact as part of the interagency process for preparing the legislative proposal for the Congressional withdrawal.

3. Avoid East County Road to the east of the withdrawal area (currently included in Alternative 3); and,
 - *NAVY: As discussed in the EIS and at the request of the Governor, this road was removed from the proposed withdrawal and is not currently included in Alternative 3.*
4. Avoid the Stillwater National Wildlife Refuge to the south of the withdrawal area (currently included in Alternative 3).
 - *NAVY: This area is not proposed for withdrawal under any of the alternatives.*

I.G Specific to the Dixie Valley Training Area (DVTA): Renew withdrawal of the existing DVTA with stipulations described in the Draft EIS (See Map Item I.G.1). See Section II.B for the need to Congressionally codify all allowances and restrictions within the DVTA withdrawal area.

Designate a Special Land Management Overlay (SLMO) rather than expanding the existing DVTA (See Map Item I.G.2). The new SLMO area would have the same conditions as the SLMO proposed south of Highway 50 under Alternative 3. The SLMO would remain open to public access, still be managed by the Bureau of Land Management and available for all Bureau of Land Management (BLM) allowable uses. The BLM would be required to consult with the Navy prior to issuing decisions on projects, permits, leases, studies and other land uses. See Section II.C for the need to Congressionally codify all allowances and restrictions within the SLMO area.

- *NAVY: Following the 18 November meeting, the Navy, in coordination and consultation with BLM, further evaluated other potential designations, rather than land withdrawal, to protect the area from incompatible land uses and allow Navy ground activities. Based on that review and input and guidance from BLM, a SLMO (or other type of non-*

withdrawal overlay) north of Highway 50 would not provide adequate protection to ensure the necessary training environment. Navy use of BLM-managed public land can only be accommodated via a military land withdrawal as military training is generally not a consistent use of public land. The training proposed by the Navy in Dixie Valley exceeds “casual use” as defined by BLM. Accordingly, the land must be withdrawn for military purposes to accommodate required training. Further, a SLMO does not adequately protect the area from incompatible development, such as obstructions to flight and lighting. Existing laws and processes (such as the 1872 Mining Act) do not provide BLM and the Navy the means to preserve the training environment. The Navy has lost aircraft and aircrews from colliding with power lines within the FRTC in the past 20 years. Establishing a SLMO would not allow the Navy to preserve the safety of the training environment.

- *Following up from the 19 December meeting, clarification on DVTA management is that though withdrawn for military training, DVTA would remain open to public access and would be managed by BLM under FLPMA consistent with the purposes of the military withdrawal. For instance, a Churchill County request for a right-of-way for a water line would be issued by BLM in consultation with the Navy. The purpose of the consultation with the Navy would be develop a right-of-way that preserves the training environment while meeting the requirements of the County. For instance, a request by a geothermal developer for a permit would be granted by BLM in consultation with the Navy. Again, the purpose of consultation with the Navy is to preserve the training environment while accommodating the geothermal developer requirements. The management roles and responsibilities (between BLM and Navy) for the DVTA will be included in the ROD.*

I.H Specific to the designation of a Special Land Management Overlay (SLMO): Retain the proposed SLMO south of Highway 50 (currently included in Alternative 3) and expand the same designation north of Highway 50 rather than expanding the DVTA. **See Section II.C for the need to Congressionally codify all allowances and restrictions within the SLMO.**

- *NAVY: See above. SLMO would not provide adequate safety and mission protection in the area north of Highway 50.*

Specific to resolution of Wilderness Study Area (WSA) under the expanded SLMO north of Highway 50, see Section IV. The signatories support resolution of WSA as part of a Lands Bill process rather than proposed release by the Navy.

- *NAVY: The Navy proposal to withdraw the DVTA area north of Highway 50 also includes a proposal for Congress to remove WSA designations in areas proposed for Navy withdrawal. Regarding any potential future changes in designation for current WSA-designated areas not included within the military withdrawal, the Navy would provide input on anticipated training requirements.*

I.I Specific to Energy Development and Energy Transmission: The proposed changes (listed in Sections I.A – I.H) to avoid expansion of the DVTA in lieu of SLMO designation will

help to minimize impacts to energy development and transmission in the Dixie Valley area by providing allowances for future development in coordination with the Navy. Similar positive benefits will be realized by altering and minimizing withdrawal footprints on the Bravo Ranges; however, the balance of the Navy's proposal will still significantly impact future energy development.

- *NAVY: See above – a SLMO north of Highway 50 instead of a Navy withdrawal would not provide the required training environment or provide adequate safety and mission protection. The Navy would accommodate and allow geothermal energy production and distribution on the west side of Highway 121, with required design features described in Section 3.3.4.3 the EIS, an area up to 25,000 acres. A coordination requirement would not adequately protect the critical and unique training environment in this specific area from incompatible development.*

I.J Specific to Mining and Mineral Resources (including geothermal): The proposed changes (listed in Sections I.A – I.H) to avoid expansion of the DVTA in lieu of SLMO designation will help to minimize impacts to mining and mineral development in the Dixie Valley area by providing allowances for future development in coordination with the Navy.

- *NAVY: See above. SLMO would not provide required training area or provide adequate safety and mission protection. Additionally, the 1872 Mining Law does not allow BLM to impose restrictions to prevent incompatible development. Again, we believe development of geothermal resources within the proposed withdrawal area can be accomplished in a manner that provides economic benefit while preserving the training environment.*

Similar positive benefits will be realized by altering and minimizing withdrawal footprints on the Bravo Ranges; however, the balance of the Navy's proposal will still significantly impact future mining and mineral development.

- *NAVY: Mining and mineral development cannot be accommodated within the WDZs/SDZs due to safety requirements.*

All mining claimants within the final withdrawal areas (Bravo Ranges and DVTA) must be properly notified and compensated for any and all losses.

- *NAVY: The Navy provided a general notification to the public beginning with the Notice of Intent in 2016 and again with the release of the Draft EIS in September 2018. As explained in the EIS, the Navy would provide just compensation for the acquisition of real property. The Final EIS now includes a description of this process. Therefore, the Navy would seek to purchase validated unpatented and/or patented claims. Though not obligated to do so, the Navy would offer a nominal payment for unpatented claims with no validity exam in the Bravo ranges. The Navy would consider the investment made by the holder of these unpatented claims when making an offer to extinguish the claim.*

I.K Specific to Grazing: The Navy should be working directly with grazing permittees on an allotment by allotment basis to avoid or minimize impacts. For any unavoidable impacts: all

public land grazing permittees and lease holders within the final Withdrawal Area (Bravo Ranges) must be fairly compensated for any and all losses, including but not limited to: lost Animal Unit Months; remaining balance on business loan for lease payments; lost range improvements; and, costs associated with pursuing new or revised grazing permits.

- *NAVY: The Navy would work with grazing permittees on a case-by-case basis to minimize losses resulting from the cancellation of a grazing permit. Navy would pay for permittees' costs in the process to obtain replacement forage (i.e., establishment of new grazing areas) and other losses per 43 U.S.C. § 315q resulting from the cancellation of a permit, and would offer fair market value for any real property that has been cut off from access. Permittees would be responsible for providing information on the ranch operation to aid the Navy in determining an appropriate payment amount.*

Compensation must be for the full term of the Navy withdrawal, NOT only the remaining term of the grazing permit as presently suggested by the Navy (see Section III.D). Fair compensation should be determined by a private agricultural appraisal process.

- *NAVY: See above. Private appraisers may provide information potentially relevant to the Navy's determination of payments under 43 U.S.C. § 315q. The Final EIS, Section 3.4.3.2.6 (Process for Determining Payment Amounts for Losses Resulting from Permit Modification or Cancellation) provides a detailed description of the valuation methodology for payment for grazing losses under §315q.*

I.L Specific to Ground Transportation: The Navy must recognize and honor all existing Federal, State and County rights-of-way.

- *NAVY: Within the DVTA there would be no change to any transportation routes and rights-of-way. Within the Bravo Ranges, there would be no public access.*

The following federal highways must be avoided by the Navy's land withdrawals: US 50 & 95. (See **Map Item I.L.1**).

- *NAVY: U.S. Highways 50 and 95 are avoided under all Alternatives.*

The following state highways must be avoided by the Navy's land withdrawals: SR 121 and 839 (currently included in Alternative 3). The Navy must recognize and honor all existing State rights-of-way.

- *NAVY: NV Highway 121 is avoided as part of all Alternatives and NV Highway 839 is avoided as part of Alternative 3.*

The following county roads must be avoided (currently included in Alternative 3) by the Navy's land withdrawals: Simpson Road (B-16 in Churchill and Lyon Counties), Earthquake Fault, Fairview Peak (B-17 in Churchill County) and Rawhide Road (B-17 in Mineral County) and East County Road (B-20 in Churchill County). The Navy must recognize and honor all existing county rights-of-way, including those roads that would qualify under RS 2477.

- *NAVY: All roads listed by the Governor are avoided in Alternative 3. Regarding RS 2477, the Navy defers to the Department of the Interior to adjudicate such claims and does not take a position as to the validity or non-validity of any claimed RS 2477 road or right-of way. In working with the BLM, no adjudicated RS 2477 roads have been identified in the areas requested for withdrawal or proposed for acquisition. The Navy recognizes that there would be loss of access to the areas withdrawn or acquired and potentially to non-traditional roads; but such roads would not be relocated. Other means of accessing available areas would remain; therefore, there is no requirement to relocate roads, other than a requirement to relocate a portion of NV Route 361 as discussed in the EIS, Section 3.5.3.4.2 (Bravo-17).*

The following roads must be relocated at the Navy's expense:

- Sand Canyon / Red Mountain Road (B-16 in Churchill County) which must be designed and built to County standards for unpaved roads (**See Map Item I.L.4**);
- *NAVY: See response above. There are existing roads that may be a better choice for access to the north and west side of the B-16. The Navy will work with Churchill County on potential alternative routes.*
- State Route 361, which must be designed and built to Nevada Department of Transportation (NDOT) Standards (B-17 in Churchill, Mineral and Nye Counties) (**See Map Item I.L.5**); and,
- *NAVY: Re-routing 361 is proposed as part of Alternative 3 in the EIS. See Section 3.5.3.4.2 (Bravo-17).*
- Pole Line Road (B-20 in Churchill and Pershing Counties) which must be designed and built to County standards for unpaved roads (**See Map Item I.L.6**).
- *NAVY: See discussion above. Rerouting Pole Line Road is infeasible without moving/shrinking the range; doing so would unacceptably reduce range operations by 50%-80%. The impact areas would have to be shrunk by 88% to route Pole Line Road between the range and the mountains. Traffic trips not attributed to Navy activities average 1 to 2 per month. The western portion of Pole Line Road is "owned" by the Navy; BLM issued a right-of-way to the Navy for the road so that it may use it for access to B-20 for maintenance/management purposes.*

Lone Tree Road, including that portion of State Route 761, must be reconstructed at the Navy's expense to safely pass large vehicle traffic as a result of Navy access to B-16 (**See Map Item I.L.7**). This road must be designed and built to the appropriate NDOT or County standard for paved roads in a rural residential area.

- *NAVY: The Navy would provide funding to Churchill County via a military*

construction project implemented by the Federal Highways Administration for improvements to Lone Tree Road to support Navy vehicles and for public use.

I.M Specific to Airspace: Military Operating Areas (MOAs) with a proposed floor of less than 500' above ground level (AGL) should be changed to 500' AGL per 90-Days to Combat.

- *NAVY: Original recommendations for these expanded MOAs was 200' AGL for, Duckwater, Smoky, and Diamond, Ruby and Zircon MOAs. The 500' AGL mentioned in 90 Days to Combat is a generalized statement for overall aviation requirements. Helicopter operations require a military operating area down to 200' AGL. Helicopter operations are anticipated in the proposed Duckwater and Smokey MOAs, but not the proposed Diamond, Ruby and Zircon MOAs. The floor of the proposed Diamond, Ruby and Zircon MOAs has been adjusted to 1,200' AGL. The Final EIS Table 5-7 (Management Practices, Monitoring, and Mitigation Measures Suggested for Airspace) has been updated with this clarification.*

Signatories also support improved radio coverage, at Navy's expense, in order to provide uninterrupted radio coverage from Desert Control to the entire Special Use Area as a safety measure.

- *NAVY: General aviation aircraft would continue to be allowed to transit through the FRTC outside of active restricted airspace or through the Visual Flight Rules (VFR) corridor, just as they do now. The proposed changes to airspace would therefore have minimal impact on recreational/general aviation aircraft. Impacts to general aviation for each alternative are discussed in the EIS in Section 3.6 (Airspace), specifically in Section 3.6.3 (Environmental Consequences). Due to the mountainous terrain underlying the current and proposed boundaries of the Fallon Range Training Complex, uninterrupted radio coverage at all altitudes is not practical. Currently, radio coverage exists above 10,000' MSL throughout most of the current and proposed range boundaries. At the present time, the Navy is not proposing to create new infrastructure such as radio towers.*

The signatories support an Airport Exclusion Area (5 mile radius and 0-1,500' AGL) around the Gabbs, Crescent Valley and Eureka airports.

- *NAVY: The Navy currently has proposed a designated airspace exclusion for the town of Gabbs. As part of the Modernization proposal Eureka airfield would have an airspace exclusion of 3nm and 1500' AGL. This exclusion areas was developed in coordination with the FAA. Crescent Valley Airport lies outside of the existing Fallon North 4 MOA. Current range procedures identifies the town of Crescent Valley and the Gabbs Airfield as a noise sensitive area that shall be avoided by 3,000' or 5nm. The proposed restricted area in Alternative 3 (R4805) would have a cutout around the Gabbs Airfield of 3nm and 1,500' AGL where ordnance activities cannot be conducted.*

A Visual Flight Rules (VFR) Corridor must be provided over Highway 50 and Highway 95 in order to provide continual access by civilian aircraft. Specifications for the VFR are:

- *NAVY: The current VFR corridor extends over all of Highway 50 in the FRTC from Fallon to Eureka in the MOA areas and between the restricted areas R-4804 and R-4816S. No VFR corridor exists or is proposed on Highway 95.*

- Vertically = 0' – 10,000' Above Ground Level; and,
- Horizontally = 5 miles wide (2.5 miles either side of highway centerline).
- *NAVY: The current VFR corridor is 2 miles wide and 2000' AGL to 10500' MSL. East-west traffic is de-conflicted vertically in 500' increments. The VFR corridor also divides the FRTC Restricted Areas R-4804 & R4816S from 2000' AGL to 8500' MSL. The Navy does not believe the Modernization would require any changes to the current specifications for the VFR corridor.*
- *A 5 mile wide VFR corridor along Highway 95 would effectively close both B-16 and B-19 as bombing ranges, as the VFR corridor would remove restricted airspace above ordnance impact areas. Currently B-19 and its associated R-4810 does not have a proposed airspace change other than an administrative name change to R-4810A as requested by the FAA. The creation of proposed R-4810B does not change the existing use of R-4810. B-16 adjustments include the expansion of R-4803 to cover the increase in Navy owned land for weapon and surface danger zones. The closest the expanded R-4803 comes to Highway 95 is 1.2 miles, allowing civil aircraft to transit within 1 mile to the west of Highway 95 in this area.*
- *A 5 mile wide VFR corridor along Highway 50 in the vicinity of our existing B-17, would close the existing B-17 bombing range and the Navy electronic warfare range due to the VFR corridor removing restricted airspace above ordnance impact areas and the Navy Electronic Warfare Centroid. There are no airspace or use case changes requested to R-4804A and R-4816S which would require a realignment with this airspace.*
- *Within the military operating areas, a surface to 10,000' VFR corridor would prohibit all military helicopter and low-altitude fixed wing operations between the north and south side of the FRTC, which is why the altitudes of 2000' AGL to 10,500' MSL were originally chosen.*

I.N Specific to Noise: A 5-mile noise avoidance buffer must be placed beyond the outer limits of the towns, rather than a centroid point, and must include the same offset from the perimeter of the General Improvement Districts in southern Diamond Valley as part of the Town of Eureka noise buffer.

- *NAVY: In addition to the proposed Navy noise avoidance area around the town of Eureka of 3,000' AGL or 5nm, there are three other airspace exclusion / altitude restrictions in the Diamond Valley area:*
 - *The town of Eureka lies just outside of the proposed Diamond MOA. The Diamond MOA has a floor of 1,200' AGL. This prohibits all operations within 1nm of the town Eureka below this altitude.*
 - *The proposed Diamond MOA has a 3nm and 1,500' exclusion around Eureka airport.*
 - *The VFR corridor, which is within 2nm of either side of Highway 50 prohibits all*

operations between 2,000' AGL and 10,500' MSL.

- *When all of the airspace exclusions are applied, this essentially would prohibit all operations below 10,500' MSL within 2 miles of Highway 50 as well as 1,500' AGL limit around the Eureka airport. These airspace restrictions encompass the perimeter of the southern Diamond Valley General Improvement Districts and Devils Gate GID. A detailed figure of this area has been added to the Final EIS.*

The Navy must fund a research project regarding potential impacts to Greater Sage Grouse within FRTC Modernization Project and commit to Adaptive Management if impacts are found to occur. All efforts must be closely coordinated with the State of Nevada.

- *NAVY: As discussed in the FEIS Section 3.10.3.6.3 (Proposed Mitigation), the Navy has committed to funding a Greater Sage Grouse (GSG) study with NDOW (and other partners as appropriate) and will evaluate the study results applying adaptive management as appropriate. This commitment will also be included in the ROD.*

I.O Specific to Water Rights: The Navy must properly and thoroughly identify all water rights and must work with individual water right holders to avoid, minimize or rectify impacts, to all existing rights within the proposed Bravo Range expansions. Any impacts that cannot be avoided should result in compensation for any and all loss. This must include any impacted claims of vested right that have not been adjudicated by the Nevada Division of Water Resources.

- *NAVY: The Navy will add a table of the known water rights (based on data from the State) within the proposed withdrawal area – the table will be added to section 3.9.1.3 (Approach to Analysis), see Table 3.9-1 (Potentially Impacted Water Rights within the Potential FRTC Under the Alternatives) of the Final EIS. The Navy proposal is to either avoid or compensate for real property losses in terms of water rights. The Navy would seek the advice of the Nevada Division of Water Resources and the U.S. Department of Justice on the validity of any un-adjudicated claims of vested water rights before any compensation is paid.*
- *With respect to water rights that are claimed as vested water rights, the Navy's understanding is that such rights are required by Nevada state law to be submitted for adjudication as potentially-valid water rights, and thus ideally the Navy would await the outcome of adjudication before providing compensation for any such claimed vested rights that might be acquired by the Navy as a result of any implementation of the Proposed Action. However, the Navy also understands that the adjudication process can be very lengthy, potentially lasting many years. Therefore—rather than awaiting completion of adjudication—the Navy would engage in discussions with affected parties claiming vested rights in order to assess and ultimately determine the validity of such rights before making any commitment to provide compensation for them. The Navy notes that the obligation to provide just compensation in accordance with the Fifth Amendment of the U.S. Constitution is independent of—and is not limited by—the NEPA process, and potentially-affected parties would accordingly be free to present additional information*

concerning property interests subsequent to issuance of the Navy's Record of Decision.

Any water rights acquired by the Navy must be relinquished to the State of Nevada, or otherwise appropriated for Navy use per State Water law. Any water rights acquired or held by the Navy will be subject to appropriate State of Nevada fees.

- *NAVY: The Navy intends to use and manage water rights per state law. Water rights that would not be utilized would be relinquished to the State of Nevada.*

Guaranteed assurances need to be made by the Navy to allow implementation of the Dixie Valley Water Project. This includes, but is not limited to: rights-of-way for wells, pipelines, power lines and other appropriate infrastructure, as well as temporary rights-of-way for construction and access for continued monitoring and study of the aquifer (**See Map Item I.O**).

- *NAVY: Implementation of the Dixie Valley Water Project would be compatible with mission requirements provided that the project conforms to the required design features described in Section 3.9.3.5.3 (Proposed Management Practices, Monitoring and Mitigation) of the EIS. The Navy would work closely with the county in the development of this project. BLM would continue to manage Dixie Valley under FLPMA consistent with Navy training requirements and would issue any right-of-way to the County. As part of their permitting process, BLM would consult with the Navy to develop a permit proposal that preserves the training environment while meeting County requirements.*

Specific to Biological Resources: Administrative access by the Nevada Department of Wildlife must be guaranteed in all withdrawal areas and Navy airspace for the full term of the Navy withdrawal. This is necessary in order to continue wildlife management activities, including, but not limited to: monitoring of big game herds, disease surveillance, monitoring and maintenance of water developments, and possible trap and transplant of wildlife species. See “Bravo 17” section above for avoidance of biologically sensitive areas with target placement. See “noise” section above for specific request on studying noise impacts on Greater Sage Grouse. See “public health and safety” below for request on wildfire management.

I.P

- *NAVY: The Navy would allow access to the ranges for species management, guzzler maintenance, and for coordination on habitat management consistent with safety and mission requirements. As discussed in the EIS, the Navy would avoid biologically sensitive areas during target placement, would conduct a GSG study, and would develop a wildfire management plan.*

The Navy should ensure dedicated funding to offset direct impacts to wildlife, as well as a loss of public access to wildlife resources within the proposed Bravo Ranges.

- *NAVY: No significant impacts to wildlife resources are expected that would require an offset. The Navy would manage natural resources on the Bravo Ranges pursuant to its Integrated Natural Resources Management Plan (INRMP). The expansion of the range complex would result in a requirement for revision to the INRMP. The Navy would work cooperatively with NDOW and FWS on this revision. The EIS acknowledges the loss of*

access but similar open areas exist for public access. DVTA would remain open for public access for most land uses and would continue to be managed by BLM.

I.Q Specific to Cultural Resources: Target placement in Bravo Ranges must avoid culturally sensitive areas and facilitate managed access to such sites. The Navy must properly and thoroughly identify all traditional cultural properties, and commit to managed access to the Bravo Ranges for cultural visits associated for ceremonial, public educational, and research purposes.

- *NAVY: The Navy has surveyed locations where impacts to cultural resources are most likely, and has programmed for funding measures to continue progressively surveying for cultural resources in the future.*
- *The Navy will continue working to avoid and minimize impacts to cultural resources through implementation of the amended Programmatic Agreement to consult on the identification of cultural resources, the potential effects of actions, and measures to avoid and minimize effects wherever possible. When adverse effects are unavoidable due to mission and/or safety requirements, the Navy will consult with ACHP, SHPO, and interested Tribes on mitigation, consistent with the Programmatic Agreement and the regulatory requirements of 36 CFR 800.6.*
- *The Navy will consult with Tribes on measures for the protection and appropriate treatment of any burials and associated items, consistent with NAGPRA.*
- *The Navy is currently consulting to develop a plan for managed access to the ranges.*

I.R Specific to Recreation: The Navy will ensure implementation and fund their operational costs for a guaranteed Managed Access Program for Bravo 17 with a minimum of 15-days of assured access for big game hunting for the full term of the Navy withdrawal. As part of the managed access program, maintain road access (avoid target placement in): Fairview Peak, Bell Canyon (eastern ½), Bell Flat, Slate Mountain and Monte Cristo Mountains (particularly Kaiser Well and wildlife guzzler locations). **See Map Item I.R.**

- *NAVY: The Navy has committed to an annual 15 day hunting program as discussed at Section 3.12.3.3.2 (Bravo-17) of the FEIS. Within the FRTC Bravo Ranges continual road access cannot be guaranteed and would be evaluated as part of the Hunting Working Group on an annual basis.*

I.S Specific to Public Health and Safety: The Navy must work with federal (BLM and US Forest Service), state (Nevada Division of Forestry and NDOW), and local partners (affected counties and fire districts) to develop and implement a robust wildfire management plan that addresses fire prevention, suppression, and rehabilitation.

The Navy must secure dedicated funding for said implementation and must establish wildland firefighting capability that includes: staffed type 3 engines, hand crews trained to National Wildfire Coordinating Group standards, and helicopters with water buckets.

The Navy must develop fire management agreements with federal wildland firefighting agencies that will facilitate rapid response and initial attack to wildfires occurring within the FRTC. The Navy must stage military firefighting resources for rapid initial attack based on biological values at risk, forecast fire behavior and proximity to likely ignition sources (active bombing areas).

The Navy must also use qualified natural resource specialist(s) develop a rehabilitation plan for each wildfire that will guide efforts to repair damage caused by suppression efforts and restore appropriate vegetative cover on the fire-damaged site to promote full recovery.

Maintaining and/or relocating access roads around the Bravo Ranges will provide critical emergency access and fuel breaks around areas that will be subject to very high wildfire ignition potential (see Sections I.B – I.F).

- *NAVY: The Navy is committed to a robust wildfire management program that includes prevention, suppression, and remediation. The Navy has engaged local, state and federal agencies, such as BLM, NDOW, Nevada Department of Agriculture, Nevada Department of Forestry, Churchill County, and local Indian Tribes to better align with state and federal plans in Nevada. Collaborative planning with NDOW, NDA and NDF will enhance the Navy's ability to facilitate preventative measures and sustain habitat through vegetation management and fire break options. Collaboration with BLM and NDF will enhance (initial attack) suppression effort. Remediation will be a collaborative effort with BLM, NDA, NDOW and NDF. The Fire Management Plan (FMP) development has been underway for the past two months. An initial working group meeting occurred with Churchill County, NDOW, and the Fallon Paiute Shoshone Tribe. BLM and NDF were invited, but were unable to attend the initial meeting. Additional expertise is being solicited with state and federal agencies to expand the working group. With this collaboration, the FMP will better refine sustainable requirements to justify long-term funding and associated agreements. The Navy is committed to identifying and pursuing all the resources to support and sustain the FMP through the Navy's budget process.*
- *At the 30 January meeting the Navy looks forward to continuing discussion about the specific fire suppression capabilities and partnerships. Although the details would be developed in the FMP, the Navy is committed to additional supporting capabilities.*

I.T Specific to Tribal Concerns: The Governor's Office specifically requests feedback from the Navy as to how they will resolve critical tribal concerns expressed in the following documents:

- Inter-Tribal Council of Nevada, Inc. Resolution No. 06-ITCN-19
- Fallon Paiute-Shoshone Tribe Letters:
 - RE: Request for Consultation and Supplemental Comments on the Draft EIS for Fallon Training Range Complex Modernization EIS dated August 21, 2019
 - RE: Comments on the Draft Environmental Impact Statement (DEIS) for the proposed expansion of Naval Air Station Fallon dated February 14, 2019
- Resolution of the Governing Body of the Walker River Paiute Tribe, Resolution No. WR-19-2019
- *NAVY: The Navy is committed to working with the tribes through ongoing Government-to-Government consultations to resolve their concerns. The tribes have been participating with the Cooperating Agencies in the development of the Modernization proposal and the*

preparation of the EIS. The Fallon Paiute Shoshone Tribe recently met with the Navy to discuss the FRTC Modernization. NASF regularly attends the Fallon and Walker Tribal council meetings. The draft Amendment to the existing Programmatic Agreement has been provided to the tribes and a meeting was held on November 6, 2019 to discuss the draft amendment. The consultations and engagement will continue as the Navy has proposed and will implement a consultation protocol agreement that will establish regular meetings with the tribes. In addition, as the modernization is implemented in the coming years, there will be specific Section 106 consultations for the various elements of the proposed actions as well as dedicated consultations with the tribes regarding agreement documents such as an Access Memorandum of Agreement (MOA), Native American Graves and Repatriation Act (NAGPRA) Comprehensive Agreement/Plan of Action, and a new Section 106 Programmatic Agreement. The Navy is committed to an access program for the closed ranges that will be implemented through an official agreement. On 18 December the Navy met with tribes to continue consultation on specific concerns and Navy's proposed responses, to include:

- The Navy will create a Tribal Liaison Office at NAS Fallon to coordinate Government to Government consultation.*
- Providing a more complete explanation of how an amended Programmatic Agreement would work relative to consultations with tribes on the identification of cultural resources, the potential effects of actions, and measures to avoid and minimize effects wherever possible. When adverse effects are unavoidable due to mission and/or safety requirements, the Navy will consult with ACHP, SHPO, and interested Tribes on mitigation, consistent with the Programmatic Agreement and the regulatory requirements of 36 CFR 800.6.*
- Partnering with Tribes on measures for the protection and appropriate treatment of any burials and associated items, consistent with NAGPRA.*
- Partnering with Tribes to manage access to the ranges.*
- The Navy has programmed for funding and is committed to including tribal representatives in measures to progressively survey for cultural resources surveys, including studies and consultation to identify Traditional Cultural Properties (TCPs).*