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Office of Governor Steve Sisolak

February 12, 2020

Lucian Niemeyer, Acting Assistant Secretary of the Navy (Energy, Installations and Environment)

c/o George Tomala (george.tomala@navy.mil)

James B. Balocki, Deputy Assistant Secretary of the Navy (Installations and Facilities)

c/o James D. Omans (james.omans@navy.mil)

Captain Evan L. Morrison, Commanding Officer

c/o Edmund Rybold (edmund.rybold@navy.mil)

Naval Air Station Fallon

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Sara Goodwin, NRSW / NAVFAC SW Regional NEPA Coordinator

Naval Facilities Engineering Command Southwest, Code EV21.SG

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Building 1, Fifth Floor

San Diego, CA 92132

RE: Nevada's Consolidated Response to the U.S. Navy's Fallon Range Training Complex Modernization Final Environmental Impact Statement

Dear Assistant Secretary Niemeyer, Deputy Assistant Secretary Balocki, Captain Morrison, and Ms. Goodwin:

Thank you for your January 6, 2020 reply to my letter expressing Nevada's concern with the United States Navy's Fallon Range Training Complex (FRTC) Modernization proposal. As you know, I respect and support the Navy's presence and mission in the State of Nevada. I am concerned, however, that the Navy's Final Environmental Impact Statement (FEIS), dated January 10, 2020, fails to adequately address many of the highest priority issues that have been highlighted by my office, Nevada state agencies, impacted Tribal Nations, multiple county and local governments, private citizens, and non-governmental organizations.

While I appreciate the enhanced engagement by the Office of the Secretary of the Navy to resolve these issues following my letter of October 15, 2019, I am disappointed that the FEIS issued last month fails to substantively address or resolve the vast majority of major concerns

from Nevada stakeholders. For your reference, please find attached an updated version of the Nevada Consolidated Response highlighting the status Nevada's collective concerns.

Since taking office, my administration has regularly communicated with key stakeholders regarding the FRTC Modernization. Nearly every entity and every citizen I've spoken with maintain that the FRTC Modernization as currently proposed will significantly and negatively impact their way of life. Over the last several months, state agencies, Tribal Nations, and local governments have worked closely with your staff in an effort to resolve these issues in a way that would adequately address state and local concerns while supporting the core enhanced capabilities sought by the Navy at Fallon NAS. In so doing, Nevada stakeholders have proposed practical solutions that would allow the Navy to sufficiently address each concern. Unfortunately, the Navy failed to incorporate resolution of the vast majority of these concerns in the FEIS issued on January 10.

I ask that the Navy carefully review the updated version of Nevada's Consolidated Response, together with any additional comments the Navy might receive regarding the FEIS. My position on the FRTC Modernization depends upon the Navy's willingness to specifically address each of these issues in the Record of Decision or through the Congressional approval process. I also ask that the Navy continue to consult with and address the concerns of Nevada's Tribal Nations, as their input is extremely important to me. As the Navy continues to advance the FRTC Modernization proposal, please know that I will continue to work with Nevada's congressional delegation as part of a united effort to address the legitimate concerns of Nevada citizens and Tribal Nations with the Navy's current proposal.

I appreciate the Navy's time and attention to this matter. I look forward to reviewing the Record of Decision and further discussing opportunities to help ensure the FRTC Modernization meets the Navy's needs as well as the needs of Nevadans.

Sincerely,



Governor Steve Sisolak
State of Nevada

Attachments: Nevada's Consolidated Response
Walker River Paiute Tribe Resolution WR-19-2019
ITCN Resolution 06-ITCN-19
ITCN Resolution 03-ITCN-20
National Congress of American Indians Resolution ABQ-19-006
Fallon Paiute-Shoshone Tribe Letter February 14, 2019
Fallon Paiute-Shoshone Tribe Letter August 21, 2019
Fallon Paiute-Shoshone Tribe Letter January 17 2019
Churchill County Letter
Eureka County Letter

Nevada Association of Counties Letter
Nevada Assembly Joint Resolution No. 7
Navy's Response, dated January 6, 2020

CC: Nevada Federal Congressional Delegation
Nevada Association of Counties
Mr. Todd C. Mellon, Principal Deputy Assistant Secretary of the Navy
(Energy, Installations and Environment)



**Nevada's Consolidated Response to the
US Navy's Proposed Fallon Range Training Complex Modernization**

The following Consolidated Response was developed in consultation with:

State Government:

Nevada Departments of: Agriculture, Conservation & Natural Resources*,
Transportation and Wildlife

**Inclusive of: Division of Water Resources, Division of Forestry, Natural Heritage Program,
and State Historic Preservation Office*

Nevada Division of Minerals

Nevada Indian Commission

Nevada Governor's Office of Energy

Tribal Nations:

Lovelock Paiute Tribe and the Inter-Tribal Council of Nevada**

***Representing all 27 Tribal Nations in Nevada on this project.*

Local Government:

Churchill County, Eureka County, Nye County, and the Nevada Association of Counties**

***Representing Lander, Mineral and Pershing Counties on this project.*

Points of Contact:

State Government: Bradley R. Crowell, Director, Nevada Department of Conservation and
Natural Resources

Tribal Nations: Stacey Montooth, Executive Director Nevada Indian Commission

Local Government: Vinson Guthreau, Deputy Director, Nevada Association of Counties

Technical Support: Jeremy Drew, Resource Concepts, Inc., Representing Churchill County

Background:

The above-listed Stakeholders of this proposal support the US Navy's (Navy) training mission in Nevada and Naval Air Station (NAS) Fallon. These groups have been engaged in the Fallon Range Training Complex (FRTC) Modernization Project since its inception, offering volumes of input and formal comment through the National Environmental Policy Act (NEPA) process, some as formal Cooperating Agencies.

The Stakeholders are concerned that the full impacts of the FRTC Modernization have not been fully disclosed or accurately characterized to this point in the NEPA process and as a result, proposed mitigation is inadequate. As described in the Fallon Range Training Complex Modernization Final Environmental Impact Statement (FEIS), the Stakeholders do NOT support

Nevada's Consolidated Response to the US Navy's Proposed Fallon Range Training Complex Modernization

the Navy's Alternative 1, Alternative 2 or No Action Alternative. Rather, the Stakeholders have identified outstanding items requiring change, which are further discussed below.

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

The changes listed in Attachment 1 and reflected on the map in Attachment 2 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 or included in the project's Record of Decision (ROD), then the Stakeholders would request that Congress incorporate them into the National Defense Authorization Act (NDAA) and/or other appropriate legislation. Please refer to Attachment 1 and 2 for additional information.

II. Desired Changes that Could be Incorporated by Congress:

The below listed items are those that:

- The Navy has indicated it has no authority over;
- The Navy has indicated it needs additional authority to implement; or,
- Must be included in authorizing legislation to ensure implementation as part of the FRTC Modernization Project.

In addition, if the Navy is unwilling to incorporate the changes in Attachment 1, then Congress is the only entity that could do so in the appropriate enabling legislation. The Stakeholders respectfully request that the Nevada Congressional Delegation advance any of the above-listed items not incorporated by the Navy in its ROD (the Navy's formal recommendation to Congress). The Stakeholders stand ready to assist as needed in this effort.

II.A Specific to all Bravo Ranges: All final boundaries of B-16, B-17, and B-20 will need to be authorized by Congress through the NDAA. See Attachments 1 and 2 for the Stakeholder's proposed boundaries.

II.B Specific to the Dixie Valley Training Area (DVTA): All final boundaries of the DVTA will need to be authorized by Congress through the NDAA. See Attachments 1 and 2 for the Stakeholder's proposed boundaries.

All restrictions (solar / wind development and locatable mining) imposed, and all allowable future land use authorizations (open public access, grazing, hunting, limited geothermal development, salable mining, limited utilities and rights-of-ways, including the Dixie Valley Water Project, off-highway vehicle usage, camping/hiking, academic / ceremonial visits, management access, and special events) must be codified by authorizing legislation.

II.C Specific to the Special Land Management Overlay (SLMO): All final boundaries of the SLMO will need to be authorized by Congress through the NDAA. See Attachments 1 and 2 for the Stakeholder's proposed boundaries.

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All restrictions (BLM consultation with the Navy), and all allowable future land management (remaining open to public access and available for all BLM-allowable uses) must be codified by authorizing legislation.

II.D Specific to Land Use under Proposed Navy Airspace: Stakeholders request Congressional direction that no land use restrictions will be placed on private OR public lands located under proposed MOAs without the approval of the appropriate County Commission and State and Federal Agencies.

II.E Specific to Cultural Resources: Stakeholders request specific Congressional direction for the Navy to avoid cultural resources and mandate guaranteed controlled access for cultural site visits. Access includes target placement that accommodates access via existing roads.

II.F Specific to Recreation: Alternative 3 (Preferred Alternative) would have significant impacts on public recreation, as approximately 421,005 acres would no longer be accessible to the public. Stakeholders request specific Congressional direction for the Navy to avoid target placement in key biological resource areas and to implement and fund the Navy's operational costs for a guaranteed controlled access for big game hunting and special off highway vehicle events. Access includes target placement that accommodates access via existing roads.

II.G Specific to Public Health and Safety: Congressional direction is required to ensure the following:

- NAS Fallon must complete and fund a comprehensive Fire Management Plan for the FRTC;
- As part of this plan, NAS Fallon should upgrade their firefighting equipment to include wildland firefighting apparatus, particularly for air attack;
- NAS Fallon must be responsible for putting out any fires they start, ignite on Navy owned or withdrawn land, or fund others who do so; and,
- NAS Fallon must pay for fire rehabilitation and seeding costs for fires they start and/or establish a working group and fund a special account to pay others with appropriate experience to do so.

III. Congressional Items that Require Funding Authorization and Appropriations:

The below listed items are those that may or may not have been listed above, but would warrant both funding authorization through the NDAA as well as Appropriations through appropriate legislation.

III.A Specific to Private Property (Including Land, Mineral Claims, and Water Rights): Authorize and appropriate funding to compensate all private property owners.

III.B Specific to Land Conveyances. Authorize and appropriate funding for a Dedicated Land Consolidation Fund to facilitate special conveyance and resolution of checkerboard land ownership pattern in affected counties. These funds would be available for completing required

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cultural, environmental and realty actions and documentation to complete conveyance of public lands to non-public owners or vice versa.

III.C Specific to Mining and Mineral Resources (including geothermal): Authorize and appropriate funding to compensate all mining claimants within the proposed withdrawal areas (Bravo Ranges and DVTA).

III.D Specific to Grazing: Authorize and appropriate funding to compensate for any grazing losses to permittees and lease holders. In addition, permittees and lease holders should be given a 3-year tax deferment on the sale of the allotment and any cattle, due to the withdrawal, to allow them to find replacement property.

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. Per Navy legal opinion, the Department of Defense only has the authority to compensate for the remaining term of a grazing permit, and therefore must be granted additional authorization to compensate for the full loss of grazing capacity. The Navy does not understand that the ranchers are not typical permittees, but lease holders that have bought into the rights to use BLM land for over 20 years in some cases.

III.E Specific to Ground Transportation: Authorize and appropriate funding to:

- Relocate State Route 361 (Gabbs Highway) and 761 (Lone Tree Road, State Portion), which must be designed and built to NDOT Standards; and,
- Relocate Pole Line Road (B-20) and Sand Canyon / Red Mountain Road (B-16) which must be designed and built to County standards for unpaved roads, as well as Lone Tree Road (B-16) which must be designed and built to the appropriate County Standard for paved roads in a rural residential area.

III.F Specific to Airspace: Authorize and appropriate funding to upgrade radio coverage in order to ensure all Special Use Airspace and MOAs maintains uninterrupted radio coverage to Desert Control.

III.G Specific to Noise: Authorize and appropriate funding for a noise study specific to Greater Sage Grouse within the FRTC Modernization.

III.H Specific to Water Rights: Authorize and appropriate funding to compensate all water right holders (including those with claims of vested rights and permits) within the final withdrawal area whose rights cannot otherwise be mitigated must be compensated for any and all losses.

III.I Specific to Biological Resources: Authorize and appropriate funding to a Dedicated Wildlife Fund to facilitate State-directed wildlife management that mitigates impacts associated with the FRTC Modernization including the area under Navy air space.

III.J Specific to Recreation: Authorize and appropriate funding to a Dedicated Recreation Fund to facilitate state and local government directed recreational improvements that mitigate impacts associated with the FRTC Modernization.

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III.K Specific to Socioeconomics: Authorize and appropriate funding to a Dedicated Planning Fund with programs similar to those offered through the Office of Economic Adjustment for State and Local planning and required planning updates due to the FRTC Modernization.

Appropriate funding to the existing Readiness and Environmental Protection Initiative (REPI) specific to the FRTC area to help offset impacts through cooperative conservation projects (i.e. conservation easements) with private landowners, local governments and state agencies.

Authorize and appropriate funding to a Dedicated PILT Offset Fund to compensate for direct revenue losses to local government from the Federal Payment in Lieu of Taxes program administered by the US Department of Interior as a result of the FRTC Modernization.

III.L Specific to Public Health and Safety: Authorize and appropriate funding to a Dedicated Wildland Fire Suppression Fund in order to provide for state and local government fire management activities within the FRTC (including Navy-owned and withdrawn lands as well as private and public lands located under Navy airspace). This would be in addition to the Navy's internal efforts and improved capacity to manage fire per their own capabilities.

Authorize and appropriate funding to a Dedicated Wildland Fire Restoration Fund in order to provide for state and local government post-fire management restoration activities within the FRTC (including Navy-owned and withdrawn lands as well as private and public lands located under Navy airspace).

Authorize and appropriate funding to a Dedicated Emergency Response Fund to construct a hospital in Tonopah, Nevada in order to provide better emergency services for both on-duty and off-duty Navy personnel.

IV. Congressional Authorization of County Lands Bills as a Means of Mitigation:

The Stakeholders believe that the impacts of the FRTC Modernization Project on the affected Counties' customs, culture, and future economic prosperity are so profound that additional mitigation (on top of what is listed above) is warranted. This is particularly true for the Counties that include proposed Navy purchase of private land and public land withdrawals (Churchill, Mineral, Pershing, and Nye).

As such, the Stakeholders are supportive of the concept of including individual County Lands Bills for the affected counties into the NDAA given the direct nexus between the FRTC Modernization Project and future land use in the affected counties. Such Lands Bills typically include one or more of the following components:

- Resolution of designated WSA, either by formal Congressional designation as Wilderness Area and/or National Conservation Area OR release from WSA to management as public lands by the appropriate Federal Land Management Agency;
- Conveyance of specific parcels of public lands to State, Local or Private ownership for specific purposes; or,

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- Resolution of checkerboard land ownership patterns (alternating sections of public and private land that create significant management challenges for all owners) through a process outlined in the appropriate legislation.

There is a mutual understanding amongst the Stakeholders that inclusion of any County Lands Bills is contingent upon:

- The ability of the respective County Governments to develop a broadly supported Lands Bill; and,
- Appropriate Congressional Procedures.

The inclusion of such Lands Bills does not change nor diminish the importance of the mitigation measures listed in Attachment 1 and Sections II – III.

Inclusion of Lands Bills, as appropriate, does have the potential to:

- Ensure that private land ownership results in no net loss of private lands within the affected Counties to offset the purchase of 65,278 acres of private lands proposed by the Navy as proposed under Alternative 3.
- Allow continued Navy training while restricting future land uses that may conflict with such training as a result of Wilderness or National Conservation Area designation.
- Allow development of critical resources (mineral and geothermal) in areas with low natural resource conflicts currently designated as WSA as a result of WSA release.
- Provide a more appropriate balance between primitive management (formal designation of portions of WSA) and future use and development (formal release of portions of WSA).

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

Item Number and Issue	Navy’s Written Response 1/6/2020	Issues to be Resolved in Navy Record of Decision (ROD)	Issues Requested for Resolution by Congressional Delegation
<p>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.</p>	<p><i>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.</i></p> <p><i>Following up from the 19 December meeting, the Navy has updated the Final EIS to confirm that the maps depicting non-federal land acquisitions 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 if to acquire the minimum real property interest necessary to preserve the training environment while accommodating continued grazing consistent with Navy training requirements.</i></p>	<p>The Stakeholders believe the Navy can address this issue by clarifying in the ROD that all private land owners will be properly notified and compensated for any and all losses.</p> <p>The ROD will need to specify how land owners, mineral claim holders and water right holders will be fully compensated.</p>	<p>If adequate clarification and assurance is not provided in the ROD, then the Stakeholders would respectfully request this specific direction from Congressional Delegation. In addition, the Navy’s commitment to compensate private land owners will require an adequate appropriation from Congress.</p>
<p>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</p>	<p><i>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/or 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 farther</i></p>	<p>The Navy has informed the Stakeholders that they would set the future boundary fence for the new withdrawal areas as close as practically possible to the Weapons Discharge Zones. The Navy has</p>	<p>If adequate clarification and assurance is not provided in the ROD, then the Stakeholders would respectfully request specific direction from Congress. The Navy’s commitment to construct fences and other range improvements</p>

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<p>breakdown. See Map Item I.B. Unpatented mining claims, grazing allotments, and easements which are intersected by a WDZ and/or withdrawal boundary must have clear and concise procedures for the management by the BLM of the affected portions and rights.</p>	<p><i>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 operations. However, where survey data exists the Navy work with BLM to look for opportunities to further reduce the withdrawal and/or areas that are closed to public access.</i></p>	<p>further stated that they do not intend to build the fence along section lines or property boundaries. The Stakeholders would like the ROD to reflect this and to state the range will be restricted to the smallest area possible.</p>	<p>will require an adequate appropriation from Congress.</p>
<p>I.C.1 Specific to Bravo 16: The Navy should reduce the boundaries of B-16 in order to: Avoid the West-wide Energy corridor, existing power transmission line</p>	<p><i>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</i></p>		<p>The Navy has indicated it is unwilling to adjust its withdrawal to avoid the West-wide Energy corridor. Therefore, the Stakeholders respectfully request the</p>

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<p>and existing access road along the western edge of the withdrawal area (See Map Item I.C.1)</p>	<p><i>(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.</i></p>		<p>Congressional Delegation make this modification.</p>
<p>I.C.2 Specific to Bravo 16: The Navy should reduce the boundaries of B-16 in order to: Allow re-routing of Sand Canyon Road / Red</p>	<p><i>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</i></p>	<p>Churchill County has proposed two corridors to re-route Sand Canyon Road/Red Mountain Road. Stakeholders believe the ROD should incorporate</p>	<p>If this commitment to Churchill County cannot be made by the Navy, then the Stakeholders respectfully request the Congressional Delegation provide this direction.</p>

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<p>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)</p>	<p><i>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).</i></p>	<p>one of the proposed options and confirm the Navy’s commitment to pay for the re-route.</p>	<p>Congressional authorization and appropriations for the roads will be required for adequate funding.</p>
<p>I.C.3 Specific to Bravo 16: The Navy should reduce the boundaries of B-16 in order to:</p> <p>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)</p>	<p><i>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</i></p>	<p>The Navy has committed to a 1-mile right-of-way that would accommodate both transportation and utility corridors. Stakeholders are seeking assurance in the ROD for all three sections highlighted on the map.</p>	<p>If the commitment to include the 1-mile right-of-way is not included in the ROD, Stakeholders would seek Congressional direction for the Navy to relinquish the area from its existing withdrawal.</p>
<p>I.C.4 Specific to Bravo 16: The Navy should reduce the boundaries of B-16 in order to:</p>	<p><i>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 –</i></p>	<p>The Navy has committed to avoiding Simpson Road to the south of the withdrawal area. Favorable</p>	<p>If the commitment to avoid Simpson Road is not included in the ROD, Stakeholders would seek Congressional direction for</p>

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Avoid Simpson Road to the south of the withdrawal area (currently included in Alternative 3). (See Map Item I.C.4)	<i>Bravo-17 Shift and Managed Access [Preferred Alternative]).</i>	resolution depends on appropriate assurances in the ROD and other future actions of the Navy.	the Navy to relinquish the three sections from its withdrawal.
I.D.1 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).	<i>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.</i>	The Navy has committed to avoiding corrals, laydown area and water well adjacent to SR 839 in the FEIS. Stakeholders would like to see this commitment confirmed in the ROD.	If the commitment to avoid the corrals, laydown area and water well adjacent to SR 839 is not included in the ROD, then the Stakeholders would seek Congressional direction for the Navy to relinquish the three sections from its existing withdrawal.
I.D.2 Specific to Bravo 17: Avoid target placement in areas of high biological and cultural values (i.e. Bell Flat, See Map Item I.D.2).	<i>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.</i>	The Navy has committed to avoiding target placement in areas of high biological and cultural values in the FEIS. Stakeholders would like to see this commitment confirmed in the ROD.	If the commitment to avoid target placement in areas of high biological and cultural values is not included in the ROD, Stakeholders would seek Congressional direction for the Navy to relinquish the areas from its existing withdrawal.
I.D.3 Specific to Bravo 17: Targets should also be	<i>Regarding controlled access, the Navy would place targets to minimize impacts but still meet Navy</i>	Specific agreements for controlled access between	If the commitments to provide controlled access within the

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<p>placed in a manner that accommodates controlled access (i.e. avoid Earthquake Fault and Bell Flat Roads). (See Map Item I.D.3)</p>	<p><i>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></p>	<p>the Navy and other partners needs to be defined within the ROD.</p>	<p>withdrawal areas is not included in the ROD, Stakeholders would seek Congressional direction for the Navy to provide controlled access.</p>
<p>I.E Specific to Bravo 19: Work with the Walker River Paiute Tribe to address the existing contamination issue on the Walker River Reservation.</p>	<p><i>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/or the issue of historical ORO present on the Reservation.</i></p>		<p>The Navy has suggested that resolution of this issue is independent and separate from the FRTC Modernization. Stakeholders respectfully disagree and request Congressional direction to ensure resolution of this issue to the satisfaction of the Walker River Paiute Tribe as part of the Modernization Authorization.</p>

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

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<p>I.F.1 Specific to Bravo 20: Reduce the boundaries of B-20 in order to:</p> <p>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)</p>	<p><i>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 November 18th 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.</i></p>		<p>The Navy has indicated it is unwilling to adjust its withdrawal and Weapons Danger Zone to accommodate the re-route of Pole Line Road. Therefore, the Stakeholders respectfully request the Congressional Delegation to modify the withdrawal boundary to avoid Pole Line Road.</p> <p>If such modification is not possible, the Stakeholders respectfully request a re-route of Pole Line Road funded by the Navy, or at a minimum to allow a corridor for a re-route and fund said re-route at the Navy’s expense. In this event, Congressional authorization and appropriations will be required for adequate funding.</p>
<p>I.F.2 Specific to Bravo 20: Reduce the boundaries of B-20 in order to:</p>	<p><i>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</i></p>		<p>The Navy has indicated it is unwilling to adjust its withdrawal to avoid the Fallon Wildlife Refuge. Stakeholders respectfully request the</p>

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<p>2. Avoid the Fallon National Wildlife Refuge (See Map Item I.F.2);</p>	<p><i>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.</i></p>		<p>Congressional Delegation modify the B-20 withdrawal to avoid the Fallon National Wildlife Refuge.</p>
<p>I.F.3 Specific to Bravo 20: Reduce the boundaries of B-20 in order to:</p> <p>3. Avoid East County Road to the east of the withdrawal area (currently included in Alternative 3). (See Map Item I.F.3)</p>	<p><i>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.</i></p>	<p>The Navy has committed to avoiding East County Road. Favorable resolution depends on appropriate assurances in the ROD.</p>	<p>If adequate clarification and assurance is not provided to avoid East County Road in the ROD, the Stakeholders would respectfully request the Congressional Delegation provide this direction.</p>

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<p>I.F.4 Specific to Bravo 20: Reduce the boundaries of B-20 in order to:</p> <p>4. Avoid the Stillwater National Wildlife Refuge to the south of the withdrawal area (currently included in Alternative 3). (See Map Item I.F.4)</p>	<p><i>This area is not proposed for withdrawal under any of the alternatives.</i></p>	<p>The Navy has committed to avoiding the Stillwater National Wildlife Refuge. Favorable resolution depends on appropriate assurances in the ROD.</p>	<p>If adequate clarification and assurance is not provided to avoid the Stillwater National Wildlife Refuge in the ROD, the Stakeholders would respectfully request the Congressional Delegation provide this direction.</p>
<p>I.G Specific to the Dixie Valley Training Area (DVTA): Designate a Special Management Area that is managed by the Bureau of Land Management and allows for multiple use.</p>	<p><i>Following the November 18th 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 BLMO, 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</i></p>		<p>The Navy is still attempting to clarify how the DVTA would be managed, and at this late stage this is concerning to the Stakeholders.</p> <p>The Stakeholders respectfully request the Congressional Delegation provide direction to designate a Dixie Valley Special Management Area managed by BLM and that the designation allow for multiple use.</p> <p>The purposes of the Dixie Valley Special Management Area designation are:</p> <p>(1) To withdraw the area from location and development</p>

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	<p><i>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.</i></p> <p><i>Following up from the 19 December meeting, clarification on DVTA management is that though withdrawn/or 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 ELM 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 ELM 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 ELM and Navy) for the DVTA will be included in the ROD.</i></p>		<p>of locatable minerals under the 1872 mining law, but allow for development of geothermal, oil & gas and leasable minerals under Federal laws;</p> <p>(2) To allow management of the area by the BLM under multiple use, except for withdrawal from locatable minerals;</p> <p>(3) To conserve, protect, and enhance for the benefit and enjoyment of present and future generations the ecological, scenic, wildlife, spiritual, recreational, cultural, historical, natural, educational, and scientific resources of the Special Management Area;</p> <p>(4) To protect the area from incompatible development for Navy training activities;</p> <p>(5) To allow for existing and planned Navy infrastructure, and ground and aerial training activities under a scheduling</p>

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			<p>agreement with the BLM and Churchill County.</p> <p>(6) To ensure continued public access of the area as managed by the BLM;</p> <p>(7) To convey perpetual rights-of-way to Churchill County for all roads identified as meeting RS 2477 standards;</p> <p>(8) To ensure implementation of the Dixie Valley Water Project by Churchill County with any cost increases due to Navy Required Design Standards being offset by the Navy; and</p> <p>(9) To ensure adequate utility corridors along SR 121 and Highway 50.</p>
<p>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) See Section II.C for the need to Congressionally</p>	<p><i>See above. SLMO would not provide adequate safety and mission protection in the area north of Highway 50.</i></p>		<p>If adequate clarification and assurance is not provided to create a SLMO south of Highway 50 in the ROD, then the Stakeholders would respectfully request the Congressional Delegation provide this direction.</p>

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<p>codify all allowances and restrictions within the SLMO.</p> <p>1. Specific to resolution of Wilderness Study Area (WSA) under the expanded SLMO north of Highway 50, see Section IV. The Stakeholders support resolution of WSA as part of a Lands Bill process rather than proposed release by the Navy.</p>	<p><i>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></p>	<p>The Navy has committed to not pursuing a WSA as part of this project, and favorable resolution depends on appropriate assurances in the ROD.</p>	
<p>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</p>	<p><i>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. Development of geothermal resources within the proposed withdrawal area can be accomplished in a manner that provides economic benefit while preserving the military training environment. A coordination requirement would not adequately protect the critical and unique training environment in this specific area from incompatible development</i></p>		<p>The Navy has indicated that it is unwilling to provide Special Management Area designation within the Dixie Valley. Therefore, the Stakeholders would respectfully request the Congressional Delegation provide this direction.</p> <p>See Items I.C.1 and I.G above.</p>

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<p>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.</p>			
<p>I.J Specific to Geothermal Resources and Development): The proposed changes (listed in Sections I.A – I.H) to avoid expansion of the DVTA in lieu of DV SMA designation will help to minimize impacts to geothermal development in the Dixie Valley area by providing allowances for future development in coordination with the Navy. Navy compensation to geothermal operators for the increased costs of Required Design Features is necessary to ensure otherwise economic</p>	<p><i>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.</i></p> <p><i>Mining and mineral development cannot be accommodated within the WDZs/SDZs due to safety requirements.</i></p>		<p>The Navy has indicated that it is unwilling to provide Special Management Area designation within the Dixie Valley. Therefore, the Stakeholders would respectfully request the Congressional Delegation provide this direction.</p> <p>See Items I.C.1 and I.G above.</p>

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resources are developed to their full potential.			
<p>I.J Specific to Mining and Mineral Resources (including geothermal): Lesser, but still positive, benefits to mining and mineral development 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. Holders of unpatented mining claims, for which the Navy would offer a nominal amount to “extinguish the claim”, must be notified in writing of the process by which the nominal amount will be determined and any associated requirements and deadlines for submission of documentation supporting</p>	<p><i>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.</i></p> <p><i>Mining and mineral development cannot be accommodated within the WDZs/SDZs due to safety requirements.</i></p> <p><i>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></p>	<p>The Navy has committed to these actions and favorable resolution depends on appropriate assurances in the ROD.</p>	<p>If adequate clarification and assurance is not provided in the ROD, then the Stakeholders would respectfully request the Congressional Delegation provide this direction.</p>

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<p>the costs and investments made by the claim holder, including but not limited to location, recordation, and annual filing costs. The valuation process must adhere to the Uniform Appraisal Standards for Federal Land Acquisitions, Section 1.10.3 (Special Considerations for Mineral Properties).</p>			
<p>I.K Specific to Grazing: The Nevada Department of Agriculture (NDA) appreciates the Navy’s commitment to working directly with grazing permittees on an allotment by allotment basis to avoid or minimize losses and business impacts. It is understood that for any loss or restriction from current allotments, public land grazing permittees and lease holders within the final Withdrawal Area</p>	<p><i>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 will be responsible for providing information on the ranch operation to aid the Navy in determining an appropriate payment amount.</i></p> <p><i>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</i></p>	<p>The Navy references a private agricultural appraisal process to determine reimbursement for losses in the executive summary of the FEIS, but does not define this process in the FEIS or mention business impact. Stakeholders are seeking assurance in the ROD of the Navy’s commitment to the use of a private agricultural appraisal process with defined parameters that would fairly compensate public</p>	<p>If adequate clarification and assurance on the Navy’s proper compensation of the long-term business impacts to public land grazing permittees and lease holders is not provided, then the Stakeholders would request specific direction from Congress and appropriation to ensure grazing permittees and lease holders are fully compensated for their losses.</p> <p>Congressional authorization and appropriations for fair compensation will be required.</p>

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<p>(Bravo Ranges) must be fairly compensated for any and all negative business impacts. Additionally, 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).</p> <p>The NDA requests further clarification in the record of decision. Specifically, in the Navy’s response to the NV proposal document, there is an emphasis on the Navy paying for permittees’ costs in the process to obtain replacement forage due to cancellation of a permit. Although this may be a viable option for some permittees, this may not be the lowest business impact for others. Further, there are no parameters surrounding when a</p>	<p><i>valuation methodology for payment for grazing losses under §315q</i></p>	<p>land grazing permittees and lease holders for the long-term business operation impacts within the final Withdrawal Area (Bravo Ranges).</p>	

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<p>permittee would receive direct monetary reimbursement for lost land, or receive assistance finding replacement forage. Replacement forage for a grazing permittee’s operation is not often feasible, due to lack of available land in close proximity to an operation, leading to a slew of added operating costs (i.e., transportation, additional equipment).</p>			
<p>I.L Specific to Ground Transportation: The Navy must recognize and honor all existing Federal, State and County rights-of-way. The following federal highways must be avoided by the Navy’s land withdrawals: US 50 & 95. (See Map Item I.L.1). The following state highways must be avoided</p>	<p><i>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.</i></p> <p><i>U.S. Highways 50 and 95 are avoided under all Alternatives.</i></p> <p><i>NV Highway 121 is avoided as part of all Alternatives and NV Highway 839 is avoided as part of Alternative 3.</i></p>	<p>The Navy has committed to this action, and favorable resolution depends on appropriate assurances in the ROD.</p>	<p>If adequate clarification and assurance is not provided in the ROD to honor the existing rights of way, then the Stakeholders would respectfully request the Congressional Delegation provide this direction.</p>

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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.			
<p>I.L Specific to Ground Transportation: 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).</p>	<p><i>All roads listed by the Governor are avoided in Alternative 3.</i></p>	<p>The Navy has committed to this action, and favorable resolution depends on appropriate assurances in the ROD.</p>	<p>If adequate clarification and assurance is not provided in the ROD to avoid these county roads, then the Stakeholders would respectfully request the Congressional Delegation provide this direction.</p>
<p>I.L Specific to Ground Transportation (continued): The Navy must recognize and honor all existing county rights-of-way, including those</p>	<p><i>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</i></p>		<p>The Navy’s position has resulted in a lack of adequate mitigation for the loss of existing County infrastructure, despite the Navy’s proposed use of these</p>

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roads that would qualify under RS 2477.	<i>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).</i>		<p>Roads at a significant cost savings to the Navy.</p> <p>Stakeholders have respectfully requested what they view as appropriate mitigation, namely:</p> <p>Avoidance or relocation of Pole Line Road;</p> <p>Relocation of Sand Canyon / Red Mountain Road;</p> <p>Availability of Roads within B-17 for Controlled Access Events; and,</p> <p>Avoiding the Military withdrawal of the DVTA in lieu of a Congressionally Designated Special Management Area.</p>
<p>I.L Specific to Ground Transportation: The following roads must be relocated at the Navy’s expense:</p> <p>Sand Canyon / Red Mountain Road (B-16 in Churchill County) (See Map Item I.L.4);</p>	<i>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.</i>		<p>The Navy has not committed to re-routing Sand Canyon / Red Mountain Road.</p> <p>The Stakeholders respectfully request that the Congressional Delegation modify the withdrawal boundary of B-16 to accommodate Churchill County’s Preferred Re-route and fund improvements that would</p>

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			<p>result in a road in similar condition to Sand Canyon Road and designate a right-of-way to Churchill County in perpetuity.</p> <p>Congressional authorization and appropriations for adequate funding to relocate these roads will be required.</p>
<p>I.L Specific to Ground Transportation: The following roads must be relocated at the Navy’s expense:</p> <p>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)</p>	<p><i>Re-routing 361 is proposed as part of Alternative 3 in the EIS See Section 3.5.3.4.2 (Bravo-17).</i></p>	<p>The Navy has committed to this action, and favorable resolution depends on appropriate assurances in the ROD.</p>	<p>The Navy’s commitment to relocate these roads will require an adequate appropriation from Congress.</p>
<p>I.L Specific to Ground Transportation: Pole Line Road (B-20 in Churchill and Pershing Counties) which must be designed and built to County standards for</p>	<p><i>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</i></p>		<p>The Navy has indicated that it is unwilling to adjust its withdrawal / weapons danger zone to accommodate the re-routing of Pole Line Road.</p>

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unpaved roads. (See Map Item I.L.6)	<i>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.</i>		Therefore, the Stakeholders respectfully request the Congressional Delegation to modify the withdrawal boundary to avoid Pole Line Road, or at a minimum to allow a corridor for a re-route and provide an appropriate for such a re-route at the Navy’s expense.
I.L Specific to Ground Transportation: 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.	<i>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>	The Navy has committed to this action, and favorable resolution depends on appropriate assurances in the ROD.	If adequate clarification and assurance is not provided in the ROD to reconstruct these roads, then the Stakeholders would respectfully request the Congressional Delegation provide this direction. The Navy’s commitment to reconstruct Lone Tree Road and SR 761 will require an adequate appropriation from Congress.
I.M Specific to Airspace: Military Operating Areas (MOAs) with a proposed floor of less than 500’ above	<i>Original recommendations for these expanded MOAs was 200’AGL for, Duckwater, Smoky, and Diamond MOAs (Diamond includes Ruby and Zircon). The 500’ AGL mentioned in 90 Days to Combat is a generalized statement for overall aviation requirements. The Final</i>	There are significant airspace concerns that have been brought to the attention of the Navy by the Nevada Department of	If adequate clarification and assurance is not provided in the ROD and/or future FAA process, then the Stakeholders would respectfully request the

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<p>ground level (AGL) should be changed to 500’ AGL per 90-Days to Combat. Stakeholders 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.</p> <p>The Stakeholders support an Airport Exclusion Area (5 mile radius and 0-1,500’ AGL) around the Gabbs, Crescent Valley and Eureka airports.</p> <p>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:</p> <p>Vertically = 0’ – 10,000’ Above Ground Level; and,</p>	<p><i>EIS Table 5-7 (Management Practices, Monitoring, and Mitigation Measures Suggested for Airspace) has been updated with this clarification.</i></p> <p><i>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). At the present time, the Navy is not proposing to create new infrastructure such as radio towers.</i></p> <p><i>The Navy currently has designated airspace exclusion for the town of Gabbs. As part of the Modernization proposal Crescent Valley and Eureka airfields would have an airspace exclusion of 3nm and 1500’ AGL. These exclusion areas were developed in coordination with the FAA.</i></p> <p><i>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 R4816S. No VFR corridor exists on Highway 95. There are no changes to the Highway 95 corridor that would require changes to the current airspace.</i></p> <p><i>The current VFR corridor is 2 miles wide and 2000’AGL to 10500’ MSL. Eastwest traffic is de-conflicted</i></p>	<p>Transportation, Tribal Governments near the withdrawal area, Eureka County and Nye County. These entities do not believe that the commitments from the Navy adequately address their concerns in regard to Airspace modifications. Stakeholders believe it is necessary for the Navy to work with these entities to provide a favorable resolution and appropriate assurances in the ROD.</p>	<p>Congressional Delegation provide this direction.</p> <p>Congressional authorization and appropriations to resolve the airspace issues may be required for adequate funding.</p>

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Horizontally = 5 miles wide (2.5 miles either side of highway centerline).	<i>vertically in 500’ increments. The VFR corridor also divides the FRTC Restricted Areas 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.</i>		
<p>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.</p>	<p><i>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.</i></p> <p><i>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</i></p>	<p>There are significant noise concerns that have been brought to the attention of the Navy by the Tribal Governments near the withdrawal area and Eureka County. These entities do not believe that the commitments from the Navy adequately address their concerns in regard to noise mitigation. Stakeholders believe it is necessary for the Navy to work with these entities to provide a favorable resolution and appropriate assurances in the ROD.</p>	<p>If adequate clarification and assurance for noise mitigation is not provided in the ROD, then the Stakeholders would respectfully request the Congressional Delegation provide this direction.</p>

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

Item Number and Issue	Navy’s Written Response 1/6/2020	Issues to be Resolved in Navy Record of Decision (ROD)	Issues Requested for Resolution by Congressional Delegation
	<p><i>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.</i></p> <p><i>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 -I 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 (R-1805) would have a cutout around the Gabbs Airfield of 3nm and 1,500' AGL where ordnance activities cannot be conducted.</i></p> <p><i>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-./80,./ and R--1816S. No VFR corridor exists or is proposed on Highway 95.</i></p> <p><i>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 &</i></p>		

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

Item Number and Issue	Navy’s Written Response 1/6/2020	Issues to be Resolved in Navy Record of Decision (ROD)	Issues Requested for Resolution by Congressional Delegation
<p>I.N Specific to Noise: 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.</p>	<p><i>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 will evaluate the study results applying adaptive management as appropriate. This commitment will also be included in the ROD.</i></p>	<p>The Navy has committed to this action and favorable resolution depends on a letter of commitment with study design, funding assurances, and adaptive management to be referenced in the ROD.</p>	<p>If adequate clarification and assurance is not provided in the ROD for this research project, then the Stakeholders would respectfully request the Congressional Delegation provide this direction.</p> <p>The Navy’s commitment to fund a research project regarding potential impacts to Greater Sage Grouse will require an adequate appropriation from Congress.</p>
<p>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</p>	<p><i>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 US. Department of Justice on the validity of any un-adjudicated claims of vested water rights before any compensation is paid.</i></p> <p><i>With respect to water rights that are claimed as vested water rights, the Navy's understanding is that</i></p>	<p>For impacts to water rights that cannot be avoided, Stakeholders are seeking assurance in the ROD of the Navy’s commitment to assess and fully compensate individual water rights holders for their losses, including the long-term impacts to their business operations within the final Withdrawal Area.</p>	<p>If adequate clarification and assurance on the Navy’s compensation to individual water rights holders including loss to their business operations is not provided, then the Stakeholders respectfully request specific direction from Congress and appropriation to ensure water rights holders are fully compensated for their losses.</p> <p>If adequate clarification and assurance is not provided in the ROD regarding water rights,</p>

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

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<p>vested right that have not been adjudicated by the Nevada Division of Water Resources.</p> <p>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.</p>	<p><i>such rights are required by Nevada state law to be submitted/or 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.</i></p> <p><i>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.</i></p>		<p>then the Stakeholder would request direction from Congress on this issue.</p> <p>Congressional authorization and appropriations for water rights will be required.</p>
<p>I.O Specific to Water Rights: Guaranteed assurances need to be made by the Navy to allow</p>	<p><i>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</i></p>		<p>See item I.G above.</p> <p>If adequate clarification and assurance is not provided in the</p>

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

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<p>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).</p>	<p><i>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.</i></p>		<p>ROD regarding the Dixie Valley Water Project, then the Stakeholders would respectfully request the Congressional Delegation provide this direction.</p> <p>Congressional authorization and appropriations may be required for adequate funding.</p>
<p>I.P 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</p>	<p><i>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.</i></p> <p><i>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 USFWS on this revision. The EIS acknowledges the loss of access but similar open areas exist for public access.</i></p>	<p>The Navy has committed to this action and favorable resolution depends on appropriate assurance in the ROD.</p>	<p>The Stakeholders continue to disagree with Navy’s conclusion of no significant impacts to wildlife resources and stakeholders are unable to find resolution through the Administrative Process. Therefore, Signatories respectfully request Congressional Delegation to make this modification and fund mitigation for impacts to wildlife and loss of access to wildlife resources.</p>

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

Item Number and Issue	Navy’s Written Response 1/6/2020	Issues to be Resolved in Navy Record of Decision (ROD)	Issues Requested for Resolution by Congressional Delegation
<p>maintenance of water developments, and possible trap and transplant of wildlife species.</p> <p>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.</p> <p>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.</p>	<p><i>DVTA would remain open for public access for most land uses and would continue to be managed by BLM.</i></p>		
<p>I.Q Specific to Cultural Resources: Target placement in Bravo Ranges must avoid culturally sensitive areas and facilitate managed</p>	<p><i>The Navy has surveyed locations where impacts to cultural resources are most likely, and we have programmed for funding measures to continue progressively surveying for cultural resources surveys over time.</i></p>	<p>The Navy has committed to this action and favorable resolution depends on appropriate assurance in the ROD and memorialization of those</p>	<p>If adequate clarification and assurance is not provided in the ROD, then the Stakeholders would respectfully request the Congressional Delegation provide this direction.</p>

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

Item Number and Issue	Navy’s Written Response 1/6/2020	Issues to be Resolved in Navy Record of Decision (ROD)	Issues Requested for Resolution by Congressional Delegation
<p>access to such sites. The Navy must work directly with Tribal Governments near the withdrawal area to 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.</p>	<p><i>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.</i></p> <p><i>The Navy will consult with tribes on measures for the protection and appropriate treatment of any burials and associated items, consistent with NAGPRA.</i></p> <p><i>The Navy is currently consulting to develop a plan for managed access to the ranges.</i></p>	<p>commitments in Amendment #1 to the Programmatic Agreement.</p>	
<p>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</p>	<p><i>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 will be evaluated as part of the Hunting Working Group on an annual basis</i></p>	<p>Navy has committed to this action and favorable resolution depends on appropriate assurances in the ROD.</p> <p>Specific to allowance of access, the Navy has not provided guaranteed use of critical access roads.</p>	<p>As part of the managed access program, the Signatories respectfully request Congressional Delegation to ensure the Navy guarantees implementation of the managed access program for the withdrawal duration. This should include guaranteed road access and avoiding target placement in the following areas Fairview Peak, Bell Canyon</p>

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

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<p>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.</p>			<p>(eastern ½), Bell Flat, Slate Mountain and Monte Cristo Mountains (particularly guzzler locations) for purpose of wildlife management activities, bighorn sheep hunting program, and special off highway vehicle events.</p>
<p>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.</p> <p>The Navy must secure dedicated funding for said implementation and must</p>	<p><i>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, NDA, NDF, 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</i></p>	<p>The Signatories appreciate the Navy’s recent efforts and commitment to develop a Fire Management Plan, but an outline and lack of funding commitments are insufficient to conclude this issue is resolved. Resolution is entirely dependent on future contents of the FMP and funding commitments that could be included in the ROD.</p>	<p>If not addressed in the ROD, the Signatories respectfully request Congressional Delegation to ensure the completion of the FMP as well as robust funding commitments to ensure full implementation of Prevention, Suppression, and Rehabilitation costs.</p>

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

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<p>establish wildland firefighting capability that includes: staffed type 3 engines, hand crews trained to National Wildfire Coordinating Group standards, and helicopters with water buckets.</p> <p>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</p>	<p><i>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.</i></p> <p><i>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></p>		

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

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<p>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.</p> <p>Maintaining and/or relocating access roads around the Bravo Ranges will provide critical emergency access and fuel</p>			
<p>I.T Specific to Tribal Nations: The State of Nevada specifically requests feedback from the Navy as to how they will resolve critical tribal concerns expressed in the following documents:</p> <p>Inter-Tribal Council of Nevada</p> <p>Inter-Tribal Council of Nevada Resolution No. 06-ITCN-19</p>	<p><i>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</i></p>		<p>There has been significant opposition to the Navy’s proposed action that has been expressed by Tribal Nations and organizations at the National, State, and Local levels. The Tribal Council of the Walker River Paiute Tribe has adopted resolution WR-19-2019 which expressed its opposition to the proposed action and concerns over existing Naval contamination issues on its reservation. The Fallon-Paiute Shoshone Tribe has expressed their opposition to the proposed</p>

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

Item Number and Issue	Navy’s Written Response 1/6/2020	Issues to be Resolved in Navy Record of Decision (ROD)	Issues Requested for Resolution by Congressional Delegation
<p>Inter-Tribal Council of Nevada Resolution No. 03-ITCN-20</p> <p>Fallon Paiute-Shoshone Tribe:</p> <p>RE: Comments on the Draft Environmental Impact Statement (DEIS) for the proposed expansion of Naval Air Station Fallon dated February 14, 2019</p> <p>RE: Request for Consultation and Supplemental Comments on the Draft EIS for Fallon Training Range Complex Modernization EIS dated August 21, 2019</p> <p>RE: Summary of December 18, 2019 Meeting dated January 17, 2020.</p> <p>Walker River Paiute Tribe</p> <p>Resolution of the Tribal Council of the Walker River Paiute Tribe,</p>	<p><i>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:</i></p> <p><i>The Navy will create a Tribal Liaison Office at NAS Fallon to coordinate Government to Government consultation.</i></p> <p><i>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.</i></p>		<p>action through several letters to the Navy. The Inter-Tribal Council of Nevada Executive Board representing all Tribal Nations in Nevada has adopted resolutions 06-ITCN-19 and 04-ITCN-20 in opposition to the proposed action. The National Congress of American Indians representing Tribal Nations from around the country has adopted resolution #ABQ-19-006 in opposition to the proposed action. If adequate clarification and assurance regarding the concerns expressed by these Tribal Governments and organizations is not provided, then the Stakeholders would respectfully request the Congressional Delegation provide this direction.</p>

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

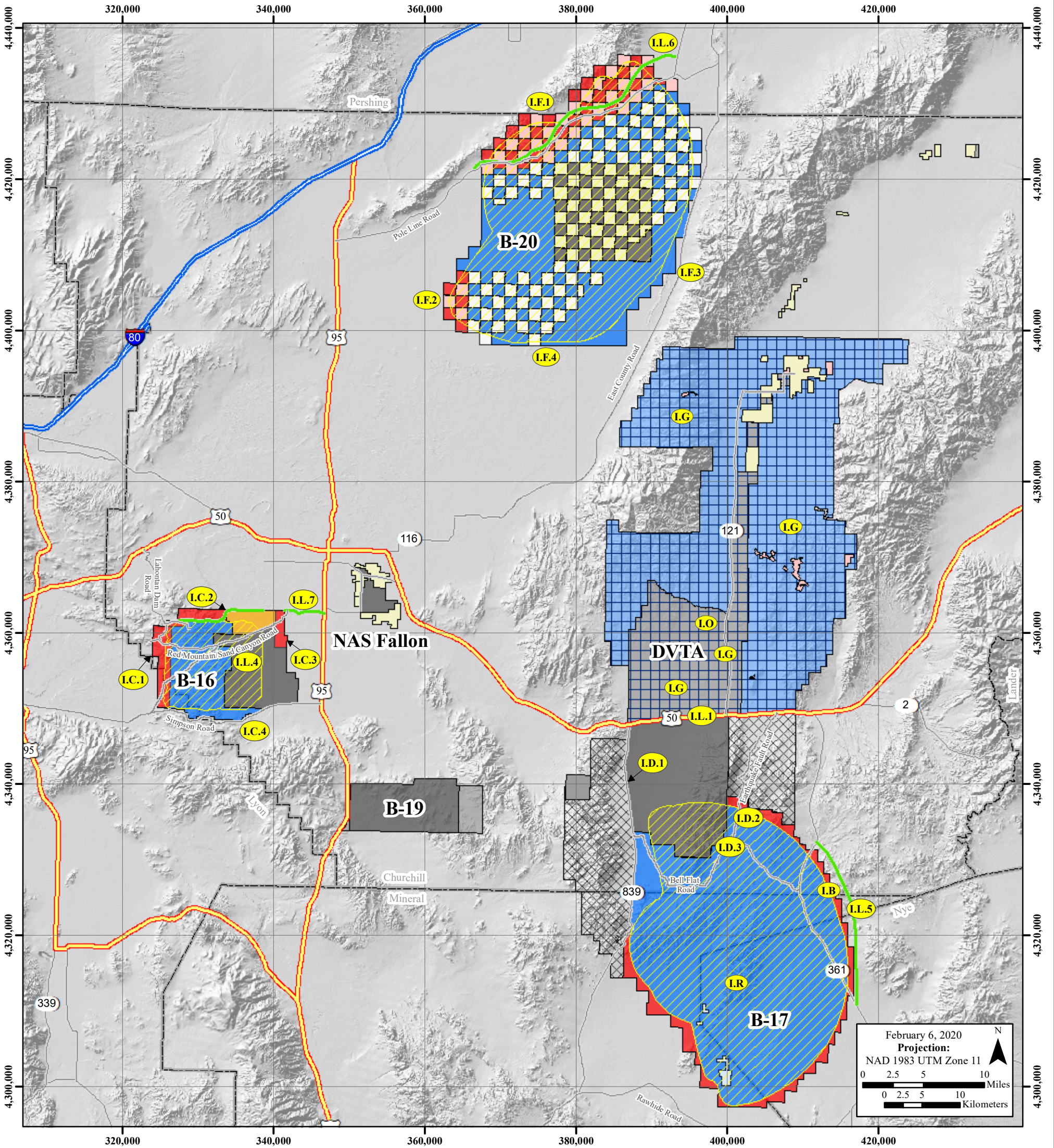
Item Number and Issue	Navy’s Written Response 1/6/2020	Issues to be Resolved in Navy Record of Decision (ROD)	Issues Requested for Resolution by Congressional Delegation
<p>Resolution No. WR-65-2019</p> <p>National Congress of American Indians</p> <p>The National Congress of American Indians Resolution #ABQ-19-006</p>	<p><i>Partnering the Tribes on measures for the protection and appropriate treatment of any burials and associated items, consistent with NAGPRA.</i></p> <p><i>Partnering with Tribes to manage access to the ranges.</i></p> <p><i>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).</i></p>		
<p>Item I.U Specific to Accountability, Coordination and Transparency: After enactment of the Authorizing Legislation, there will be a great deal of implementation work to be completed in order to implement the FRTC Modernization Project. Operations of the FRTC is anticipated over a minimum 25-year time horizon. As such, the Stakeholders are requesting establishment of an Intergovernmental Executive Committee that</p>	<p>This is a new item that the Navy has not been provided an opportunity to respond to or comment on.</p>		<p>Stakeholders respectfully request that Congress establish an Intergovernmental Executive Committee, similar to that included in S.3145, in order to encourage and maintain open communications and collaboration between the Navy and affected stakeholders for the duration of the FRTC withdrawal. This Committee would ensure transparency and accountability for implementation of the FRTC Modernization Project as well as long term operations of the FRTC.</p>

Attachment 1: Nevada Consolidated Response to the US Navy’s Proposed Fallon Range Training Complex Modernization Project

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would be maintained for the duration of the withdrawal.			
Specific to Sections II, III, and IV.	These sections have not been discussed specifically as they are not specific to actions the Navy has direct control of.		As such, and unless modified in Attachment 1, the Stakeholders respectfully re-iterate their positions and support of items found in Sections II-IV of the Nevada Consolidated Proposal dated October 15, 2019.

Attachment # 2

Nevada's Consolidated Response Map to the Navy's Proposed FRTC Modernization



- Existing Navy Lands**
- Navy Owned Land (34,809 Acres)
 - Navy Withdrawal from BLM (Open to Public 76,425 Acres)
 - Navy Withdrawal from BLM (Closed to the Public 126,971 Acres)
 - Navy Withdrawal from BLM (Open to the Public - Proposed Closed to the Public 4,543 Acres)
- Navy Proposed FRTC Modernization, Alternative 3 (608,157 Acres)**
- Navy Proposed Withdrawal from BLM, Closed to the Public (359,130 Acres)
 - Navy Proposed Weapons Danger Zone
 - Navy Proposed Dixie Valley Training Area (DVTA) Expansion (245,797 Acres)
 - Navy Proposed Special Land Management Overlay (SLMO) (74,607 Acres)
 - Private Lands Proposed for Navy Purchase (48,348 Acres)
- Nevada's Consolidated Proposal**
- Nevada Proposed Withdrawal Reduction (47,640 Acres)
 - Nevada Proposed Dixie Valley Special Management Area (DV SMA), Managed by the BLM, in lieu of Navy Withdrawal and Expansion of DVTA (314,130 Acres)
 - Nevada Proposed Private Lands to be Excluded from Navy Purchase (21,988 Acres)
 - Roads for Rerouting or Reconstruction
 - Text Reference Point





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**RESOLUTION OF THE GOVERNING BODY
OF THE
WALKER RIVER PAIUTE TRIBE
RESOLUTION NO. WR-65-2019**

BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE WALKER RIVER PAIUTE TRIBE THAT:

WHEREAS, the governing body of the Walker River Paiute Tribe is organized under the provisions of the Indian Reorganization Act of June 1934 as amended, to exercise certain home rule and be responsible for the promotion of economic and social welfare of its members; and

WHEREAS, the Walker River Paiute Tribe is committed to protecting its land within the boundaries of the Reservation, specifically the land that is south and adjacent to Bravo 19, which is one of the training areas for the Fallon Naval Air Station (FNAS), and

WHEREAS, the US Navy has encumbered tribal land, which has been contaminated with live ordnance, caused historical damage to range wells and facilities and has left such land useless as this land cannot be totally cleaned up of ordnance and bombs, and

WHEREAS, the FNAS has been using the Bravo 19 area for training since the 1940's; the Tribe has documentation of such contamination since 1959, where Naval jets have been dropping live and inert ordnance onto the reservation, and

WHEREAS, the FNAS does not dispute the historical contamination of reservation lands and wants to work cooperatively with the Tribe in resolving issues surrounding this travesty; the Naval officials refer to this as the "Legacy" issue, and

WHEREAS, the Tribe, including Tribal Council and staff, have met with the Navy on two (2) occasions in 2017, once on June 14, 2017 and again on August 1, 2017; as a result of those meetings, the Navy has asked the Tribe to provide them with a list of what the Tribe wants in order to resolve this issue.

NOW THEREFORE BE IT RESOLVED, that as per meetings with Tribal Council and Tribal staff that were held on June 12, 2017, June 14, 2017 and August 1, 2017 it was decided that the Tribe would request the following from the Navy or with the Navy's assistance to resolve the "Legacy" issue, and such list is in no order of priority:

- * **Past Damages**: From 1959 – 2017; \$1,000,000.00 for each year that our reservation has been contaminated with live and inert ordnance and deemed useless by the Tribe; 58 years x \$1,000,000.00 = \$58,000,000.00.
- * **Land Lease**: The Tribe will enter into a land lease of the contaminated land, using land lease figures from 2015 where the Navy paid the tribe \$750.00 per year for land that did not exceed 5 acres and were used for a helipad and land where electronic structures existed. We would therefore lease the land for \$750.00 per each 5 acres.
- * **Land**: The Walker River Paiute Tribe would like land that is currently managed by the Bureau of Land Management (BLM) or the US Forest Service that is of great historic significance to the Tribe. Such land is identified as follows:

West Walker Lake: This is BLM land along the west side of Walker Lake up to the BLM recreation site at Sportsman's Beach and goes approximately halfway down the lake from the current reservation. This area contains petroglyphs of cultural significance to the Tribe in the vicinity of Tamarack Beach and will be identified on a non-disclosure basis. Most of this area was part of the Tribe's original reservation of 1859. Area consists of approximately 10,135 acres.

East Walker Lake: This is BLM land along the east side of Walker Lake and is comparable to West Walker Lake. Most of this area was part of the Tribe's original reservation of 1859. These 2 parcels are part of the immediate watershed and shoreline of Walker Lake, which the Tribe seeks to protect. Area consists of approximately 10,598 acres.

Wassuk Range: This BLM land follows the crest of the Wassuk Range separating the Walker Lake watershed from Mason Valley and the East Walker River Valley, including on the Walker Lake side the Reese River Canyon, Penrod Canyon, Dead Man Canyon, Copper Canyon, Dry Creek, and several other washes. This area is also part of the immediate watershed of Walker Lake, which the Tribe seeks to protect. Area consists of approximately 28,472 acres.

Gillis Range: This is land on the east side of Walker Lake and included an important part of the cultural trails historically used by our people. This area also includes a substantial part of the immediate watershed of Walker Lake that sends water to the Lake through Wildhorse Canyon during substantial rain events. This land is currently used for grazing and would benefit the Tribe in that respect. Area consists of 58,259 acres.

North Wassuk Range/Black Mountain (Pistone) Cultural Site: This site is mainly located on the west side of Black Mountain and adjacent to the Walker River Paiute Reservation, again on the western-most boundary. This site is a large multi-component rock art, hunting, fishing, piñon gathering site. This area has great cultural ties to the Paiute people that lived in this area for thousands of years. This area is also known as the Pistone Site, as archaeological investigations have been undertaken between April, 1984 and October, 1986. The BLM has been urged to take every reasonable step necessary to preserve the integrity of this site, although there has been some vandalism and robbery of some of the petroglyphs over the years. Over the years, people, under the guise of studying the area, have removed many artifacts. The Tribe wants to make sure that this area is preserved in its pristine state. In the past 100 years, Paiute elders, remember travelling to the area to collect flowers in the spring. Indians from other reservations were also invited. Paiute songs were sung about travelling "over the mountain." Indians from other Tribes have also visited the site to see and interpret the petroglyphs. The Tribe's Cultural Committee has also visited and prayed at the site. This site has a very strong presence of Paiute history that is of critical importance to the Tribe. Area consists of approximately 23,415 acres.

White Mountain/Paiute Springs (BLM): The Tribe recently reestablished an old horse pasture on the reservation located on White Mountain for grazing. Paiute Springs is a spring located to the west of White Mountain adjacent to the reservation. This spring would be a water source for the cattle or wildlife. There is also another natural spring and trough located to the north of White Mountain and less than a quarter mile from the reservation boundary fence. This would be an additional water source for the cattle grazing on White Mountain. Area consists of approximately 4,044 acres.

Mount Grant: The Mount Grant area is public land reserved for the Hawthorne Ammunition Depot, which is managed by the Department of the Army. The Tribe does not contest this land being part of the Ammunition Depot, but seeks to have the Mount Grant area transferred to the Tribe if the Army ever closes the depot or no longer needs the Mount Grant portion of the Depot. This land is of major cultural significance to the Tribe, which was considered for protection as a National Historic Site as it includes significant cultural sites and petroglyphs, which are an important part of the Tribe's cultural heritage. Additionally, the Mount Grant area includes important creeks that are tributary to Walker Lake that provide habitat for tui chubs that that used to become part of the food chain for Lahontan cutthroat trout and were an important part of the ecology of Walker Lake. The Tribe would like to restore these creeks to the important habitat role they once provided for Walker Lake and restore the flow of water from the creeks to the Lake. Area consists of approximately 46,016 acres.

** Land: The Walker River Paiute Tribe would like land that is currently managed by the Bureau of Land Management (BLM) that is of great historic significance to the Tribe. Such land is identified as follows:*

North Wassuk Range/Black Mountain (Pistone) Cultural Site: This site is mainly located on the west side of Black Mountain and adjacent to the Walker River Paiute Reservation, again on the western-most boundary. This site is a large multi-component rock art, hunting, fishing, pinion gathering site. This area has great cultural ties to the Paiute people that lived in this area for thousands of years. This area is also known as the Pistone Site, as archaeological investigations have been undertaken between April, 1984 and October, 1986. The BLM has been urged to take every reasonable step necessary to preserve the integrity of this site, although there has been some vandalism and robbery of some of the petroglyphs over the years. Over the years, people, under the guise of studying the area, have removed many artifacts. The Tribe wants to make sure that this area is preserved in its pristine state. In the past 100 years, Paiute elders, remember travelling to the area to collect flowers in the spring. Indians from other reservations were also invited. Paiute songs were sung about travelling "over the mountain." Indians from other Tribes have also visited the site to see and interpret the petroglyphs. The Tribe's Cultural Committee has also visited and prayed at the site. This site has a very strong presence of Paiute history that is of critical importance to the Tribe. Area consists of approximately 23,415 acres.


The Tribe would also like to have the grazing allotment that is contiguous to the Stanley Ranch be transferred to the Tribe.

Land for Economic Benefit: The Tribe would also research other parcels of land that could be used for economic ventures for the Tribe, whether they are BLM, other public or private lands. The Tribe would like to request \$20,000,000.00 for the purchase of those identified lands that will be located in areas suitable for such economic development.

BE IT FINALLY RESOLVED, that the above noted request will be submitted for legislative language development for such amendment that will be presented to Congress in 2020.

CERTIFICATION

It is hereby certified that the foregoing Resolution of the Walker River Paiute Tribal Council, composed of seven members, of whom 7, constituting a quorum, were present at a meeting held on the 11th day of July, 2019, and that the foregoing resolution was adopted by the affirmative vote of 6 FOR, 0 AGAINST, and 0 ABSTENTIONS, pursuant to the authority contained in Article VI, Section 1(e), of the Constitution and By-Laws of the Walker River Paiute Tribe, approved March 26, 1937.



Esha Hoferer, Tribal Council Secretary
WALKER RIVER PAIUTE TRIBE

WESTERN NEVADA AGENCY BRANCH OF TRIBAL OPERATIONS	
Received	<u>7-19-19</u>
Certified	<u>Bernita J. Simpson</u>
Date	<u>7-24-19</u>



INTER-TRIBAL COUNCIL OF NEVADA, INC.

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RESOLUTION NO. 06-ITCN-19

RESOLUTION OF INTER-TRIBAL COUNCIL OF NEVADA, INC.

BATTLE MOUNTAIN
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COUNCIL
PYRAMID LAKE
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SOUTH FORK
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STEWART
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YOMBA TRIBAL
COUNCIL

- WHEREAS,** the Inter-Tribal Council of Nevada, Inc., is organized and operates in accordance with the Constitution and By-Laws, amended November 1974; and
- WHEREAS,** the purpose of the Inter-Tribal Council of Nevada, Inc. (ITCN), are stated in its Constitution, Preamble and
- WHEREAS,** the Inter-Tribal Council of Nevada, Inc., Executive Board, a body comprised of the twenty-seven (27) elected representatives of the member tribes in the State of Nevada, and whose charter is ratified by these same tribes; and
- WHEREAS,** the Inter-Tribal Council of Nevada, Inc., has continuing interest in the health, education and well-being of the Indian People; and
- WHEREAS,** the Inter-Tribal Council of Nevada Inc., Executive Board recognizes the Fallon Business Council ("Council") is the recognized Governing Body of the Fallon Paiute-Shoshone Tribe ("Tribe") and was established to exercise the privileges and powers of self-government, to conserve and develop the Tribe's resources for the social and economic well-being of its members, and to preserve and protect the civil rights of its members;
- WHEREAS,** the Inter-Tribal Council of Nevada Inc., Executive Board recognizes that the Fallon Paiute-Shoshone Tribe is federally recognized by the United States Government and the Secretary of the Interior as a Native American Tribe, and has the authority to take actions necessary to protect Tribal resources;
- WHEREAS,** the Inter-Tribal Council of Nevada, Inc. Executive Board recognizes the Fallon Paiute-Shoshone Tribe's ancestral land were judicially confirmed by the United States Indian Claims Commission as "an area largely in Nevada, with small areas in California . . . which had been exclusively occupied and used in Indian fashion from time immemorial by the bands or groups of Northern Paiute Indians of Nevada who are aboriginally known as the Paviotso or Paiute of western Nevada.," *Northern Paiute Nation et al. v. United States*, 7 Ind. Cl Comm. 322, 372 (1959);
- WHEREAS,** the Inter-Tribal Council of Nevada Inc., Executive Board recognizes that the Fallon Paiute-Shoshone Tribe, since time immemorial, have lived, hunted, and prayed on their ancestral lands which encompass many significant areas such as

what are now referred to as the Stillwater Range, Stillwater Marsh, Sand Mountain, the Carson Sink, Dixie Valley, Rawhide Hot Springs, Fox Peak, and surrounding areas;

WHEREAS, the Inter-Tribal Council of Nevada Inc. Executive Board recognizes that the Fallon Paiute-Shoshone Tribe since the 1940's Naval Air Station Fallon (NASF) has operated on 202,000 acres of ancestral lands that are adjacent to reservation, most recently as authorized by a 1999 Public Land Withdrawal;

WHEREAS, the Inter-Tribal Council of Nevada Inc. Executive Board recognizes that the Fallon Paiute-Shoshone Tribe NASF operations on the 1999 Public Land Withdrawal have caused a terrible transformation of ancestral lands and way of life through:

- (1) countless flyovers at low altitudes at all hours;
- (2) aerial bombing, war games and other ground disturbance activities;
- (3) regular sonic booms and other excessive noise; and
- (4) denied access to traditional lands, including spiritual and cultural sites.

WHEREAS, the Inter-Tribal Council of Nevada, Inc. Executive Board recognizes that the Fallon Paiute-Shoshone Tribe NASF operations on the 1999 Public Land Withdrawal have resulted in innumerable harms to those lands and way of life and the lifeways of other tribes without meaningful mitigation or dispensation of any kind to the Tribe or its members;

WHEREAS, the Inter-Tribal Council of Nevada Inc. Executive Board recognizes that by way of example, the adverse effects of NASF activities include:

- (1) destruction by bombing activities of our origin site known as Jobs Peak, from which Father and Mother dispersed their four children, as documented in the ethnography "In the Shadow of Fox Peak;"
- (2) desecration of other cultural sites, such as burials;
- (3) denial or curtailment of access to important cultural sites;
- (4) denial or curtailment of access for hunting animals and gathering of plant materials used for food and material culture;
- (5) extreme and excessive noise levels have prevented us from the quiet enjoyment that normally accompanies and is essential to ceremonies;



INTER-TRIBAL COUNCIL OF NEVADA, INC.

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RESOLUTION NO. 06-ITCN-19

BATTLE MOUNTAIN
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WHEREAS, the Inter-Tribal Council of Nevada, Inc. Executive Board recognizes that the Fallon Paiute-Shoshone Tribe as set forth in its November 2018 Draft Environmental Impact Statement (DEIS) for the proposed expansion of NASF, the Navy is proposing to expand these horrible activities four-fold by:

- (1) requesting Congressional renewal of the 1999 Public Land Withdrawal of 202,864 acres;
- (2) requesting Congress withdraw and reserve for military use up to 618,727 acres of additional federal land;
- (3) acquiring approximately 65,153 acres of private or state-owned (non-federal) land;
- (4) constructing range infrastructure to support modernization, including new target areas; and
- (5) expanding and reconfiguring existing special use airspace and establishing new airspace with the current boundary to accommodate the expanded bombing ranges;

WHEREAS, the Inter-Tribal Council of Nevada, Inc., Executive Board recognizes that the Fallon Paiute-Shoshone Tribe, since time immemorial, that the Tribe has engaged in religious and cultural ceremonies and other activities on the 885,000 acres of lands identified above, as established through oral tradition, ethnography, burial practices, material culture, and other evidence;

WHEREAS, the Inter-Tribal Council of Nevada, Inc. Executive Board recognizes that the continuation of the 1999 Public Land Withdrawal and its four-fold territorial expansion would continue the shameful and tragic history of seizing tribal lands, desecrating tribal religious burial and cultural sites, and preventing the tribe and other tribes from engaging in our cultural practices

WHEREAS, the Inter-Tribal Council of Nevada, Inc. Executive Board recognizes that the Fallon Paiute-Shoshone Tribe since the expansion has been proposed, NASF has failed to properly consult with the Fallon Business Council in violation of the sacred trust responsibility the United State owes all tribes, and denied the tribe information and funding needed to fully identify and assess the potential impacts on the proposed expansion;

WHEREAS, the Inter-Tribal Council of Nevada, Inc. Executive Board recognizes that the Fallon Paiute-Shoshone Tribe under the guise of consultation, NASF has repeatedly asked the tribe to do the impossible – identify its cultural sites on a

one-page map that covers the entire 885,000-acre (about 1,375 square miles) expansion area;

WHEREAS, the Inter-Tribal Council of Nevada, Inc. Executive Board recognizes that the Fallon Paiute-Shoshone Tribe despite repeated written requests, NASF has not responded to the tribes' requests for the funding necessary to conduct a survey of the expansion area so that cultural sites can be identified;

WHEREAS, the Inter-Tribal Council of Nevada, Inc. Executive Board recognizes that the Fallon Paiute-Shoshone Tribe when the DEIS was published, NASF gave the tribe no advance notice, and in a face-to-face meeting failed to mention its publication was one day away until asked, and then only gave the tribe a mere 60 days to comment; and

WHEREAS, the Inter-Tribal Council of Nevada, Inc. Executive Board recognizes that the Fallon Paiute-Shoshone Tribe despite these disadvantages, the Fallon Paiute-Shoshone Tribe has submitted sets of comments specifying many concerns with the expansion, but yet NASF fails to recognize or demonstrate they have read or understood the comments in those meetings with NASF.

NOW THEREFORE BE IT RESOLVED that the Inter-Tribal Council of Nevada, Inc. Executive Board supports the Fallon Paiute-Shoshone Tribe as the tribe strongly opposes the expansion of Fallon Naval Air Station as described in the November 2018 Draft Environmental Impact Statement;

BE IT FURTHER RESOLVED, the Inter-Tribal Council of Nevada, Inc. Executive Board supports the Fallon Paiute-Shoshone Tribe calls on the United States Navy to engage in meaningful consultation with the Fallon Paiute-Shoshone Tribe and other tribes, share all relevant information, facilitate visits to the expansion site, and fully fund a study that would allow the Fallon Paiute-Shoshone Tribe to identify the cultural sites within the proposed expansion area;

BE IT FURTHER RESOLVED, the Inter-Tribal Council of Nevada, Inc. Executive Board recognizes that the Fallon Paiute-Shoshone Tribe and its members as well as other tribes must retain the ability to access cultural and spiritual sites identified by the tribe and other tribes, and these areas should be excluded from any expansion and protected from impacts of Naval training;

BE IT FINALLY RESOLVED, The Inter-Tribal Council of Nevada, Inc. Executive Board, on behalf of their membership, hereby support the Fallon Paiute-Shoshone Tribe and other tribes in their opposition to the proposed Fallon Naval Air Station expansion.



INTER-TRIBAL COUNCIL OF NEVADA, INC.

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RESOLUTION NO. 06 -ITCN-19

CERTIFICATION

BATTLE MOUNTAIN
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COUNCIL

The foregoing resolution was adopted by a vote of the Inter-Tribal Council of Nevada, Inc.'s Executive Board, on the 3rd day of May, 2019 by a vote 8 FOR; 0 AGAINST; and 1 ABSTENTATIONS.


Chad Malone, Secretary
ITCN Executive Board



INTER-TRIBAL COUNCIL OF NEVADA, INC.

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RESOLUTION NO. 03-ITCN-20

RESOLUTION OF INTER-TRIBAL COUNCIL OF NEVADA, INC.

IN SUPPORT OF THE NO ACTION ALTERNATIVE IN THE FINAL ENVIRONMENTAL IMPACT STATEMENT FOR THE FALLON RANGE TRAINING COMPLEX MODERNIZATION DATED JANUARY 2020

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- WHEREAS,** the Inter-Tribal Council of Nevada, Inc. ("ITCN") is a nonprofit tribal organization formed under the laws of the State of Nevada on February 23, 1966, and organized and operated in accordance with its Articles of Incorporation filed on February 23, 1966 and its First Amended and Restated Bylaws adopted on December 17, 2019; and
- WHEREAS,** the purpose of ITCN is stated in the First Amended and Restated Bylaws adopted on December 17, 2019; and
- WHEREAS,** ITCN operates for the benefit of its twenty-seven (27) Member Tribes and their people; and
- WHEREAS,** ITCN's Board of Directors ("the Board") is comprised of one elected representative from each of ITCN's twenty-seven (27) Member Tribes; and
- WHEREAS,** the Fallon Paiute-Shoshone Tribe, the Lovelock Paiute Tribe, the Walker River Paiute Tribe, the Yomba Shoshone Tribe, the Pyramid Lake Paiute Tribe, the Duck Valley Sho-Pai Tribe, and the other federally recognized Tribes in Nevada have properties that are being affected by the planned renewal and expansion of the Naval Air Station Fallon (NASF), which is also referred to as the Fallon Range Training Complex (FRTC) in the Final EIS for the Fallon Range Training Complex;
- WHEREAS,** the NASF has operated on 232,000 acres of ancestral lands and reservations of several federally recognized tribal nations, as authorized by a 1999 Public Land Withdrawal; and
- WHEREAS,** the Final Environmental Impact Statement (EIS) for the Fallon Range Training Complex Modernization (FRTCM), which is the planned expansion of the NASF, has three Alternatives for the Proposed Action, and a No Action Alternative; and

RESOLUTION NO. 03-ITCN-20
Page 1 of 6

WHEREAS, Alternative 1 (Modernization of the Fallon Range Training Complex) would be the expansion of NASF except for Site B-19 and the Shoal Site, and consist of the withdraw and reserve for military use of up to 618,727 acres of additional federal land for the term of 25 years, and acquisition of approximately 65,159 acres of private or state-owned (non-federal) land, and require construction of new range infrastructure to support modernization, including new target areas, and expand and reconfigure existing special use airspace within FRTC airspace to accommodate expanded Bravo ranges; and

WHEREAS, Alternative 2 (Managed Access) would expand the FRTC to the same extent as described in Alternative 1 and continue to allow certain public uses within certain specified areas when ranges are not optional, and allow a bighorn sheep hunting program, as described in the Draft Memorandum of Agreement between the Navy and Nevada Department of Wildlife (NDOW); and, conditionally allow: geothermal and salable exploration and development, water development, academic research, ceremonial and cultural visits, land management activities, and large event off-road races would be allowed on all ranges, subject to coordination with the Navy; and

WHEREAS, Alternative 3 (Preferred Alternative) would expand the FRTC to the same extent as described in Alternative 1, except for specific areas identified in the Final EIS for the FRTCM; and will define two areas as public lands under the jurisdiction of the Bureau of Land Management (BLM) that would not be withdrawn by the Navy, and continue to allow certain public uses within certain specified areas and those zones would remain open to public access and available for all BLM-allowable uses such as mining, grazing, hunting, and recreation, under the stipulation that BLM will consult with the Navy before issuing any decisions on projects, permits, leases, studies, and other land uses; and

WHEREAS, the No Action Alternative consists of not renewing the 1999 Public Land Withdrawal of 202,864 acres, which is scheduled to expire in November 2021, and not withdrawing or acquiring any new land; and

WHEREAS, FRTC operations on the 1999 Public Land Withdrawal have caused a terrible transformation of Native American ancestral lands and ways of life through:

- (1) damage to many spiritual and cultural sites from bombing, munitions, sonic booms, and fire;
- (2) denied access to spiritual and cultural sites and traditional tribal lands;

- (3) countless flyovers at low altitudes over the several Reservations and traditional tribal lands at all hours; and
- (4) regular sonic booms and other excessive noise; and

WHEREAS, by way of example, the adverse effects of FRTC activities include:

- (1) destruction by bombing activities of the Paiute origin site known as Fox Peak, from which the Father and the Mother dispersed their four children;
- (2) desecration of other cultural sites, such as burials, through air and ground training with live munitions;
- (3) denial or curtailment of access to important cultural sites;
- (4) denial or curtailment of access for hunting animals and gathering of plant materials used for food and material culture;
- (5) extreme and excessive noise levels preventing quiet enjoyment that accompanies, and is essential to, tribal ceremonies and use of natural resources; and
- (6) has offered no actual compensation for the costs suffered by the Tribes for the military activities in the past; and

WHEREAS, the United States Navy is proposing to expand these horrible activities four-fold by:

- (1) continuing use of approximately 30,000 acres of permanently withdrawn federal land;
- (2) requesting Congressional renewal of the 1999 Public Land Withdrawal of 202,864 acres;
- (3) requesting Congress withdraw and reserve for military use up to 618,727 acres of additional federal land;
- (4) acquiring approximately 65,153 acres of private or state-owned (non-federal) land;
- (5) constructing range infrastructure to support extensive training, including new target areas; and

(6) expanding and reconfiguring existing special use airspace and establishing new airspace with the current boundary to accommodate the expanded bombing ranges; and

WHEREAS, since time immemorial, the Fallon Paiute-Shoshone Tribe, the Lovelock Paiute Tribe, the Walker River Paiute Tribe, the Yomba Shoshone Tribe, the Pyramid Lake Paiute Tribe, the Duck Valley Sho-Pai Tribe, and the other 21 federally recognized Tribes in Nevada have engaged in religious and cultural ceremonies and other activities on or near the 915,880 acres (1,431 square miles) of lands identified above, as established through oral tradition, ethnography, burial practices, material culture, and other evidence, and as recognized by the United States Claims Commission; and

WHEREAS, the United States Treaty with the Western Shoshoni (1863) did not give the United States authority to own the air space over lands identified in the Treaty, and Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied; or otherwise used or acquired, and

WHEREAS, the renewal of the 1999 Public Land Withdrawal and its four-fold territorial expansion would continue the shameful and tragic history of seizing tribal lands, desecrating tribal religious, burial and cultural sites, and preventing tribal nations from engaging in our cultural practices; and

WHEREAS, since the renewal and expansion has been proposed, the Department of Defense has failed to properly consult with affected tribal nations in violation of the sacred trust responsibilities the United States owes all tribal nations including through Executive Order 13175 and the Department of Defense American Indian and Alaska Native Policy, 32 C.F.R §775 et. seq., and denied tribal nations information and funding needed to fully identify and assess the potential impacts of the proposed renewal and expansion; and

WHEREAS, the Department of Defense has held multiple meetings regarding FRTCM with non-elected tribal representatives who do not officially and legally represent their respective nations in the role of tribal consultation, and these past meetings were not adequately recorded in order for the impacted nations to review the proceedings of these meetings; and

WHEREAS, despite repeated written requests, NASF has not responded to the Fallon-Paiute Shoshone Tribe's requests for the funding necessary to conduct

surveys of the proposed expansion area so that cultural sites can be identified and excluded from any renewal and expansion; and

WHEREAS, the Inter-Tribal Council of Nevada (ITCN), which represents the 27 member tribal nations in Nevada, through Resolution No. 06-ITCN-19, supports the Fallon Paiute Shoshone Tribe, including their request for meaningful consultation, the receipt of all relevant information, and a fully-funded cultural resources inventory of the proposed expansion area; and

WHEREAS, the Inter-Tribal Council of Nevada (ITCN), supports Resolution WR-65-2019 of the Walker River Paiute Tribe, which identifies areas impacted and contaminated by NASF activities, and speaks of the “Legacy” issue that identifies financial damages owed to the Tribe and land lease issues that need to be resolved, and that the request in the Resolution will be submitted for legislative language development for such amendment that will be presented to Congress in 2020; and

WHEREAS, NASF public land withdrawal is but one example where the United States military has failed to properly consult and seek tribal consent for the establishment, renewal, or expansion of installations affecting tribal lands, resources, or areas of cultural or historic significance.

NOW THEREFORE BE IT RESOLVED, that the member Tribes of ITCN support the No Action Alternative the Final Environmental Impact Statement for the Fallon Range Training Complex Modernization because of the impacts these expansions would have on tribal cultural resources and life ways; and

BE IT FURTHER RESOLVED, ITCN calls on the United States military to engage in meaningful consultation with tribal nations affected by such expansions, share all relevant information, facilitate visits to the expansion site, fully fund studies that would allow affected tribal nations to better identify the cultural and spiritual sites within the proposed expansion area; and

BE IT FURTHER RESOLVED, ITCN calls on the United States military to ensure that all affected tribal nations secure the ability to access cultural and spiritual sites identified by the affected tribal nations, and to protect these sites by excluding them from any renewal and/or expansion of military installations without the free, prior and informed consent of the affected tribal nations; and

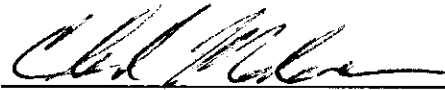
BE IT FURTHER RESOLVED, ITCN call on Nevada elected Congressional Representatives to take the concerns of the Nevada nations to Congress for action; and

BE IT FINALLY RESOLVED that this resolution shall be the policy of ITCN until it is withdrawn or modified by subsequent resolution.

CERTIFICATION OF ADOPTION

The foregoing Resolution was adopted at the duly called Meeting of the Board of Directors of the Inter-Tribal Council of Nevada held on January 31, 2020, by a vote of 13 FOR, 0 AGAINST, and 1 ABSTENTION.

Dated: 2-7-20



Chad Malone
Secretary, Inter-Tribal Council of Nevada, Inc.

**The National Congress of American Indians
Resolution #ABQ-19-006**

TITLE: Opposing Renewal and Expansion of United States Military Installations without Tribal Consent and Calling on the United States Military to Meaningfully Consult with Affected Tribal Nations Regarding Impacts to Sacred Sites

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, Naval Air Station Fallon (NASF) has operated on 232,000 acres of ancestral lands and reservations of several federally-recognized tribal nations, most recently as authorized by a 1999 Public Land Withdrawal; and

WHEREAS, NASF operations on the 1999 Public Land Withdrawal have caused a terrible transformation of those ancestral lands and ways of life through: (1) damage to many spiritual and cultural sites from bombing, munitions, sonic booms, and fire; (2) denied access to spiritual and cultural sites and traditional tribal lands; (3) countless flyovers at low altitudes over the Fallon Paiute-Shoshone Reservation and traditional tribal lands at all hours; and (4) regular sonic booms and other excessive noise; and

WHEREAS, by way of example, the adverse effects of NASF activities include: (1) destruction by bombing activities of the Paiute origin site known as Fox Peak, from which the Father and the Mother dispersed their four children; (2) desecration of other cultural sites, such as burials, through air and ground training with live munitions; (3) denial or curtailment of access to important cultural sites; (4) denial or curtailment of access for hunting animals and gathering of plant materials used for food and material culture; (5) extreme and excessive noise levels preventing quiet enjoyment that accompanies, and is essential to, tribal ceremonies and use of natural resources; and



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NCAI HEADQUARTERS

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WHEREAS, the United States Navy is proposing to expand these horrible activities four-fold by: (1) continuing use of approximately 30,000 acres of permanently withdrawn federal land; (2) requesting Congressional renewal of the 1999 Public Land Withdrawal of 202,864 acres; (3) requesting Congress withdraw and reserve for military use up to 618,727 acres of additional federal land; (4) acquiring approximately 65,153 acres of private or state-owned (non-federal) land; (5) constructing range infrastructure to support extensive training, including new target areas; and (6) expanding and reconfiguring existing special use airspace and establishing new airspace with the current boundary to accommodate the expanded bombing ranges; and

WHEREAS, since time immemorial, the Fallon Paiute-Shoshone Tribe has engaged in religious and cultural ceremonies and other activities on the 915,880 acres (1,431 square miles) of lands identified above, as established through our oral tradition, ethnography, burial practices, material culture, and other evidence, and as recognized by the United States Claims Commission; and

WHEREAS, the renewal of the 1999 Public Land Withdrawal and its four-fold territorial expansion would continue the shameful and tragic history of seizing tribal lands, desecrating tribal religious, burial and cultural sites, and preventing tribal nations from engaging in our cultural practices; and

WHEREAS, since the renewal and expansion has been proposed, NASF has failed to properly consult with affected tribal nations in violation of the sacred trust responsibilities the United States owes all tribal nations including through Executive Order 13175 and the Department of Defense American Indian and Alaska Native Policy, 32 C.F.R §775 et. seq., and denied tribal nations information and funding needed to fully identify and assess the potential impacts of the proposed renewal and expansion; and

WHEREAS, despite repeated written requests, NASF has not responded to the Fallon Paiute-Shoshone Tribe's requests for the funding necessary to conduct surveys of the proposed expansion area so that cultural sites can be identified and excluded from any renewal and expansion; and

WHEREAS, the Inter-Tribal Council of Nevada (ITCN), which represents the 27 member tribal nations in Nevada, through Resolution No. 06-ITCN-19, supports the Fallon Paiute Shoshone Tribe and other tribal nations in their opposition to the NASF renewal and expansion, including their request for meaningful consultation, the receipt of all relevant information, and a fully-funded cultural resources inventory of the proposed expansion area; and

WHEREAS, NASF public land withdrawal is but one example where the United States military has failed to properly consult and seek tribal consent for the establishment, renewal, or expansion of installations affecting tribal lands, resources, or areas of cultural or historic significance.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) strongly opposes the renewal and expansion of military installations, including the Naval Air Station Fallon as proposed by the United States Navy, because of the impacts these expansions would have on tribal cultural resources and life ways; and

BE IT FURTHER RESOLVED, NCAI calls on the United States military to engage in meaningful consultation with tribal nations affected by such expansions, share all relevant information, facilitate visits to the expansion site, fully fund studies that would allow affected tribal nations to better identify the cultural and spiritual sites within the proposed expansion area; and

BE IT FURTHER RESOLVED, NCAI calls on the United States military to ensure that all affected tribal nations secure the ability to access cultural and spiritual sites identified by the affected tribal nations, and to protect these sites by excluding them from any renewal and/or expansion of military installations without the free, prior and informed consent of the affected tribal nations; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.


CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2019 Annual Session of the National Congress of American Indians, held at the Albuquerque Convention Center, October 20-25, 2019, with a quorum present.



Fawn Sharp, President

ATTEST:



Juana Majel Dixon, Recording Secretary



FALLON PAIUTE-SHOSHONE TRIBE

February 14, 2019

Naval Facilities Engineering Command Southwest
Code EV21.SG
1220 Pacific Highway
Building 1, 5th Floor
San Diego, CA 92132

Re: Comments on the Draft Environmental Impact Statement (DEIS) for the proposed expansion of Naval Air Station Fallon

To Captain David Halloran, Mr. Baskerville, and responsible officials,

Please accept this comment letter on the Draft Environmental Impact Statement (DEIS) for the proposed expansion of Naval Air Station Fallon, submitted by the Fallon Paiute-Shoshone Tribe. These comments supplement comments the Tribe submitted on the preliminary DEIS on June 15, 2018, which are incorporated here by reference. The Tribe also attaches a letter from acoustics experts at the Greenbusch Group, which discusses noise impacts to specific locations and suggests appropriate mitigation.

The proposed expansion constitutes a continuation of the shameful legacy of the United States military seizing tribal lands and would cause grievous harm to the Fallon Paiute-Shoshone Tribe and its members. The expansion, and training enabled by the expansion, would eliminate access to hundreds of thousands of acres of ancestral lands and cause irreparable harm to the Tribe's cultural and spiritual sites. The DEIS has several fatal substantive and procedural flaws explained below. As a result, the DEIS is an inadequate basis to support the expansion. For these reasons, the Fallon Paiute-Shoshone Tribe strongly opposes expansion.

If expansion occurs, the Navy must minimize the impacts of that expansion and mitigate those impacts to the greatest extent possible. Areas that are sacred to the Tribe should be removed from the expansion if within the proposed expansion and protected as sensitive noise areas if near training areas. Flights over the Tribe's Reservation and identified sites of cultural concern should be avoided to reduce noise impacts.

The Tribe has not been afforded adequate opportunity or information to consider and prepare comments about the proposed expansion, which forever would foreclose the opportunity for Tribal members to engage in its cultural practices. For those areas that must remain within the expansion, the Tribe requests that the Navy share existing ethnographic data with the Tribe on a confidential basis, and then provide sufficient time, access, and funding for the Tribe and other affected tribes

to conduct a robust analysis of cultural and spiritual sites. Based on past Navy practices within the existing expansion area, without such ethnographic analysis, cultural and spiritual sites that are often thousands of years old likely would be ruined by training activities, including the proposed use of live munitions and ordnance. Even if areas are not damaged by explosions, access would be forever curtailed. As the Navy concedes in the DEIS, areas used for air training with live munitions are now permanently suitable or safe for any ground-based access.

As cultural sites are identified, the Tribe requests that the Navy and affected tribes enter into an MOU that guarantees access for Tribal members at regular, set dates and times, so that access to ancestral lands is not subject to a potentially burdensome and discretionary bureaucratic process. Tribal members should not have to ask permission to carry out cultural and religious practices, nor is it appropriate for Navy staff to chaperone Tribal members as they carry out such practices.

In the DEIS and response to comments, the Navy references a 2011 programmatic agreement addressing the use of high explosives, and an internal ethnographic review of the expansion area. The Tribe requests copies of both of those documents so we can understand the nature of the Navy's plans and the information on which its ethnographic analyses are based.

This letter sets forth analytical flaws in the DEIS, suggests appropriate and necessary mitigation, and ends with a list of comments regarding specific suggestions for improvement in the FEIS.

Analytical Flaws

Among other issues, the DEIS fails to accurately identify the baseline for analysis of environmental impacts and fails to account for impacts to the Tribe and its members.

Incorrect Environmental Baseline

A central flaw in the impacts analysis is that it fails to recognize that the existing withdrawal already significantly impacts Tribal members, access to cultural and religious sites, and quality of life on the Reservation, and continuation of the withdrawal past 2021 will perpetuate those impacts. Instead, the DEIS misidentifies the "baseline" as perpetual continuation of the existing withdrawal and related training. The effect of this analytical framework is that construes permanent withdrawal as having no impact at all, which is plainly not the case.

It is well-settled under NEPA that the baseline for impacts analysis must be the world as it exists and will exist without the relevant agency or Congress taking any action. The impacts analysis is inherently forward-looking and measures anticipated deviation from the status quo in the future. Accordingly, the baseline is the same as the no-action alternative. As explained in *Biodiversity Conservation All. v. United States Forest Serv.*, 765 F.3d 1264, 1269 (10th Cir. 2014):

In general, NEPA analysis uses a no-action alternative as a baseline for measuring the effects of the proposed action. See 40 C.F.R. § 1502.14 (requiring that the agency assess a no-action alternative). "The no action alternative may be thought of in terms of continuing with the present course of action until that action is changed. It establishes a baseline against which the proposed action and its

alternatives may be measured." George Cameron Coggins and Robert L. Glicksman, Discussion of Alternatives—The "No Action" Alternative, 2 Pub. Nat. Resources L. § 17:47 (2nd ed. 2014) (internal quotation marks omitted).

In *Ctr. for Biological Diversity v. United States DOI*, 623 F.3d 633, 642 (9th Cir. 2010), the Ninth Circuit applied the same analysis, stating:

The no action alternative is meant to "provide a baseline against which the action alternative []" -- in this case, the land exchange -- is evaluated. *Id.* A no action alternative must be considered in every EIS. See 40 C.F.R. § 1502.14(d).

In establishing the baseline, the test for whether a future event, such as termination of authorization for a land withdrawal, is considered part of the baseline is whether it is "reasonably foreseeable." *Cascadia Wildlands v. BIA*, 801 F.3d 1105, 1112 (9th Cir. 2015).

Here, the DEIS concedes that absent affirmative legislation by Congress, the withdrawal of 202,864 acres of public land will expire in November 2021, and training would only continue on the approximately 65,000 acres of land permanently withdrawn for Navy use. See DEIS 2-4 to 2-5. The 2021 end of the withdrawal is not only "reasonably foreseeable," it is legally certain to occur absent action by Congress. As a result, that is the baseline—two more years of training on approximately 267,000 acres, followed by a reduction.

The Navy's decision to set permanent perpetuation of the current withdrawal and training conditions as the baseline in the DEIS is legally flawed because it does not acknowledge the reality that the withdrawal is time-limited. The analytical approach also unfairly dismisses the experience of Tribal members, because it fails to acknowledge that re-authorization of the withdrawal, even without expansion, would fundamentally impact the life of Tribal members on and around the Reservation.

The Tribe respectfully suggests that in the FEIS, the Navy use the identified "No Action" alternative as the environmental baseline.

Failure to Consider Impacts to the Tribe and its Members

The DEIS is deficient throughout its analysis in that it fails to recognize and analyze the disproportionate impacts Naval training has on members of the Fallon Paiute-Shoshone Tribe. The analysis is conducted largely from a Navy point of view, and in many instances the analytical framework fails to take into account the ways in which Tribal members use lands and experience family and home life.

Adequate analysis of impacts to the Tribe and its members requires more than analysis of impacts to specific cultural or spiritual sites. Adequate analysis requires recognition that many of the impacts of the proposed expansion are uniquely harmful to the Fallon Paiute-Shoshone Tribe and other surrounding tribes, acknowledgment of that differing perspective, and evaluation of impacts as they will be felt by tribal communities.

For example, the DEIS evaluates noise impacts based on a largely physical response—asking whether the noise will regularly disturb sleep, reach noises loud enough to drown out education, or rattle windows in houses. The DEIS largely assumes that noises without such dramatic physical impacts are not significant. However, as detailed further in the attached expert noise report, the noise analysis does not address impacts to life outdoors, to a community that treasures silence and quiet contemplation as part of its experience of its homelands.

The noise analysis is also based on broad-based methodology with respect to what level of noise is irritating and disruptive, without analyzing impacts to Tribal members who are likely more sensitive to lower levels of sound. While the Navy does acknowledge “sensitive receptors,” the identification of sensitive receptors appears to omit the Fallon Paiute-Shoshone Tribe’s Reservation and does not include many sites of cultural and religious significance to the Tribe. *See* DEIS 3.7-14, attached noise report.¹

Similarly, the DEIS fails to analyze the effects of use of live munitions and high explosives in the withdrawn training areas. While to some people, bombing the desert may seem inconsequential, to the Tribe, these explosions are attacking and degrading the Tribe’s history and way of life. The impacts of live munitions include distribution of trash and debris, damage to land, and potential exposure of remains.

Improper and Premature Assessment of Impacts to Cultural, Sacred, and Historic Sites

Impacts from live munitions are particularly concerning with respect to sites and landscapes of cultural, religious, sacred, and historic value to the Tribe and its members.² The DEIS does not adequately analyze impacts to those sites because it fails to account for the many unidentified sites associated with the Tribe and Tribal members’ ancestors within the proposed expansion area. Instead, the cultural resources section of the DEIS relies on existing surveys of varying intensity and comprehensiveness. *See* DEIS Section 3.11.2.5.1. These surveys are not tailored to the proposal, fail to account for traditional cultural landscapes, fail to account for impacts to cultural properties in the vicinity of the expansion that would be adversely impacted by training, are insufficiently detailed, and do not include participation by the affected tribes, including the Fallon Paiute Shoshone Tribe.

In response to comments from the Tribe, the Navy requested that the Tribe identify specific sites of concern. The Tribe can identify regions of concern, which include the area surrounding Fox Peak and Grimes Point, Table Mountain, Rawhide springs, Dixie Meadows hot springs, and the Sand Mountain area.

However, the request for specific sites is premature. In order to identify sites established over thousands of years of use by Tribal members’ ancestors, it is necessary for the Navy and the affected tribes to collaborate on a comprehensive inventory and survey of cultural properties and sites, carried out by members of the affected tribes and mutually agreed-upon archaeological and

¹ The Reservation is within the City of Fallon’s designation as a sensitive receptor, but lacks independent identification and the associated 5-mile radius.

² The Tribe refers to these areas collectively as “traditional properties.”

ethnographic experts. While this process would take time, it is a minimal request given the permanent, adverse impacts of use high explosives at traditional properties.

With respect to analysis of impacts to traditional properties, the analysis fails to recognize that impacts include not only impacts to the sites themselves, but also the ability to experience them for the affected community. For example, while jets training in a traditional cultural landscape may not permanently destroy the landscape, the noise and visual impact adversely impact the landscape by marring its natural state and removing the ability to experience the place. As detailed in the attached expert report, these impacts stretch well beyond the confines of the training areas.

The impacts analysis is deeply flawed in the repeated conclusion that “the continued use of high explosives in existing target areas would not be considered a source of new ground disturbance, as the areas have been previously disturbed and intact archaeological sites do not exist.” *See, e.g.*, DEIS 3.11-26. This statement acknowledges that the training permanently destroys cultural sites, furthering the need for a thorough cultural resources survey as described above. It also relies on the premise that bombs and other explosives will be used in the exact same locations, which is contrary to the central theory of the proposed expansion—that new training areas with new weapons are necessary to prepare for new military threats—and contrary to the reality that there will be errant explosions over time. Moreover, absent authorization, the use of explosives would cease in 2021. The “continued use” of explosives past that time must be fully analyzed (see discussion of environmental baseline above for more detail on this point).

Finally, the impacts analysis for new construction and training is flawed in that it relies on the conclusion that “when possible” “targets and convoys would be placed away from eligible or unevaluated sites.” *See, e.g.*, DEIS 3.11-26. This empty standard provides no mitigation at all. The Navy states that when such avoidance is not possible it will consult with SHPO. Consultation must occur with the affected tribes to be meaningful.

Environmental Justice: The DEIS Fails to Consider Fact That Tribes Will Bear Disproportionate Impacts

One means of properly accounting for impacts to the Tribe would be with a robust analysis from an environmental justice perspective. Federal agencies such as the Navy are required to consider disproportionate impacts to minority groups such as the Tribe, based on President Clinton’s Executive Order 12898 on environmental justice and related Department of Defense policies. Environmental justice requires “fair treatment” of different groups, which according to the DEIS means “that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental, and commercial operations or policies.” DEIS 3.15-1.

Here, the Tribe plainly bears a “disproportionate share of the negative environmental consequences” of the proposed withdrawal and expansion.³ The Reservation is in extremely close

³ The Tribe recognizes that other tribes, such as the Walker River Paiute Tribe and the Yomba Shoshone Tribe, bear a similar burden, and believes that impacts to those tribes must be considered and mitigated.

proximity to NAS, which means that virtually every training mission is audible to Tribal members at some point during the flight. The proposed expansion areas overlap considerably with sacred sites where Tribal members gather medicine and perform ceremonies, and where generations of Tribal ancestors are buried. These are different and disproportionate impacts relative to the general public, that must be taken into account. The Navy must provide meaningful involvement to the Tribe in the agency's decision. Meaningful involvement means that:

- people have an opportunity to participate in decisions about activities that may affect their environment or health,
- the public's contribution can influence the regulatory agency's decision,
- their concerns will be considered in the decision-making process, and
- the decision makers seek out and facilitate the involvement of those potentially affected.

DEIS 3.15-1.

In response to concerns raised by the Tribe in prior comments, the Navy stated that it applied the Environmental Protection Agency's Screening and Mapping Tool, and that under that "established methodology, the Fallon Paiute Shoshone Tribe did not meet the definition" of a minority or low-income population. However, the mapping tool cited is merely a tool—blind adherence to the tool does not satisfy the Navy's legal obligations under NEPA and environmental justice policies to consider impacts to the Tribe as a group disproportionately impacted by the proposed activity.

The Fallon Paiute Shoshone Tribe is a federally-recognized tribe, and clearly qualifies as an "American Indian" minority group. DEIS 3.15-2. Tribal members often live on and around the Reservation, which constitutes a concentrated population. The Tribe has notified the Navy of its location, existence, and that the proposed expansion would impose disproportionate impacts. In light of these known facts, it is illogical to lump the Tribe into the broader general population and to rely on census data for screening analysis. The arbitrariness of this approach is clear when some tribes, such as the Yomba Shoshone Tribe, are considered to be "minority populations" by the Navy, but other tribes, such as the Fallon Paiute Shoshone, are not. *See* DEIS 3.15-7. Second, even if census data is employed, the Navy's approach is based on inadequate data. The DEIS, 3.15-3 to 3.15-5, repeatedly states that in applying its screening tool, census block group data was not available, so the Navy used census tract data instead. A census block group has an optimum size of 1,500 people, while a census tract has an optimum size of 4,000 people. The difference between these approaches is consequential for the Tribe, which has fewer than 700 enrolled members residing on the Reservation. The Navy's lack of adequate data reinforces its obligation to take into account other factors, including the self-identification of the Tribe as an impacted minority group.

Courts have repeatedly invalidated NEPA documents for employing approaches similar to that adopted by the Navy. For example, the NEPA analysis associated with the Dakota Access Pipeline impermissibly diluted impacts to the Standing Rock Sioux Tribe by selecting an arbitrary range of impact and conducting analysis of a population area that failed to take into account the relatively

small population of the Tribe. See *Standing Rock Sioux Tribe v. United States Army Corps of Eng'rs*, 255 F. Supp. 3d 101 (D.D.C. 2017). And in *N. Cheyenne Tribe v. Hodel*, Case No. CV 82-116-BLG, 12 Indian Law Rep. 3065, 3068 (D. Mont. May 28, 1985), the court ruled that NEPA analysis for a coal leasing program was invalid because it failed to take into account impacts on the nearby Northern Cheyenne Tribe as an independent population: “[i]t appears obvious that the Department was required to consider the impacts, including social and economic impacts, of federal coal development on the Northern Cheyenne community.”

The Tribe requests that the Navy conduct environmental justice analysis that accurately reflects the Tribe’s status as a disproportionately affected minority community, and that the Navy include mitigation that avoids and reduces impacts to the Tribe and its members.

Proposed Mitigation

As detailed in the Tribe’s June 15, 2018 comment letter and discussed in meetings with the Navy, the Tribe opposes expansion of NAS and has deep concerns about increased loss of access to its ancestral lands. For those areas that the Tribe will be able to access, the visual and auditory impacts of the training would impair use of those sites.

If expansion goes forward, the Tribe suggests the following process:

1. The Navy should fund and facilitate a comprehensive cultural resources survey of the expansion area and the immediate vicinity, in collaboration with the affected tribes.
2. Based on that survey, the Navy and tribes should identify traditional properties that must be protected.
3. Traditional properties outside the expansion area should be treated as sensitive receptors, with flyovers and nearby training avoided (like the Navy provides for Crescent Valley and Eureka).
4. Traditional properties identified inside the expansion area should be considered for removal from the expansion. If they must stay within the expansion, those areas should be off-limits for use with ground-disturbing activities, such as construction or practice with munitions.
5. For traditional properties within the expansion area, the Navy and tribes should negotiate an MOU which allows for access at agreed times throughout the year, so that discretionary and individual permission is not required. The visits should not include accompaniment by Navy officials, which is impermissible in many tribal cultural practices, such as religious ceremonies, gathering of medicines, and visits to ancestors’ remains.
6. The Navy should substantially reduce the amount of withdrawal acreage for the Dixie Valley Training Area and support Wilderness and National Conservation Area

designations to assure permanent protections for the natural and cultural resources for both the Stillwater Range and Dixie Valley and to assure these areas do not become developed.

These procedures should be developed in coordination with the tribes, before finalization of the FEIS. Absent finalization of access rights and other issues, the FEIS and Section 106 consultation will not adequately address environmental impacts and impacts to traditional properties, because the extent of those impacts will be unknown.

Finally, the Tribe suggests that, to the maximum extent possible, the Navy employ training with inert munitions. It is unclear that training truly requires actual explosives to be effective, and the impacts of the explosives on the land and the surrounding community are consequential, permanent and intense. Indeed, the DEIS concedes that areas used for live munitions can no longer be safely used for ground-based training because of unexploded ordnance and weapons debris. *See* DEIS 2-58. This concession reveals that use of live munitions causes permanent severe restrictions on access and land use. These impacts should be avoided to the maximum extent possible, through use of inert munitions.

Specific Additional Concerns

The Tribe lists specific additional concerns with the DEIS below.


- Throughout the analysis, the DEIS focuses on impacts at each training range independently, without adequate discussion of flights and travel between the training areas. The Tribe requests that all aspects of training activities be considered, including overflights and vehicle traffic in transit to training areas.
- The Navy suggests that it is not proposing to increase the number of training activities, but rather to distribute the same amount of training over more space. However, it is reasonably foreseeable that with more space and capacity, the Navy will increase training activities in the future. These reasonably foreseeable impacts must be considered in the DEIS to avoid impermissibly segmenting the proposal.
- Spreading training does not effectively dilute impacts—training with jets and explosives will still be loud, and the noise will permeate a greater area.
- The Tribe opposes allowing geothermal and other mineral development in the Dixie Valley Training Area. Those uses degrade traditional properties and the ability of Tribal members to participate in cultural and religious activities, and when combined with military training would have significant cumulative impacts.
- Each of the action alternatives includes overlap of training area with “11,600 acres of BLM's proposed Fox Peak Area of Critical Environmental Concern.” The Fox Peak ACEC was proposed by the Tribe to the Bureau of Land Management and is of critical importance to the Tribe. The Navy does not provide a reasonable range of alternatives—at least one

alternative must completely avoid the Fox Peak ACEC. The Tribe suggests that one alternative eliminate withdrawal of the Fox Peak ACEC, the Fallon National Wildlife Refuge, the Dixie Valley Training Area, and sites located through a comprehensive cultural resource survey.

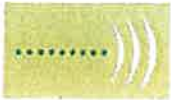
- The Navy proposes designating Crescent Valley and Eureka as noise-sensitive areas with noise buffer zones. *See* DEIS 3.7-54. The Tribe suggests the same treatment for the Tribe's Reservation, the Fox Peak ACEC, Table Mountain, Grimes Point, Sand Mountain, and Rawhide Springs. Each of these areas is of critical importance to the Tribe.
- The action alternatives include Navy legislative requests for funding to relocate roads and a pipeline, which are likely to be extremely expensive. *See* DEIS 1-34. These expenses and associated impacts should be considered as part of the DEIS. Additionally, the Navy should consider whether funding may mitigate impacts to other areas, through land acquisition or other means.
- The DEIS lacks adequate analysis of the climate change impacts of emissions from training, particularly air training. Emissions of water vapor, carbon dioxide, and other substances at altitude have a severe climate impact.
- The Tribe notes that cultural impacts for purposes of NEPA are much broader than those considered under the NHPA, and the two statutes should not be conflated. While the NHPA focuses on impacts to properties eligible for registration on the National Register of Historic Places, NEPA mandates consideration of all impacts to the human environment. For example, impacts to medicine gathering and ceremonial and religious use of withdrawn lands and surroundings lands must be considered under NEPA.
- A main justification for the enormous size of the proposed withdrawal is to provide a safety buffer for errant live munitions. *See* DEIS 1-12; DEIS 2-3. The Navy should consider an alternative where use of inert munitions is maximized, which would eliminate many impacts of their use and vastly decrease the size of the proposed withdrawal.
- The Navy plans significant ground-disturbing construction, including construction of villages and conex box targets without surrounding ground clearing. These construction activities should involve tribal monitors for cultural resources. *See* DEIS 2-12.
- The Navy states that it would "support, fund, and participate" in NEPA analysis for road relocation and other anticipated activities associated with the withdrawal. The Navy should similarly fund and support tribal participation in these NEPA processes, and other consultation needs associated with implementation of the expanded training area. It is unfair for tribes to both lose access to lands and then have to fund staff to evaluate ongoing impacts.

- The Tribe suggests that the Navy not withdraw Fallon National Wildlife Refuge lands, particularly since the Navy does not plan to use the lands. USFWS is the expert agency in land management for wildlife and should retain ownership and control. The proposed MOU could change and leave the area vulnerable to future training activities. *See* DEIS 2-16.
- The Tribe opposes removing Wilderness Study Area status from the areas identified on DEIS 2-18. The Navy should consider requesting permanent wilderness status for these areas, which will prevent development and enhance surrounding training opportunities.
- The Tribe strongly opposes any change that diminishes the boundaries of the Fox Peak ACEC. *See* DEIS 2-18.
- The DEIS states that supersonic training should not occur below 30,000 feet of altitude but allows deviations where necessary for training purposes. This extremely broad exception renders the 30,000-foot minimum meaningless. The Tribe suggests a mandatory 30,000-foot minimum without exceptions.
- The Tribe is concerned that the “Site Visit Management Program” described at DEIS 2-34 would not prioritize use for non-military purposes and would, as a practical matter, severely limit or eliminate access for Tribal members. The Tribe is also concerned that the program would be bureaucratically burdensome and discretionary. The Navy should work with affected tribes to establish designated areas with open visit times for tribal members. The Tribe suggests that the Site Visit Management Program should be operated by a third-party or delegated to tribal management, to ensure continued access.
- As discussed further in the appended expert report, the use of speech interference as the measure of noise disturbance fails to take into account the importance of quiet reflection at culturally significant areas and is an overly narrow scope of analysis. *See* DEIS 3.7-7. It also fails to take into account the heightened impacts of noise to Tribal members, who place a very high value on quiet.

On behalf of the Fallon Paiute Shoshone Tribe please accept these preliminary comments and understand that additional comments will arise as this process proceeds. Please direct any questions or responses to me at (775) 423-6075 or via email at chairman@fpst.org or in my absence please contact our Tribal Vice Chairwoman, Yvonne Mori at (775) 423-1132 or via email at eysdirector@fpst.org.

Sincerely,

for
Len George, Chairman
Fallon Paiute-Shoshone Tribe

Encl.



DATE: February 14, 2019

TO: Fallon Paiute Shoshone Tribe

FROM: ADAM C. JENKINS, PE, INCE BD. CERT.

RE: FRTC MODERNIZATION – REVIEW OF DEIS NOISE REPORT

Transmitted by: Mail Delivery Fax E-mail

1

2 At the request of the Fallon Paiute Shoshone Tribe (“Tribe”), I have reviewed the following
3 section of the Draft Environmental Impact Statement (“DEIS”):

4 1. Chapter 3.7 Noise, FRTC DEIS, prepared by Blue Ridge Research and Consulting,
5 November, 2018 (“Report”)

6 **Summary**

7 While the Report provides a comprehensive evaluation of potential noise impacts from the
8 project on many noise-sensitive receptors, adequate investigation of potential noise impacts
9 of the following outdoor areas of special tribal significance are either absent or fall short of a
10 full evaluation, as shown in Figure 1.

- 11 1. Dixie Valley Hot Springs
- 12 2. Fox Peak
- 13 3. Table Mountain
- 14 4. Grimes Point
- 15 5. Sand Mountain
- 16 6. Rawhide Springs

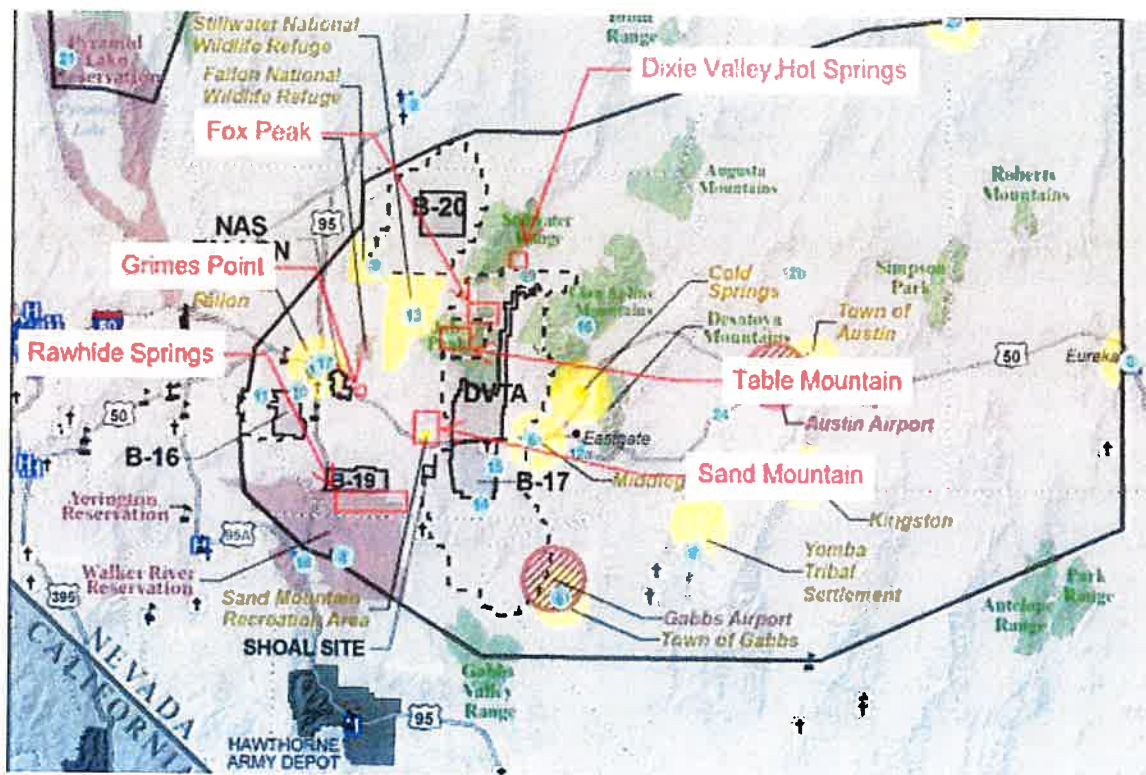
17 In Figure 1, DEIS “Point of Interest Noise Modeling Locations” are represented by text inside
18 blue circles with numbers ranging from 1 to 24. As shown in the figure, very few areas of
19 special tribal significance were analyzed for noise impacts and most do not include a noise
20 analysis location within five miles. However, even where a noise analysis location was located
21 nearby, it appears only outdoor speech interference was used as an impact criterion, which is
22 not adequately protective of the use.

23 I recommend the following additional analysis be conducted while preparing the FEIS:

- 24 1. Ambient noise monitoring in areas of special tribal significance.
- 25 2. Assessment of potential noise impacts from aircraft overflight, munitions, and
26 supersonic events that may present a substantial increase to existing background
27 noise conditions and disrupt tribal use of these areas.
- 28 3. Presentation of the above assessment and past speech interference analysis (tables
29 and figures) showing predicted daily event counts and sound levels.
- 30 4. Mitigation development to reduce extent of noise impacts identified from the above
31 investigation.

1 **Figure 1. Areas of Special Tribal Significance (based on DEIS Figure 3.7-26)**

2



3

4 **Proposed Actions and Alternatives**

5 The United States Department of the Navy ("Navy") oversees operations at the Fallon Range
6 Training Complex ("FRTC") under a 1999 Public Land Withdrawal spanning 202,864 acres
7 near Fallon, Nevada. The FRTC Project DEIS considers the following alternative

8 1. No Action

- 9 a. Allow existing land withdrawal to expire in November, 2021.
10 b. Significantly reduce military training operations at FRTC.

11 2. Alternative 1 (Proposed Action)

- 12 a. Request renewal of existing land withdrawal.
13 b. Request withdraw and reservation of an additional 618,727 acres of Federal
14 land and 65,153 acres of non-Federal land for military use (337% increase).
15 c. Infrastructure upgrades and expansions to bombing and other training areas.
16 d. Restricted access to areas B-16, B-17, B-20, and Dixie Valley Training Area
17 ("DVT")

18 3. Alternative 2 (Managed Access)

- 19 a. Similar actions as Alternative 1, with allowing for continued public use of certain
20 FRTC areas during specific hours.

21 4. Alternative 3 (Preferred Alternative)

- 1 a. Modifications to boundaries of B-16, B-17, B-20, and DVTA compared to
- 2 Alternative 1.
- 3 b. Similar public access as allowed by Alternative 2.

4 **Noise and Effects**

5 The auditory response to sound is a complex process that occurs over a wide range of
 6 frequencies and intensities. Decibel levels, or “dB,” are a form of shorthand that compresses
 7 this broad range of intensities with a convenient numerical scale. The decibel scale is
 8 logarithmic. For example, using the decibel scale, a doubling or halving of energy causes the
 9 sound level to change by 3 dB; it does not double or halve the sound loudness as might be
 10 expected.

11 The minimum sound level variation perceptible to a human observer is generally around 3-
 12 dB. A 5-dB change is clearly perceptible, and an 8 to 10 dB change is associated with a
 13 perceived doubling or halving of loudness. The human ear has a unique response to sound
 14 pressure. It is less sensitive to those sounds falling outside the speech frequency range.
 15 Sound level meters and monitors utilize a filtering system to approximate human perception
 16 of sound. Measurements made utilizing this filtering system are referred to as “A weighted”
 17 and are called “dBA”.

18 Common sound pressure levels are reported below in Table 1.

Table 1. A-weighted Levels of Common Sounds

Sound	Sound Level (dBA)	Approximate Relative Loudness ¹
Jet Plane @ 100 feet	130	128
Rock Music with Amplifier	120	64
Thunder, Danger of Permanent Hearing Loss	110	32
Boiler Shop, Power Mower	100	16
Orchestral Crescendo at 25 feet	90	8
Busy Street	80	4
Interior of Department Store	70	2
Ordinary Conversation @ 3 feet	60	1
Quiet Car at Low Speed	50	1/2
Average Office	40	1/4
City Residence, Interior	30	1/8
Quiet Country Residence, Interior	20	1/16
Rustle of Leaves	10	1/32
Threshold of Hearing	0	1/64

1. As compared to ordinary conversation at 3 feet.

Source: US Department of Housing and Urban Development, Aircraft Noise Impact Planning Guidelines for Local Agencies, November 1972.

19 “Noise” is defined as unwanted sound. Human exposure to noise can result in a variety of
 20 responses, including hearing damage, speech interference, sleep disruption, and a variety of
 21 cardiovascular and psychophysiological effects. A variety of noise “metrics” have been
 22 developed to provide a numerical means to establish impact and effect thresholds.

1 **Metrics**

2 • **Ambient Sound Level**

3 A sound pressure level that describes the sound environment at a specified location
4 during a specified time period including contributions from all sound sources, both local
5 and distant, excluding specific sources of interest or under investigation.

6 • **Background Sound Level**

7 A sound pressure level that describes the sound environment at a specified location
8 during a specified time period including contributions from all continuous sound
9 sources, both local and distant, exclusive of extraneous events, such as aircraft,
10 intermittent traffic, animals, people, etc. The L_{90} descriptor is often accepted by
11 jurisdictions as representative of the background sound level, describing the sound
12 level exceeded 90% of the time.

13 • **Day-Night Sound Level, L_{dn}**

14 L_{dn} is the L_{eq} measured over a 24-hour interval, with sound levels between 10:00 PM
15 and 7:00 AM penalized by 10 dB to reflect greater potential for disturbance. The
16 nighttime penalty is imposed where sleep interference is a consideration. The L_{dn} has
17 been found to have a close correlation with community response to noise, primarily in
18 residential areas.

19 • **Sound Exposure Level, SEL**

20 SEL represents the total sound energy during a measurement period normalized to
21 one second, reported in decibels with a reference pressure of 20 μ Pa for airborne or
22 1 μ Pa for underwater.

23 • **Maximum Sound Level, L_{max}**

24 L_{max} is the maximum recorded root mean square (rms) A-weighted sound level for a
25 given time interval or event. L_{max} "fast" is defined as a 125-millisecond time-weighted
26 maximum, while L_{max} "slow" corresponds to a 1-second time-weighted maximum.

27 **Analysis Review**

28 The Report presents sound level predictions for subsonic and supersonic aircraft operations
29 and munitions testing for existing conditions and each alternative, and reports the following
30 conclusions:

31 1. No Action

32 a. Reduction in noise emissions from FRTC, no noise impacts.

33 2. Alternatives 1, 2, and 3

34 a. Result in significant impacts on the acoustic environment, focused in the
35 eastern project area in the expanded special use airspace.

36 Noise mitigation measures proposed in the Report to address these impacts are limited to
37 logs and investigations of noise complaints, potential buffer areas around Crescent Valley and
38 Eureka, and airspace exclusion area over Gabbs airport. It should be noted that it appears
39 some of these measures were included in the noise analysis input parameters and would
40 therefore not further-reduce the extent of predicted noise impacts. In general, the Report

1 appears to not identify any additional mitigation or abatement measures to resolve predicted
2 noise impacts.

3 The Report acknowledges “recreationist may experience outdoor speech interference” in
4 some areas, generally near the town of Gabbs and in areas near airfields and flight tracks,
5 using a threshold based on “the number of events per daytime hour ... that are greater than
6 the instantaneous maximum sound level of 65 dB L_{max} .” However, there are no tables or
7 figures that present predicted L_{max} values in outdoor areas within the project footprint, only
8 references in the text as to whether an impact may be present in certain areas. Therefore, the
9 basis by which the analysis was used to determine the conclusions presented in the Report
10 is not presented. While this threshold (65 L_{max}) may be reasonable for speech interference, it
11 does not address human disruption in sacred outdoor areas. Impacts to these types of
12 activities would be more accurately assessed by investigating the increases to the “natural
13 quiet” of the environment represented by the background sound level (hourly L_{90}).

14 Information that is presented in the Report indicates long-term average increases of up to 6
15 dB (L_{dn}) in areas of special tribal significance (Rawhide Hot Springs) and very high sound
16 levels from some aircraft operations (84 dBA overflight events from F-35A, 8 dB louder than
17 the existing condition) near Dixie Valley Hot Springs for all alternatives. Even though the
18 Report states that an increase of 5 dB or more would “indicate a substantial degradation in
19 the noise environment,” since neither of these areas were identified as noise-sensitive
20 receptors, it appears investigation of these noise impacts was not performed.

21

22

23 Respectfully Submitted;



24

25 Adam C. Jenkins, PE, INCE Bd. Cert.

26 Principal

27



FALLON PAIUTE-SHOSHONE TRIBE

August 21, 2019

Sent Via Email Only

Commanding Officer Captain Evan L. Morrison
CNRSW_PAO_Broadway_Complex@navy.mil

Amy Kelley
amy.p.kelley@navy.mil

Alexander Bethke
Abethke@navy.mil

Michael Baskerville
michael.c.baskervill@navy.mil

Re: Request for Consultation and Supplemental Comments on the Draft EIS for Fallon Training Range Complex Modernization EIS

Captain Morrison, Ms. Kelley, Mr. Baskerville, and Mr. Bethke:

I write to you on behalf of the Fallon Paiute-Shoshone Tribe (the Tribe). This letter responds to recent developments in the Navy's analysis of impacts of the proposed expansion of Naval Air Station Fallon, and supplements previous comments and materials submitted by the Tribe regarding the proposed expansion.

The Tribe requests that the Navy consider these comments in preparation of the Final Environmental Impact Statement and evaluation of alternatives, based on the ongoing duty to consult with the Tribe on a government-to-government basis. The Tribe also requests that these supplemental comments be considered as part of ongoing analysis under Section 106 of the National Historic Preservation Act, 54 U.S.C. §300101 *et seq.* (NHPA).

The Tribe has previously explained its deep concern that the proposed expansion would renew and greatly expand the impact of NAS Fallon. The withdrawal includes the heart of our aboriginal territory that includes many of our traditional hunting, gathering and sacred places that the Tribe as expressed to the Navy representatives continually at every meeting. In addition to the adverse impacts to our traditional lifeways, the renewal will harm Tribal members living on and near the Reservation, through the health impacts of frequent flyovers. Expansion will further harm Tribal members by eliminating access to more than 660,000 acres of our homelands and forever damaging sacred sites and traditional cultural properties.

The areas the Navy proposes for expansion and training with live munitions include but not limited to the Stillwater Range, Dixie Valley, Rawhide Hot Springs, Sand Mountain, Clan Alpines and areas surrounding Fox Peak and the Stillwater Marsh. The Tribe has lived in and continually used these areas for thousands of years, and the area affected includes "Our Mother" and "Our Father," where the Tribe was created. Since World War II the Navy has used our sacred sites as military targets which included our Mother and Father Stone at the base of Fox Peak as well as Medicine Rock in the middle of BRAVO 20. These sacred sites are the equivalent of the Vatican to Catholics, or Mecca to Muslims. The expanded withdrawal also includes many sacred and confidential burial sites, which are now at risk of bombing. The proposal to use munitions on and near the sites is akin to proposing military training at Arlington National Cemetery. The Navy's attempt to restrict access to the Tribe's homelands and destroy them through military training is a shameful perpetuation of the Navy's long legacy of damaging sacred Tribal resources.

Despite its opposition to expansion, the Tribe has provided concrete and workable mitigation proposals to the Navy, including suggested terms for an MOU which guarantees regular access to cultural sites for Tribal members, and funding and implementation of a cultural resources study prior to withdrawal. The Navy has ignored those suggestions.

As explained further below, the Tribe again requests formal government-to-government consultation with NAS Fallon leadership and development of a programmatic agreement in close cooperation with the Tribe as required by the National Historic Preservation Act and Navy policy. Resolution of adverse effects to traditional cultural properties requires a thorough cultural resources inventory, identification and protection of all sites, and guaranteed regular access for Tribal members. Finally, the Tribe requests that the Navy consider the best available evidence about noise impacts and risks of fire associated with Navy training, and to implement appropriate mitigation to reduce or eliminate those impacts.

Government to government consultation

The Navy is in violation of its consultation obligations including its own protocols. As a federal agency, the Navy has a solemn fiduciary obligation to Indian tribes, which includes the Fallon Paiute-Shoshone. To fulfill its trust duties to the Tribe, the Navy must *inter alia* follow the "American Indian and Alaska Native Policy and Department of Defense Instruction Number 4710.02: DoD Interactions with Federally-Recognized Tribes." In addition, the Navy must follow "SECNAV INSTRUCTION 11010.14B," which pertains to the Navy's trust obligations to federally-recognized Indian tribes, including the Fallon Paiute-Shoshone. Navy policy includes guidance for government-to-government consultation.

The DoD instruction requires government-to-government consultation including "meaningful communication addressing tribal concerns between tribes and military installations at both the tribal leadership-to-installation commander and the tribal staff-to-installation staff levels." Consultation requires that "DoD must provide affected tribes an opportunity to participate in the decision-making process that will ensure these tribal interests are given due consideration in a manner consistent with tribal sovereign authority," and timely, good faith communication throughout proposal development.

Navy guidance recognizes that consultation is a recurring requirement, and further specifies that

“[c]onsultations regarding proposed DON actions may include, but are not limited to ground-disturbing activities, construction, training, low level overflights, management of sites with religious or cultural significance, protection of sacred sites, access to sacred sites, access to subsistence and medicinal natural resources, disposition of cultural items ... and land use decisions.” While “formal agreement is not necessary to satisfy consultation requirements,” the Navy “is committed to developing and maintaining long-term working relationships of respect, trust, and cooperation with Indian tribes.”

Unfortunately, the Navy has failed to uphold its trust duties to the Fallon Paiute-Shoshone Tribe and is not following DoD or Navy instruction. The new Commander for Naval Air Station Fallon has yet to meet with Fallon Tribal leadership. After a year of diligently commenting and seeking to partner with the Navy in development of cultural resources inventories and an access memorandum of understanding, the Tribe recently learned through a public disclosure request that the Navy has abandoned development of a programmatic agreement with the affected tribes in favor of an agreement with the Nevada State Historic Preservation Office and the Advisory Council on Historic Places that excludes affected tribes. This discovery severely undermines any remaining confidence in the sincerity of the Navy’s consultation efforts.

It is shameful that the Navy has failed to respond to the Tribe’s repeated requests to facilitate a cultural resources inventory of the area proposed for renewal and withdrawal, has failed to present a draft memorandum of agreement for access to cultural sites, and appears to have failed to make use of existing cultural resources inventories held by the Bureau of Land Management and the SHPO. The Navy has asked the Tribe to identify all cultural sites on the more than 660,000 acres affected, with little notice on a desktop-sized map and with no resources made available to assist. In the meetings that have occurred, staff persons have not prepared agendas in advance, have not followed up on any requests, and have not provided meeting notes or minutes as requested. In short, consultation has not been “meaningful” but rather appears to be a cursory effort to fulfill what the Navy appears to view as a bureaucratic checklist.

Given the Navy’s rapid timeline, and instead of further staff-level meetings which have proven to be fruitless, the Tribe requests consultation between the NAS Fallon Commanding Officer and Tribal leadership, explanation of how cultural resources will be adequately identified and protected, and prompt preparation and sharing of a draft programmatic agreement and memorandum of agreement for access to cultural sites.

Consultation under the NHPA

The Navy is currently in violation of Section 106 of the National Historic Preservation Act, which requires it to consult with the Tribe prior to any undertaking that “is a type of activity that has the potential to cause effects on historic properties.” 36 CFR § 800.3(a). “Effect means alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.” 36 C.F.R. § 800.16(i). The criteria for inclusion on the National Register are listed at 36 C.F.R. § 60.4. “An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property’s location, design, setting, materials, workmanship, feeling, or association...Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur

later in time, be farther removed in distance or be cumulative.” 36 C.F.R. § 800.5(a)(1).

The “integrity” of the site includes the ability of a resource to convey its significance through its setting and location. Access to the resource is key to the conveyance of significance. Indeed, the National Park Service, which administers the National Register of Historic Places, states a mission to “protect and provide access to our Nation’s natural and cultural heritage and honor our trust responsibilities to tribes.”¹

Up until very recently, the Navy has taken the correct position that the proposed withdrawal of public lands and associated transfer to the Navy, with associated loss of access and consequence of intensive military training on sacred sites, constitutes an undertaking that triggers Section 106 consultation. The Navy proposed development of a Programmatic Agreement with the Tribe and other parties to fulfill the Navy’s Section 106 duties, and went so far as to promise in writing to provide a draft of such a document by June 2, 2019.

The Navy abruptly reversed course, abandoned the development of a programmatic agreement, and now apparently proposes to amend an existing Programmatic Agreement that does not involve any tribe as a concurring or signatory party. This new approach is unlawful and unacceptable to the Tribe. The withdrawal of public lands removes access for Tribal members to their traditional cultural properties. The lands would change from management by the Bureau of Land Management, with broad public access, to use for military training with associated destructive impacts and limited access. Because access is a key component of the integrity of historic properties, the loss of access is an impact that triggers Section 106 consultation. The Navy may achieve lawful consultation through development of a programmatic agreement with the Tribe or consultation on the undertaking; the Navy may not simply defer its obligations to some unknown later date after withdrawal has occurred.

The Navy should follow its initial plan and negotiate a programmatic agreement in good faith with the Tribe. The agreement should include careful inventory of cultural resources in the Area of Potential Effect, as required by the NHPA. Because the withdrawal involves impacts to sites of cultural, religious, and sacred significance, the Tribe should be consulted and invited to be a signatory to the agreement. 36 C.F.R. § 800.3(c)(2)(ii); 36 CFR § 800.6(c)(2)(ii).

The Tribe notes that even if the 2011 Programmatic Agreement applies, the Navy is not complying with its terms. The agreement requires the Navy to identify the APE, and then perform an inventory of the cultural resources within the APE. The Navy has not conducted such an inventory, nor has it made “reasonable and good faith efforts to timely obtain funds necessary” for an inventory as required by the PA. Where the Navy determines there are impacted cultural resources, it must consult with the SHPO and determine if all impacted resources are eligible for listing in the National Register of Historic Places. If the Navy seeks to amend the 2011 PA, Section X requires that any amendment comply with 36 C.F.R. 800.14(b). 36 CFR 800.14(f) mandates that “[w]hensoever an agency official proposes a program alternative pursuant to paragraphs (a) through (e) of this section, the agency official shall ensure that development of the program alternative includes appropriate government-to-government consultation with affected Indian tribes and consultation with affected Native Hawaiian

¹ National Register Bulletin, “How to Apply the National Register Criteria for Evaluation,” available at https://www.nps.gov/subjects/nationalregister/upload/NRB-15_web508.pdf. (emphasis added).

organizations.” The Fallon Paiute-Shoshone Tribe is an “affected Indian tribe” under this regulation, and must be consulted in the amendment or development of a programmatic agreement. Such consultation has not occurred.

In sum, as the Tribe has repeatedly conveyed to the Navy in meetings, letters, and comments, the area proposed for withdrawal and training is extremely rich in traditional cultural resources and preservation of those resources is of utmost importance to the Tribe. Compliance with the NHPA requires the Navy to perform a careful and thorough cultural resources inventory of the entire area proposed for renewal and expansion, and to involve the Tribe in any programmatic agreement or memorandum of understanding. Resolution of adverse effects will require identification and protection of traditional cultural properties and guaranteed regular access for Tribal members.

Supplemental NEPA comments

The Tribe requests that the Navy consider supplemental comments regarding likely impacts of the proposed renewal, withdrawal, and training.

Fire is a major concern for the Tribe given the generally hot and dry conditions in the region and the Navy’s insistence on training with live munitions. As an example of the risk presented by the Navy’s proposal, the Navy accidentally started the 1999 Sand Springs Fire, which spread to nearby BLM land and eventually burned all of Fairview Mountain. The mountain is a culturally significant area where Tribal members have gathered pine nuts from native pinyon pine trees for generations. The trees were burned in the fire and the Navy made no remediation efforts. The mountain is now covered in invasive plants and a significant cultural resource has been lost. With expanded training and no adequate fire prevention, fighting, or remediation plan in place, the Tribe has grave concern that fire will adversely impact both the training area and adjacent areas. The Tribe requests that the Navy create a detailed fire management plan that includes remediation, and secure funding for its implementation for the entirety of the withdrawal period.

These supplemental comments also incorporate a comment letter submitted by the Washington State Department of Health to the Navy regarding expansion of Growler training on Whidbey Island, Washington. The comments are notable in that they provide expert opinion on the impacts of noise to nearby residents, including both auditory and non-auditory impacts. The comments also recommend that the Navy carry out a health impact assessment which takes into account residents’ actual experiences, rather than simply relying on generalized (and often outdated) research.

While the Growler expansion would take place in a different region and involves somewhat different technology, the deficiencies and concerns noted by the Washington State Department of Health are also issues with the NAS Fallon DEIS. The Tribe requests that the Navy consider the enclosed Washington State Department of Health comments and references as part of the Tribe’s comments on this project, and apply the Washington State Department of Health recommendations to the National Environmental Policy Act and NHPA analysis of NAS Fallon expansion. A health impact assessment is particularly appropriate and necessary given the environmental justice impacts of imposing noise on the Tribal community.

Thank you for your consideration. Please contact me at the address provided or the Tribe's attorney for this matter, Wyatt Golding, at wgolding@ziontzchestnut.com or 206-448-1230, with any questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads "Len George". The signature is stylized and cursive.

Len George, Chairman
Fallon Paiute Shoshone Tribe

Encl.

CC: Honorable Fallon Business Council
Honorable Nevada Senator Catherine Cortez Masto
Honorable Nevada Senator Jacky Rosen
Honorable Nevada Congressman Mark Amodei
Wyatt Golding, FPST Tribal Attorney
Michael Toombs, FPST Tribal Administrator
Rochanne L. Downs, FPST Cultural Resources



FALLON PAIUTE-SHOSHONE TRIBE

January 17, 2020

By Email Only

karnig.ohannessian@navy.mil

Karnig Ohannessian
Deputy Assistant Secretary
United States Navy

Re: Summary of December 18, 2019 Meeting

Deputy Assistant Secretary Ohannessian,

Thank you for the opportunity to comment on the summary of the December 18, 2019 meeting that was held in Carson City, NV regarding the proposed Fallon Range Training Complex (FRTC) Modernization. As I understand from Fallon Paiute Shoshone and other Tribal representatives present at the meeting, your summary omits important information. As a result, it is not a fair representation of the meeting. Below is a list and explanation of some of the major omissions. We conclude this letter by explaining that we hope that your involvement will begin a process in which meaningful government-to-government consultation can start.

1. Your summary fails to include any information about the concerns expressed at the outset and throughout the meeting about the Navy's failure to properly consult with the Tribes. For example, at the beginning of the meeting, Tribal representatives commented that the meeting was scheduled without any consultation or coordination with the Tribes. This omission is important. The only respectful way to initiate a consultation is to contact the parties and arrive at a suitable date for consultation well in advance of the meeting. Without this courtesy, it is not possible to have an effective meeting because the parties will not be able to ensure that their representatives can be prepared and attend. Indeed, Walker River Tribal representatives were forced to leave the December 18 meeting early due to other commitments. In the future, the parties should cooperate to arrive at a suitable date and receive adequate notice of any meeting. The lack of appropriate coordination for the December 18 meeting is, unfortunately, consistent with the failure of the Navy to provide adequate notice and information throughout the process in which it contends it is consulting with the Tribes. Since meetings began in 2018, the Navy has been unwilling to share meeting minutes despite its promises to do so. The materials presented at the December 18 meeting showing timelines, consultation procedures, and maps were not handed out at the meeting. We requested the materials, but were only provided two of the slides over two weeks after the request was made. We re-requested the other materials. Likewise, as expected, the Programmatic Agreement was discussed December 18, yet no related documentation was shared to help with those discussions.

2. Your summary contains references to Tribal concerns about the “proposed FRTC expansion areas.” The repeated reference to the “expansion areas” does not appear to include FRTC’s current 232,000 acres. However, past and potential future damages at, and lack of access to, the current FRTC lands are of enormous importance to the Tribes, as expressed repeatedly at the December 18 meeting and at a multitude of prior meetings and written submissions. The Tribes have been denied access to those lands, and the cultural sites therein, and sacred sites have been horribly damaged. We don’t want history to repeat itself. It is this lack of access and destruction of sites that forms the basis for the Tribes’ concerns about the plight of sites on any new lands added to FRTC.

3. The single sentence reference to Ms. Kerr from the Advisory Council of Historic Preservation (ACHP) in your summary is out of context and is inconsistent with other statements at the meeting. The best evidence of the ACHP position is its December 10, 2019 letter which provides important guidance on steps the Navy should take. In short, any proposed conditions (such as loss of access) or use of the land constitute an undertaking that may affect historic properties, which triggers Section 106 consultation requirements under the National Historic Preservation Act.

4. The paragraph about cultural resource surveys does not include the statement made by the Navy at the December 18 meeting that is not necessary for all areas within the proposed areas need to be surveyed.

5. Your summary includes “several key measures” by which the Navy contends it will address Tribal concerns, and lists them at the end of the summary. For example, for the first time you state there will be a plan to protect Tribal burials and the Navy will have a Tribal Liaison. This is contrary to the Navy’s statement two months ago that it will need to bomb our burials in the name of national defense, which was repeated by the Tribe at this meeting but not included in your summary. Indeed, you fail to include any feedback from the Tribes about your “key measures.” For example, the Tribes stated they should have a role in the hiring and oversight of the Tribal Liaison. Without including in the summary the Tribal perspectives on the measures the Navy intends to take, it appears that the Navy does not understand the Tribe’s ideas and therefore could not consider or implement them. Also, none of the alleged, planned measures are spelled out in any detail in time and scope. The role of the Tribe, the nature of the Tribal positions, and the Navy’s obligations are not specified. It is remarkable that after two years of meetings with the Navy, and repeated demands in writing and in-person for such mechanisms, the Navy is only now referencing these intentions but without specificity. Again, this failure shows a lack of respect toward the Tribes.

In closing, the Tribe continues to urge the Navy to be more open and forthright. Despite repeated promises in the past, the Navy has not shared information with the Tribe that is necessary for it to participate in a meaningful consultation process. While true consultation has not occurred, we continue to stand ready to engage in a meaningful process in which the Tribe’s views are recognized and addressed. At the December meeting, we saw the beginning of a better process, but we are unfortunately only starting after two years of wasted efforts.

Letter to Dep Asst Sec Ohannessian
January 17, 2020
Page 3 of 3

We appreciate this opportunity to correct the record.

Sincerely,



Len George
Tribal Chairman

cc: December 18 Meeting Attendees



Office of the
CHURCHILL COUNTY COMMISSIONERS

*Carl Erquiaga
Pete Olsen
Bus Scharmann*

February 6, 2020

The Honorable Catherine Cortez Masto
516 Hart Senate Office Building
Washington, DC 20510

The Honorable Jacky Rosen
144 Russell Senate Office Building
Washington, DC 20510

The Honorable Mark Amodei
104 Cannon House Office Building
Washington, DC 20515

The Honorable Steven Horsford
1330 Longworth House Office Building
Washington, DC 20515

Governor Steve Sisolak
State Capitol Building
101 North Carson Street
Carson City, NV 89701

RE: *Churchill County and City of Fallon Position on the Navy's Proposed Fallon Range Training Complex (FRTC) Modernization Project as Described in the Final Environmental Impact Statement and Request for Congressional Support with the upcoming Legislative Process*

Dear Senator Cortez Masto, Senator Rosen, Mr. Amodei, Mr. Horsford, and Governor Sisolak:

Churchill County, Nevada (County) and the City of Fallon (City) are the proud home of Naval Air Station Fallon and we maintain our support for the Navy's mission here and abroad. As a formal Cooperating Agency, the County has been extensively engaged in the Fallon Range Training Complex Modernization Project (FRTC Modernization) Environmental Impact Statement (EIS) process since it began. The County's interest in this high level of participation was to ensure that the Navy can continue to operate and train, while, at the same time, minimizing and mitigating the impacts of the proposed range expansion on our customs, culture and economy for this and future generations. Throughout the process, the County and City have coordinated on their shared interest in seeing the project move forward in a manner that addresses our shared interests and concerns.

We would like to thank you and your staff for your continued attention and engagement with this project, in addition to helping facilitate direct conversations with the Navy. We would also like to thank Governor Sisolak for advancing the Nevada Consolidated Proposal, which we believe is consistent with many of the items contained herein. The County still supports the Nevada Consolidated Proposal and looks forward to our continued engagement with the state and local work groups.

We would like to thank the Navy for holding a public meeting in Fallon following the release of the Final EIS in order to receive direct input from local citizens and stakeholders. Attendance and interest at the January 28, 2020 meeting is just a small example of the input that has been received throughout this process. We would also like to thank the Navy for its efforts in seeking resolutions to our outstanding concerns throughout the NEPA process. We acknowledge further improvements to the Navy's proposal, but still have significant remaining concerns with the Final EIS and Proposed FRTC Modernization as

documented in this letter and attachments. As such, we are respectfully requesting your support in resolving these remaining concerns through the Legislative process.

The County has provided extensive comments, incorporated herein by reference, throughout the National Environmental Policy Act (NEPA) process, including but not limited to:

- Formal scoping comments to the Navy's original FRTC Modernization Proposal;
- Cooperating Agency comments to the Navy's Administrative Draft Environmental Impact Statement (EIS);
- Formal comments to the Navy's Draft EIS;
- Cooperating Agency comments to the Navy's Administrative Final EIS, Version 2; and,
- This comment, which has been copied to the Navy for their consideration prior to signing their Record of Decision.

These above-listed comments have been coupled with our communications with your office, as well as full engagement as a Cooperating Agency in the NEPA Process. This includes County participation in hundreds of hours of meetings with Navy officials and other cooperating agencies. The purpose of this engagement has been to try to improve the Navy's project by identifying concerns raised by our staff, citizens and stakeholders; offering proactive solutions to address those concerns; and, seeking to improve the clarity and accuracy of the Navy's EIS. Our goal was to arrive at a proposal offered in the Final EIS that the County could support and advocate for throughout the subsequent Legislative process. While we acknowledge and appreciate improvements between the Navy's original proposal and the Final EIS, Alternative 3, we cannot offer support of the Navy's Preferred Alternative. The balance of this correspondence is intended to articulate, as clearly as possible, what the County and City could support in the form of a Legislative proposal for the FRTC Modernization and an associated Churchill County Lands Bill.

Final EIS Comments: Based on our review of the Final EIS, we remain opposed to the No Action Alternative, as well as Alternatives 1 and 2. While Alternative 3 (Preferred Alternative) is the most favorable of the proposed alternatives, we do NOT support Alternative 3 as described in the Final EIS. This opposition is based on a host of remaining unresolved concerns that have been documented in this and in previous County comments to the Navy. To date, these concerns have either not been adequately represented in the Final EIS or not addressed in a manner that meets our desired level of resolution. We have attached a list of our most significant *Concerns, Errors and Omissions with the FRTC Modernization Final EIS*. We realize that some of these unresolved items may be addressed in the Navy's Record of Decision and, as such, we plan to review this document and reserve the right to amend our positions, as appropriate.

Proposed FRTC Modernization: The below items represent our proposed changes to the Navy's Preferred Alternative (3) as described in the Final EIS. These items have been mapped and are included in the attached map entitled *Churchill County Proposed Fallon Range Training Complex Modernization and Lands Bill*. We realize that this proposal may not meet the Navy's full request for training expansion; however, the proposed changes still provide a significant improvement in training capacity, while minimizing some, not all, of the significant impacts identified and articulated by us throughout the NEPA process. We have also pointed out areas that appear to have been resolved through the NEPA process, provided they are clearly articulated in the Navy's signed ROD and/or final Legislative authorization, as appropriate.

Bravo 16: We would support expansion of the Bravo 16 Range as described in Alternative 3 of the Final EIS provided that the final Congressional approval includes the following modifications (see attached map):

1. Avoiding the West-Wide Energy corridor, existing power transmission line and existing access road along the western edge of the withdrawal area.
2. Adjusting the northern and northwest corner of the proposed weapons danger zone to accommodate a re-route of Sand Canyon / Red Mountain Road around the north perimeter and northwest corner of the withdrawal area, at the Navy's expense. The road would be constructed to match the existing condition of Sand Canyon Road and located in a perpetual right-of-way dedicated to Churchill County. The re-route would utilize existing roads and trails to the greatest extent possible in order to minimize new disturbance and would also provide administrative and emergency access and serve as fuel break between the B-16 Range and public / private lands immediately north of the Range. The County would assume future management and maintenance of the road.
 - a. We have identified two routes (a preferred option and an alternative) for the re-route of Red Mountain Road (see attached map).
3. Relinquishing to the Department of Interior three sections of existing Navy withdrawn land located in the northeast corner of B-16 for the purpose of future transportation (Nevada Department of Transportation's alignment for the Interstate 11 corridor) and utility corridors without imposing on adjacent residential neighborhoods.
4. Requiring the Navy to allow quarterly chaperoned public visits to the Salt Cave, an important cultural site. This requirement would be in addition to offering tribal visits and an allowance for scheduled special events, such as OHV races.

We appreciate the following Navy commitments in the Final EIS and support the following inclusions in the Navy ROD and Congressional Approval:

1. Avoiding Simpson Road (southeast corner) by modifying its proposed expansion and proposing relinquishment of its existing expansion under and south of the Road.
2. Allowing for continued flood mitigation and emergency spill of flood waters into and across B-16.
3. Reconstructing Lone Tree Road at the Navy's expense to safely accommodate the Navy's use of this road through a rural residential neighborhood.
4. Allowing access for academic, cultural and special scheduled events such as off-highway vehicle races.

Bravo 17: We would support expansion of the Bravo 17 Range as described in Alternative 3 of the Final EIS provided that the final Congressional approval includes the following modifications (see attached map):

1. Reducing the withdrawal area to match the Weapons Danger Zone. This is especially critical in the areas around Bell Mountain to accommodate public access and mineral development.
 - a. See attached map for proximity of Bell Mountain mineral claims in relation to the proposed withdrawal area.
2. Ensuring that biologically sensitive areas identified by the Nevada Department of Wildlife are avoided in terms of target placement and future training activities.
 - a. This map is included in Appendix D, Page D-11 of the Final EIS.
3. Ensuring that roads identified by the County as qualifying for RS 2477 designation are available for the Controlled Access Hunt Program and any other access for special events and visits.

We appreciate the following Navy commitments in the Final EIS and support the following inclusions in the Navy ROD and Congressional Approval:

1. Avoiding State Route 839, which is the County's preferred alignment for the Interstate 11 corridor.
2. Avoiding Earthquake Fault and Fairview Peak Roads.
3. Re-routing State Route 361, at the Navy's expense, prior to closure of the existing alignment.
4. Committing to a minimum 15-day Controlled Access Hunt Program, as well as access for academic, cultural, and special scheduled events such as off-highway vehicle races.

Bravo 20: We would support expansion of the Bravo 20 Range as described in Alternative 3 of the Final EIS provided that the final Congressional approval includes the following modifications (see attached map):

1. Avoiding Pole Line Road.
 - a. The County previously offered to work with the Navy on the realignment of Pole Line Road in a manner that provides similar access points to US Highway 95 in Churchill County and Coal Canyon Road in Pershing County. However, the Navy has not been willing to entertain a realignment that reduces its proposed Weapons Danger Zone, and such a requirement does not allow for a viable transportation corridor. The County would remain open to supporting a realignment similar to that contained in the Nevada Consolidated Proposal Map dated October 15, 2019.
2. Avoiding the Fallon National Wildlife Refuge.

We appreciate the following Navy commitments in the Final EIS and support the following inclusions in the Navy ROD and Congressional Approval:

1. Avoiding East County Road (eastern boundary) by modifying its proposed expansion under and east of the Road.
2. Avoiding the Stillwater National Wildlife Refuge.

Dixie Valley Training Area: While the Navy stated at the January 30, 2020 stakeholder meeting that decisions regarding the Dixie Valley Training Area were still fluid, and we continue to welcome constructive engagement on the future of this critical area, it is important to note that we do not support expanding the Dixie Valley Training Area through a military withdrawal and/or reservation. Rather, we support Congressional designation of the Dixie Valley Special Management Area (DVSMA), which would include the following:

1. The DVSMA would continue to be managed by the Department of Interior's Bureau of Land Management for multiple use management under the Federal Public Land Management Act. Wildlife management authority would remain with the State of Nevada, through its Nevada Department of Wildlife, except for those species managed under the Endangered Species Act by the US Fish and Wildlife Service.
2. The DVSMA would be withdrawn from the General Mining Act of 1872, thereby prohibiting location and development of locatable minerals.
3. Provided they avoid important biological and cultural resources, the DVSMA would permit Navy training activities and infrastructure described in the Final EIS without the need for a BLM casual use analysis, including:
 - a. Installation of permanent aircraft threat emitters and two electronic warfare training sites.

- b. Temporary aircraft threat emitters.
 - c. Ground training and convoy training that utilizes existing roads.
 - d. Aircraft training, which would include a flight floor of 50' above ground level, except for that area designated as a flight sanctuary area (bound to the north by the boundary of the DVSMA, to the east by the Clan Alpine Wilderness Area, south by existing power transmission line, and west by existing power transmission line.)
4. The DVSMA would prohibit the following land uses:
- a. Any temporary or permanent structures over 40' in height, or any temporary or permanent land use authorization that would interfere with Navy night vision, communications, and electronic warfare training as determined by the Navy in consultation with the BLM and project proponent.
 - b. Within the flight sanctuary area, all land use authorizations would be prohibited unless associated with grazing, water rights, or public access. No temporary or permanent structures would be allowed in excess of 10' in height without prior authorization.
5. The DVSMA would explicitly permit the following land uses and authorizations:
- a. Public access and recreation would not be closed or curtailed in any manner. Recreation would continue to be managed by the BLM.
 - b. Grazing would not be closed or curtailed in any manner. Grazing would continue to be managed by the BLM.
 - c. Churchill County's Dixie Valley Water Project, which must comply with the above-listed prohibitions (i.e. height limitations). Churchill County was encouraged by positive comments from the Navy at the meeting on January 30 where the Navy noted its openness to compensation to the County related to any additional required design features, such as underground transmission lines, that could be imposed by the Navy.
 - d. Geothermal exploration and development, as managed by the BLM in coordination with the Navy, west of State Route 121 with no change in laws or regulations dictating project implementation and disposition of proceeds to state and local government.
 - e. Exploration and development, as managed by the BLM in coordination with the Navy, of salable minerals or other fluid or leasable minerals in coordination with the Navy.
 - f. All existing roads identified by Churchill County as RS 2477 Roads shall be granted perpetual rights-of-way by the BLM.
 - g. Utility rights-of-way to accommodate future development (Churchill County previously suggested 1-mile wide) would be permitted immediately west of the existing north-south power line along SR 121 and immediately north of US Highway 50.

Also, as relates to Dixie Valley, the Navy should not purchase any private property where landowners are not willing sellers, such as with Bench Creek Ranch.

Special Land Management Overlay (SLMO): We support implementation of the SLMO south of Highway 50 as proposed in the Final EIS provided the Navy's ROD and/or final Legislative authorization clearly defines the stipulations described in the Final EIS (i.e. lands remain open to public access and under management authority of the BLM).

Other Key Provisions: The following provisions are applicable to all proposed FRTC expansion areas:

- Provide appropriate compensation for all private property (including water and mineral rights) affected by the Navy, see funding authorizations below.

- Mitigate and/or compensate grazing permittees for any permanent losses, including permanent loss of grazing permits issued by the BLM and any real property, see funding authorizations below.
- Minimize withdrawal areas to the greatest possible extent, particularly around the Bravo Ranges to minimize access and multiple use management to the greatest degree.
- Include County and City representation in any work groups or oversight committees responsible for FRTC Modernization implementation.
- The Navy must increase its operational capacity, budget, and coordination with federal, state and local agencies in order to improve its wildland fire fighting and management (pre-suppression and restoration efforts) commensurate with its proposed expansion and additional training capabilities.

Churchill County Proposed Lands Bill: The below components are directly related to FRTC Modernization Project either by the direct geographic nexus / proximity to the proposed expansion and/or by the ability of these provisions to mitigate remaining residual impacts to our customs, culture, and economy. We understand this is the beginning of a dynamic Legislative process, and we reserve the right to amend this proposal as warranted per stakeholder feedback and ever-evolving information.

Conservation Provisions: The following conservation provisions would be included (see map):

1. Designation of the Grimes Point and Stillwater Range National Conservation Areas coupled with release of the Stillwater Mountains and Job Peak Wilderness Study Areas.
2. Designation of the Clan Alpine, Desatoya (Churchill County portion), and Augusta Mountains (Churchill County portion) Wilderness Areas coupled with release of the Clan Alpine Mountains, Desatoya Mountains (Churchill County portion) and Augusta Mountains (Churchill County portion) Wilderness Study Areas.
3. See below section on funding authorizations that would support conservation programs.

Economic Development and Land Use Provisions: The following economic development provisions would be included (see map):

1. A checkerboard resolution area would be designated and a process to consolidate private and public lands as would be established. The process for consolidating private and public lands would include input from the County, City, appropriate federal and state entities, as well as interested stakeholders.
2. Public lands surrounding the existing City of Fallon landfill would be conveyed to the City of Fallon as a public purpose conveyance for future operations and expansion of the landfill.
3. FRTC Modernization Mitigation Conveyances, as shown on the attached map, would be conveyed from the appropriate federal agency to the County in order to offset impacts from the proposed FRTC Modernization. These specific conveyance parcels are either located within the Economic Opportunity Zone or in areas identified by stakeholders directly affected by the FRTC Modernization.

Transportation Provisions: The following transportation provisions would be included (see attached map):

1. The County has identified its preferred Interstate 11 corridor, as well as the Nevada Department of Transportation's preferred corridor (see attached map) through Churchill County. We would ask that these two corridors be Congressionally designated as preliminary rights-of-way, subject

to subsequent NEPA processes as appropriate, and that the FRTC Modernization process does not interfere in any way with either right-of-way.

2. The County has identified its preferred Sand Canyon / Red Mountain Road corridor, as well as an alternative corridor. We would ask that the Navy, at its expense, construct a road in one of these two corridors to maintain a level of public, administrative, and emergency access around the B-16 range. The road would be built to match the current condition of Sand Canyon Road and would be placed in a right-of-way that would be designated to the County in perpetuity with the County assuming maintenance responsibility.

Funding Authorizations: The following funding authorizations would need to be included in order to implement the Navy's proposed modernization, as well as facilitating key mitigations outlined above:

- **Specific to Private Property (Including Land, Mineral Claims, and Water Rights):** Authorize and appropriate funding to compensate all private property owners.
 - **Specific to Water Rights:** Authorize and appropriate funding to compensate all water right holders (including those with claims of vested rights and permits) within the final withdrawal area, unless said rights can be otherwise mitigated.
 - **Specific to Mining and Mineral Resources (including geothermal):** Authorize and appropriate funding to compensate all mining claimants within the proposed withdrawal areas (Bravo Ranges and DVTA).
- **Specific to Grazing:** Authorize and appropriate funding to compensate for any grazing losses to permittees and lease holders for the permanent loss of their grazing permit and/or other real property as well as the remaining balance on any business loan for lease payments. In addition, permittees and lease holders should be given a 3-year tax deferral on the sale of the allotment and any cattle, due to the withdrawal, to allow them to find replacement property.
- **Specific to Ground Transportation:** Authorize and appropriate funding to:
 - Relocate State Route 361 (Gabbs Highway);
 - Rebuild Lone Tree Road;
 - Relocate Sand Canyon / Red Mountain Road (B-16), which must be designed and built to the current condition of Sand Canyon Road; and
 - If difficult decisions regarding Pole Line Road is completely unavoidable, the Navy would relocate, at its expense, to match the current condition of Pole Line Road.
- **Specific to Land Conveyances:** Authorize and appropriate funding for a Dedicated Land Consolidation Fund to facilitate special conveyance and resolution of checkerboard land ownership pattern in Churchill County. These funds would be available for completing required cultural, environmental, and realty actions and documentation to complete conveyance of public lands to non-public owners or vice versa.
- **Specific to Socioeconomics:** Authorize and appropriate funding to a Dedicated Planning Fund with programs similar to those offered through the Office of Economic Adjustment for State and Local Planning and required planning updates due to the FRTC Modernization.

- Appropriate funding to the existing Readiness and Environmental Protection Initiative (REPI) specific to the FRTC area to help offset impacts through cooperative conservation projects (i.e. conservation easements) with private landowners, local governments, and state agencies.
- **Specific to Public Health and Safety:** Authorize and appropriate funding to a Dedicated Wildland Fire Suppression Fund in order to provide for state and local government fire management activities within the FRTC (including Navy-owned and withdrawn lands, as well as private and public lands located under Navy airspace). This would be in addition to the Navy’s internal efforts and improved capacity to manage fire per their own capabilities.
 - Authorize and appropriate funding to a Dedicated Wildland Fire Restoration Fund in order to provide for state and local government post-fire management restoration activities within the FRTC (including Navy-owned and withdrawn lands as well as private and public lands located under Navy airspace).
- **Specific to Recreation:** Authorize and appropriate funding to a Dedicated Recreation Fund to facilitate state and local government directed recreational improvements that mitigate impacts associated with the FRTC Modernization.
- **Specific to Biological Resources:** Authorize and appropriate funding to a Dedicated Wildlife Fund to facilitate State-directed wildlife management that mitigates impacts associated with the FRTC Modernization including the area under Navy air space.
- **Specific to Noise:** Authorize and appropriate funding for a noise study specific to Greater Sage Grouse within the FRTC Modernization.

The County and City continue to believe that the FRTC Modernization Project can be implemented in a manner that meets the Navy’s needs and minimizes impacts to an acceptable degree. To meet this goal, there will need to be a collective effort to ensure the Navy’s Record of Decision and final Legislative Authorization(s) and Appropriation(s) includes further changes to the Navy’s proposal, a Churchill County Lands Bill component and appropriate funding authorizations as outlined above. We understand this will be a dynamic process and both the City and the County stand ready to be part of the solution for this important project. For additional information, please contact County Manager Jim Barbee at (775) 423-5136.

Thank you,



Pete Olsen, Chair
Churchill County Board of Commissioners

Thank you,



Ken Tedford, Mayor
City of Fallon

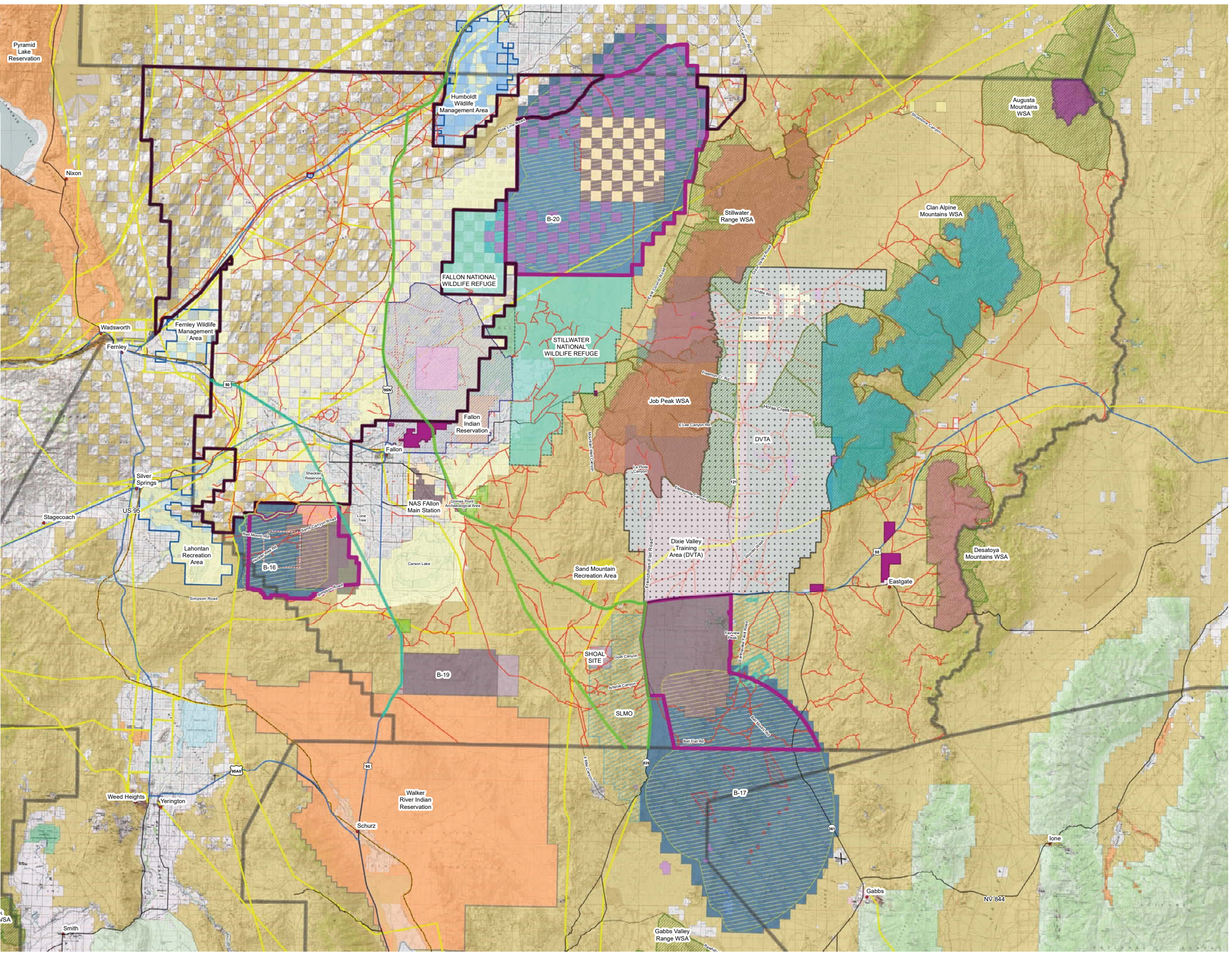
Attachments: Churchill County Proposed Fallon Range Modernization and Lands Bill Map

Concerns, Errors and Omissions with the FRTC Modernization Final EIS

cc:

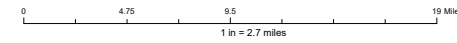
Congresswoman Dina Titus
Congresswoman Susie Lee
Nevada Consolidated Stakeholders, Care of: Bradley Crowell, Director
Nevada Department of Conservation and Natural Resources
Nevada Association of Counties
The Honorable Lucian Niemeyer, Acting Assistant Secretary of the Navy
(Energy, Installations and Environment)
Mr. James B. Balocki, Deputy Assistant Secretary of the Navy
(Installations and Facilities)
Mr. Todd C. Mellon, Principal Deputy Assistant Secretary of the Navy
(Energy, Installations and Environment)
Mr. James D. Omans, Director of Real Estate, Office of the Assistant Secretary of the
Navy (Installations and Environment)
Captain Evan L. Morrison, Commander, Naval Air Station Fallon
Mr. Alex Stone, Project Manager, FRTC Modernization, Environmental Impact Statement
Ms. Sara Goodwin, SW Regional NEPA Coordinator,
Naval Facilities Engineering Command Southwest, Code EV21.SG
Mr. Jon Raby, Nevada State Director, Bureau of Land Management
Mr. Ken Collum, Field Manager, Stillwater Field Office, Bureau of Land Management
Mr. Carl Lunderstadt, Manager, Stillwater National Wildlife Refuge

- Legend**
- Cities/ Towns
 - ▭ County Boundary
 - ▬ Railroad
 - ▬ Transmission Lines
 - Roads**
 - ▬ Highway
 - ▬ Major Road
 - ▬ County Roads
 - ▬ RS2477 Roads
 - Existing Special Designations**
 - ▭ Grimes Point Archeological Area
 - ▭ State Wildlife Management Area (WMA) or Recreation Area
 - ▭ Wilderness Study Areas
 - ▭ Bell Mountain Mineral Claims
 - ▭ Economic Opportunity Zone
 - ▭ Indian Lakes Area
 - ▭ Sand Mountain Recreation Area
 - Land Surface Management***
 - ▭ Bureau of Reclamation
 - ▭ Bureau of Land Management
 - ▭ Bureau of Indian Affairs
 - ▭ Department of Defense
 - ▭ Fish and Wildlife Service
 - ▭ Forest Service
 - ▭ State of Nevada
 - Existing Navy Withdrawal Areas****
 - ▭ Navy Owned Land
 - ▭ Withdrawn from BLM (Closed)
 - ▭ Withdrawn from BLM (Open)
 - ▭ Withdrawn from BLM (Open, Proposed Closed)
 - Proposed Navy Withdrawal Areas****
 - ▭ Withdrawal from BLM (Closed)
 - ▭ Withdrawal from BLM (Open)
 - ▭ Non-Federal Land (Proposed for Navy Purchase)
 - ▭ Special Land Management Overlay
 - ▭ Weapon Danger Zone
 - ▭ Target Areas
 - ▭ Immediate Action Drill Ground Maneuver Area and Close Air Support Target Area
 - Churchill County Proposed FRTC Modernization**
 - ▭ B-16 (48,632 Acres)
 - ▭ B-17 (94,268 Acres, Churchill County Portion)
 - ▭ B-20 (189,069 Acres)
 - ▭ Dixie Valley Special Management Area (269,572 Acres)
 - Proposed Conservation Designations**
 - ▭ Grimes Point NCA
 - ▭ Stillwater NCA
 - ▭ Clan Alpine Wilderness Area
 - ▭ Desatoya Mountains Wilderness Area (Churchill County Portion)
 - ▭ Augusta Mountains Wilderness Area (Churchill County Portion)
 - Proposed Economic Development Designations**
 - ▭ Checkerboard Resolution Area
 - ▭ Public Purpose Conveyances
 - ▭ FRTC Modernization Mitigation Conveyances
 - Proposed Transportation Designations**
 - ▭ County Preferred Red Mountain Road Realignment
 - ▭ County Alternate Red Mountain Road Realignment
 - ▭ County Preferred I-11 Corridor (Churchill County Portion)
 - ▭ NDOT I-11 Corridor (Churchill County Portion)



**Churchill County Proposed
Fallon Range Training Complex Modernization
and Lands Bill**

Data Sources:
©2010 BLM NV Surface Management Layer
©2012 Data Supplied by NHD-Fallon, Draft 018



Churchill County Concerns, Errors and Omissions with the FRTC Modernization Final EIS

General Comments:

The County's concern that specific assurances and mitigation measures have yet to be secured and documented in the FEIS (see below document-specific comments). As a result of this concern, the County has collaborated with other local governments and State of Nevada agencies to develop the Nevada Consolidated Proposal (Proposal). This Proposal captures some of the common concerns and mitigation proposals shared by a broad group of key stakeholders. The County reiterates its support for the Nevada Consolidated Proposal conveyed by Governor Sisolak on October 15, 2019.

Significant errors and omissions in the FEIS document. The below list contains several key errors and omissions found in the Final EIS:

- An example of a significant error: The County was informed that the Bravo 16 Weapons Danger Zone (WDZ) printed in the Draft EIS was incorrect. This is concerning because the County had provided extensive comment as to the WDZ in relation to the proposed withdrawal boundary on multiple occasions. The fact that the error hadn't been noticed or corrected before publication of the Final EIS is of great concern to the County.
- A second example of a significant error: For quite some time the Navy and the County have discussed the mutual desire to avoid any portion of withdrawal that included East County Road. While the text in the document appears to capture this intent, Figure 2-17 shows two sections of land that include East County Road as being withdrawal, but "open to the public". These sorts of errors should not have been included in the Final EIS.
- An example of a significant omission: There is no specific disclosure as to the public land laws that the Navy will request Congress to waive versus those that will remain in effect for the various withdrawal areas associated with the FRTC Modernization (i.e. Bravo Ranges, Dixie Valley Training Area, Special Land Management Overlay, and Shoal Site). This is a critical disclosure because it directly affects how the Navy's actions impact public lands in the County as well as the future viability of important infrastructure such as the disposition of minor County roads / resolution of RS 2477 routes and implementation of the Dixie Valley Water Project.
- A second example of a significant omission: The Final EIS doesn't appear to disclose the location of specific private (non-federal) lands proposed for purchase in the DVTA. This is key because the County specifically requested that the Navy not purchase the Bench Creek Ranch. In its response to comments, the Navy indicates that it has not interest in purchasing the Ranch, but there isn't anything in the Final EIS itself that reflects this assurance.

Late emerging information, particularly on the Dixie Valley Training Area. During the NEPA scoping portion of the project it was unclear as to what land use restrictions would be imposed on the Dixie Valley Training Area (DVTA). While the Draft EIS improved this disclosure and description, there were still a host of unknown land use impacts (i.e. likelihood or feasibility of developing projects such as the Dixie Valley Water Project or future geothermal projects). The FEIS still does not clearly delineate which public land laws will remain in effect nor any firm assurance that access will remain "open" to the public for the full duration of the proposed withdrawal. The FEIS does not commit to allowing critical projects such as development of the Dixie Valley Water Project, which is the primary drinking water supply identified to serve future growth in the County. Without explicit assurances on these matters, the County cannot support expansion or renewal of the DVTA.

Chapter 1: Purpose and Need for the Proposed Action.

Churchill County Concerns, Errors and Omissions with the FRTC Modernization Final EIS

Page 1-2: Given the incomplete analysis offered in the Draft EIS (see Churchill County’s previous comments), and the significant changes made from that document to this document, it seems insufficient to offer the public only 30-days to review the Final EIS before the Navy signs the Record of Decision. Most other EIS processes with this much change would offer a Supplemental Draft EIS and another round of public comment. Given the magnitude of this proposal and the FRTC Modernization the County believes more public comment than is currently being suggested by the Navy is warranted.

Page 1-5, History of the FRTC: Given that Public Law 106-65 doesn’t expire until Nov. 5, 2021, does that afford more time for additional public comment under the NEPA process?

Page 1-10: The discussion regarding the increasing threat of encroaching development around the DVTA seems to imply the need for withdrawal. However, the BLM’s Draft Resource Management Plan took significant steps towards addressing this concern. In addition, the County would have been and continues to be willing to develop County code and ordinances that would prevent conflicts with necessary training without the need to withdraw this land.

Page 1-11: It should be disclosed that this assessment of “real-world constraints” did not include input for key stakeholders including Churchill County, which is large part is why there are so many unresolved concerns at this late date in the process.

The Navy evaluated the identified training capability gaps against the real-world constraints (e.g., regional roadways, commercial airspace, population centers) on meeting all TTP requirements.

Page 1-11: This statement concerns the County in that a potential exists for additional withdrawal or expansion before the 25-year withdrawal requested by this action is up.

The Navy’s Proposed Action to modernize the FRTC would close training capability gaps to tactically acceptable levels but would still not achieve full TTP compliance because that would require land and airspace approximately double what is being requested.

General Comments: The below items represent the outstanding issues that Churchill County has advanced in previous comments that the County believes remain unresolved at this time. These are issues that the County believes the Navy can address without special Congressional authorizations:

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.

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.

Specific to Bravo 16: See cover letter.

Specific to Bravo 17: See cover letter.

Churchill County Concerns, Errors and Omissions with the FRTC Modernization Final EIS

Specific to Bravo 20: See cover letter.

Specific to the Dixie Valley Training Area (DVTA): See County Cover Letter

Specific to the designation of a Special Land Management Overlay (SLMO): See cover letter.

Specific to Mining and Mineral Resources (including geothermal): All mining claimants within the final withdrawal areas must be properly notified and compensated for any and all losses.

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.

Compensation must be for the full term of the Navy withdrawal. Fair compensation should be determined by a private agricultural appraisal process.

Specific to Ground Transportation: The Navy must recognize and honor all existing Federal, State and County rights-of-way including roads that were granted through 43 U.S.C. 932 (R.S. 2477 Roads).

Churchill County has completed an inventory of roads in the County that qualify as R.S. 2477 Roads. This inventory physically mapped these roads, documented their existence, use and maintenance to verify that they would qualify as roads granted to the County Under 43 U.S.C 932. These roads are formally recognized by the County as “minor county roads” and open for public use under the laws of the State of Nevada. These roads were further expressly recognized and preserved for public use through the enactment of the Federal Land Policy Management Act of 1976 (See § 701(a)).

Subsequent analysis indicates that over 100 miles of these RS 2477 qualified roads would be closed by the Navy’s proposed expansion of Bravo Ranges, and over 250 miles would be affected by the Navy’s proposed expansion of the Dixie Valley Training Area.

The County believes, and now has concrete supporting documentation, that these roads qualify as “authorized existing uses” of public lands. The County has not had reason to seek previous adjudication of these roads because they have not previously been proposed for closure. The Navy’s unwillingness to recognize these routes as an authorized existing use, and subsequent lack of proposed mitigation to offset subsequent impacts, is further compounded by the fact that the Navy will be utilizing these very same roads for their training operations at a significant cost savings to the Navy. Furthermore, the lack of information as to the proposed withdrawal stipulations in the DVTA casts doubt on whether the County will be able to move forward with formal adjudication of those roads. This is a major concern to the County and a great impact to

Churchill County Concerns, Errors and Omissions with the FRTC Modernization Final EIS

the County's customs, culture and economy. If the Navy is not willing to allow formal County adjudication of these roads in the DVTA, then the County cannot support the Navy's proposed expansion. The County is willing to share this inventory information and work with the Navy and BLM to seek a favorable solution to this important issue.

The following federal highways must be avoided by the Navy's land withdrawals: US 50 & 95.

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.

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.

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

- Sand Canyon / Red Mountain Road (B-16 in Churchill County) should be designed and built to match the existing condition of Sand Canyon Road. Final right-of-way for this road should be assigned to the County.
- Pole Line Road (B-20 in Churchill and Pershing Counties) should be avoided or re-routed match current condition of the road. Final right-of-way for this road should be assigned to the County.

The County appreciates the commitment by the Navy to reconstruct Lone Tree Road and SR 361, and is seeking similar commitment for the two roads listed above.

Specific to Airspace: The County specifically questions the proposed R4816 N and R4816 S Low restricted areas that will move the floor to ground level in an area that includes:

- Existing State Route 121 (Dixie Valley Road);
- Existing Power Transmission Lines (both north-south and east-west);
- Allows for continued public access and multiple use; and,
- Is critical to development of the Dixie Valley Water Project.

The County supports 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.

Specific to Noise: 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. This issue/concern was identified in the Ninety Days to Combat document and it is unclear why such a study was not included in the NEPA analysis.

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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.

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.

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. The County remains concerned with the viability of the project given the proposed “Required Design Features” in particular the increased costs associated with the requirement to bury power and communication lines from the main transmission corridor to well sites.

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.

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.

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.

Specific to Recreation: The Navy must 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).

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.

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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.

Chapter 2: Description of Proposed Action and Alternatives.

The County does NOT support the No Action Alternative as previously stated for a host of reasons previously documented.

The County does NOT support Alternative 1 as previously stated for a host of reasons previously documented.

The County does NOT support Alternative 2 as previously stated for a host of reasons previously documented.

While Alternative 3 (Preferred Alternative) is the most favorable of the proposed alternatives, the County does NOT support Alternative 3 as described in the Final EIS. This opposition is based on a host of remaining unresolved concerns that have been documented in this and previous County comments to the Navy. Many of those concerns have either not been adequately represented in this document or addressed to the County's expectation. The County remains committed to working towards a favorable resolution of these outstanding concerns but wants to make it clear that it does NOT support the Navy's Preferred Alternative at this time.

Table 2-1, Footnote 1: This footnote suggests that the withdrawal of the DVTA would be similar to the withdrawal of the Bravo Ranges. This table, and the Proposed Action in general, needs to better define exactly which "public land laws" will be withheld from the Bravo Ranges, DVTA, SLMO and Shoal Site. While the Navy clearly articulates throughout the FEIS that it intends to operate the Bravo Ranges differently than the DVTA, SLMO and Shoal Site, there is nothing in the document that specifies which public land laws would remain in affect and which would be withheld from the various training areas. This is a significant omission that needs to be resolved in order for the County, other Cooperating Agencies and public to determine the true impacts of each training area.

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¹*Withdrawn lands are lands withheld from the operation of public land laws for the use or benefit of an agency by reservation, withdrawal, or other restrictions for a special government purpose. The existing withdrawn acreage represents the area currently withdrawn that Navy is requesting for renewal.*

There is nothing in this Chapter that explains the specific mechanisms (public land laws) for how the Bravo Ranges, DVTA, SLMO and Shoal Site will be managed going forward. **Specifically, what public land laws will the Navy recommend to Congress remain in effect and which public land laws will the Navy recommend to Congress for withdrawal from each area? It is of vital importance that this disclosure be made so that the County and other stakeholders clearly understand the Navy’s legislative intent and subsequent impacts of the proposed action.**

At this time, Churchill County cannot support expansion of the DVTA given the uncertainty around which public land laws the Navy will recommend for withdrawal. Without this clarification, the County cannot assess the true probability of ensuring public access (including adjudication of RS 2477 roads) and the process for implementing the Dixie Valley Water Project. **As such, the County recommends that the DVTA expansion be abandoned and the expansion area designated Congressionally as a Special Management Area where public lands remain under the jurisdiction of the BLM and managed in consultation with the Navy (see cover letter).**

Table 2-1: Churchill County has the following suggestions and questions for Table 2-1:

1. The Navy should add the requested additional withdrawal and proposed acquisition acres suggested in the Ninety Days to Combat document as it largely serves as the basis for the proposed action. The Navy should better justify why those acreages have increased.
2. The Navy should explain why the acreage for B-16 and the DVTA increased from DEIS to FEIS and justify the increase.
3. The Navy should add the SLMO area to this table.

Figure 2-5: The County appreciates the clarification that Simpson Road and the area south of Simpson Road is “Withdrawn Lands to be Relinquished”. However, the County once again questions why the boundaries of the withdrawal cannot be further reduced to better match the “Immediate Action Drill Ground Maneuver Area SDZ/WDZ”. The County would re-state its previous comments to reduce the proposed withdrawal areas to avoid various conflicts with existing roads, private lands and power transmission infrastructure and corridors.

Figure 2-6: The County appreciates that the Navy has reduced the proposed withdrawal area to better fit the Weapons Danger Zone, but questions why this reduction wasn’t more extensively applied to the western boundary and northern portion that abuts the existing B-17 withdrawal area, particularly given the conflict with a major mine project (Bell Mountain) that has a high potential for significant socio-economic benefit to the County.

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Figure 2-7: The County continues to oppose the closure of Pole Line Road, which the Navy has labeled as “Navy Range Access Road”. The County also opposes that portion of the withdrawal located within the Fallon NWR.

The County has always opposed the withdrawal including East County Road and has been assured on numerous occasions that it was not the Navy’s intent; however, the map does not reflect that intent. As such, The Map needs to be corrected to reflect that the Proposed Withdrawal does NOT include East County Road nor lands to the east of the road. The text does not reflect that the lands east of the road would be withdrawn but “open to public”.

DVTA Public Access: The Navy needs to do a better job of explaining in this section that the DVTA will remain open for public access for the duration of the withdrawal, and better explain what steps the Navy would need to take if it were to propose limitations or complete restriction of public access in the future. This is a major oversight in a section entitled “Public Accessibility” for an area that is of critical importance for public access.

Figure 2-8: A better map needs to be provided for the Proposed R4816N Low and R 4816S Low Restricted Airspace Areas. This map should include existing infrastructure such as State Route 121 and the multiple power transmission lines. The County questions why the Navy is requesting extending the flight floor to ground level in an area with existing power lines, a State Highway and that is proposed for continued public access. The County is concerned with the proposal to extend the training space down to ground level in this area.

Chapter 3.1: Geological Resources:

Page 3.1-35 and 36: Given the significance of the Salt Cave, the County maintains that the Navy should avoid the resource as part of its training. The Navy should also provide regular (i.e. quarterly) public tours of this resource as a mitigation measure. The fact that the Cave is located within the Navy’s proposed “Immediate Action Drill Ground Maneuver Area and Close Air Support Target Area” without being designated as an avoidance area is a concern to the County.

Chapter 3.2: Land Use:

Figure 3.2-9, Page 3.2-45: This figure should include the Navy’s Proposed WDZ/SDZ for sake of full disclosure. The County doesn’t understand why the Navy’s proposed withdrawal includes a portion of existing transmission corridor and the west-wide energy corridor as shown in this Figure. The withdrawal should avoid these corridors.

Page 3.2-54: The Navy must better disclose and describe the pertinent public land laws that they would propose Congress leave in place versus those they will request for withdrawal in this section. This disclosure must be made for the Bravo Ranges, DVTA, SLMO and Shoal Site. Perhaps a table could be utilized to better describe the Navy’s proposed action. Federal Laws such as the Federal Land Policy Management Act are the underpinnings to federal land management, and without disclosing which laws would continue to apply and which would not, then the NEPA document doesn’t fully disclose the potential impacts to future land uses within the analysis area.

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Page 3.2-54 and 55: It doesn't appear that the Navy incorporated any of the County's proposed Management, Monitoring and Mitigation items proposed in the County comments to the Draft EIS. This reflects either the Navy's disregard for these issues of importance to the County, or their lack of review of the County's comments.

Page 3.2-58: Page 3.2-65: The impact conclusion that *Alternative 3 would result in less than significant impacts on land use* is simply wrong on its face. The fact that the Navy has not disclosed what federal lands laws are being proposed for "withdrawal" invalidates this conclusion alone.

Chapter 3.3: Mining and Mineral Resources:

Page 3.3-73: The Navy needs to better define what is meant by "nominal amount". This should include at a minimum all holding costs paid by the claimant to Federal, State and Local government as well as some portion as to the value of the claim itself.

Page 3.3-48 and 72: The County still questions whether these RFDs provide for an economically viable project and would once again request that the Navy coordination with and input from the geothermal operators currently located in Churchill County.

Page 3.3-72: This section needs to disclose the impacts to the Nevada Iron operation, including the impact that closing Pole Line Road would have on their proposed operation.

Page 3.3-73 and 74: The County appreciates the disclosure that geothermal development in the DVTA will be managed under the Geothermal Steam Act of 1970. Similar disclosures need to be made in terms of which areas will be withdrawn from the Mining Act as well as other pertinent public land laws such as FLMPA which have a direct nexus to permitting associated infrastructure (i.e. power, pipelines, roads, etc.) of geothermal and mining development.

Page 3.3-76: Given the direct and significant nexus between geothermal exploration and development / power production and County socioeconomics, the affected Counties should be included as signatories on any MOU between the Navy and BLM in terms of geothermal projects in the DVTA and SLMO. These projects also require County permitting, which further reinforces the need for the County to be a signatory.

Chapter 3.4: Livestock Grazing:

Page 3.4-29: The County appreciates the significant changes made to this section of the FEIS. However, the Navy should still specifically disclose that compensation will be provided for permittee's lost Animal Unit Months as well as the remaining balance on any business loan for lease payments. In addition, permittees and lease holders should be given a 3-year tax deferral on the sale of the allotment and any cattle, due to the withdrawal, to allow them to find replacement property.

Chapter 3.5: Transportation:

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Page 3.5-42: Churchill County requests the same provisions be made for re-routing of Pole Line Road and Sand Canyon Road around the north boundary of B-20 and B-16 respectively, which would also serve as a fire break.

Page 3.5-45: This statement is incorrect unless the Navy can ensure that existing minor County Roads will not be closed. The statement in red text makes little to no sense in the context of transportation.

Alternative 3 would have no transportation or access impacts on the DVTA. The Navy is currently proposing to expand the ROW only on the west side of the current transmission corridor (close to the current line as possible) to be a 90-foot permanent and 300-foot temporary ROW for development along the west side of the State Route 121.

Page 3.5-45: The summary of impacts, and this section in general need to disclose the following information: Churchill County has completed an inventory of roads in the County that qualify as R.S. 2477 Roads. This inventory physically mapped these roads, documented their existence, use and maintenance to verify that they would qualify as roads granted to the County Under 43 U.S.C 932. These roads are formally recognized by the County as “minor county roads” and open for public use under the laws of the State of Nevada. These roads were further expressly recognized and preserved for public use through the enactment of the Federal Land Policy Management Act of 1976 (See § 701(a)).

Subsequent analysis indicates that over 100 miles of these RS 2477 qualified roads would be closed by the Navy’s proposed expansion of Bravo Ranges, and over 250 miles would be affected by the Navy’s proposed expansion of the Dixie Valley Training Area.

Chapter 3.6: Airspace:

Figure 3.6-7, Page 3.6-26: A separate figure needs to be added for any restricted airspace, or any airspace in general where the floor is proposed to extend to ground surface. This map / maps need to include existing infrastructure such as State Highways, power lines, etc.

In particular, the County questions the orientation of R4816N Low and R4816S Low as it appears to overlap SR 121 and multiple power transmission lines in the Dixie Valley. This proposed change also negatively affects development of the Dixie Valley Water Project as the proposed airspace and extending the floor to ground level will require buried power lines, etc. The County would propose leaving the floor at 100’ AGL in order to avoid conflicts with existing infrastructure, planned infrastructure and public access to the DVTA.

Figure 3.6-29: The County questions the validity of this statement given that the Navy is proposing airspace down to ground level in the Dixie Valley where existing infrastructure and public access is proposed to be maintained.

Chapter 3.7: Noise:

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Page 3.7-81: Management practices should include continued coordination and planning with Churchill County as well as continuation and increased funding for the REPI program to assist with maintaining open space in areas of significant noise impacts within the County.

Page 3.7-83: The summary of affects should mention the potential impacts to wildlife, particularly Greater Sage-grouse, with an appropriate reference to the sections where this is discussed in more detail. See the Counties specific comments to this regard in Chapter 3.10.

Chapter 3.8: Air Quality:

Chapter 3.9: Water Resource:

Page 3.9-38: The County appreciates the clarification regarding continued use of the Scheckler Spill and access to the Range for flood management purposes. However, the County maintains that it should also be signatory to any MOU developed between the Navy and BOR.

Chapter 3.10: Biological Resources:

Figure 3.9-22, Page 3.9-62: The County appreciates a map that includes spring and guzzler locations as these are critical water resources. However, WDZs and target areas should be included on these maps in order to show the potential direct effect of Navy activities on such areas.

A minor adjustment to the B-17 withdrawal area should be made to exclude the guzzler located between Bell Flat and SR 361 in Churchill County as this area is popular for big game hunting and viewing.

Figure 3.9-25, Page 3.9-67: A minor adjustment to the B-20 withdrawal area should be made to exclude the existing wells and certified water rights on the northeast corner of B-20. This is an important water source for the Nevada Iron Project and a small adjustment would avoid the impact or need for compensation or other mitigation.

Page 3.9-73: The County appreciates this addition; however, the County is looking for more assurance for implementation of the Dixie Valley Water Project. The below language isn't a clear assurance that the Dixie Valley Water Project will be allowed to move forward.

*Under Alternative 2 and 3 (Preferred Alternative), the Navy would incorporate mitigation by proposing to allow development of water resources activities to continue on certain **withdrawn areas as long as the actions are consistent with training activities and approved by the Navy.** The Navy is currently proposing the following required design features for water development.*

Page 3.9-73: The County remains concerned about the increased cost of implementing the Dixie Valley Water Project if power lines from SR 121 to well sites will need to be buried. In discussions with NV Energy and local electrical co-ops that provide services to similar wells, it has been suggested that buried lines to well increase overall cost by 2 – 4 times. That is a significant increase to the County to access its primary future water supply.

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The County would suggest that leaving the airspace floor at 100' above ground level rather than extending the floor down to ground level would mitigate this concern as overhead power to the wells could be installed on lines 50' in height or lower.

Page 3.9-78: Given the importance of the Dixie Valley Water Project to the County and NAS Fallon and its employees / trainees, the impacts of the proposed alternatives should be summarized in these tables.

Chapter 3.10: Biological Resources:

Figures: All range-specific features should include the WDZ and target areas so that areas of direct impacts can be visually understood.

Table 3.10-29, Page 3.10-165: The County is concerned about the 919 acres overlap of R-4816S Low and bighorn habitat given this area consists of critical lambing habitat as well as the one Navy-documented occurrence of Greater Sage-grouse.

Page 3.10-174: The County adamantly disagrees with the impact conclusion that any of the action alternatives would NOT result in significant impacts on biological resources.

Chapter 3.11: Cultural Resources:

Page 3.11-46: The County doesn't believe the Navy can justify the conclusion that "*...no significant impacts on cultural resources would occur.*" This is based on the Navy's own disclosure in Section 3.11.3.6 However, "*the Navy acknowledges that there may be impacts that have yet to be defined and will continue to develop and incorporate mitigation measures as necessary.*"

The County is extremely disappointed that the Navy isn't proposing a managed access program that allows the public to access cultural resources in the Bravo Ranges. This is also a significant tribal concern that has yet to be rectified.

Chapter 3.12: Recreation:

Figure 3.12-9, Page 3.12-18: A minor adjustment to the B-17 withdrawal area should be made to exclude the guzzler located between Bell Flat and SR 361 in Churchill County as this area is popular for big game hunting and viewing.

Figure 3.12-11, Page 3.12-21: A minor adjustment to the B-20 withdrawal area should be made to exclude Wildhorse Spring as this area is popular for big game hunting and viewing.

Page 3.12-58: The County has reviewed the proposed MOA in Appendix D, and an MOA that can be terminated with 30-days' notice is not adequate assurance that controlled access for hunting will be allowed. A stronger assurance for controlled access for both hunting and OHV events must be offered by the Navy.

The County would like to discuss the details of the proposal to transfer Navy-owned lands to the US Fish and Wildlife Service as well as the BLM to mitigate impacts to the Fallon NWR.

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The County questions why this offer was never extended to it or other affected entities. The County may be interested in Navy-held lands.

Chapter 3.13: Socioeconomics:

Page 3.13-1: The Navy's analysis of Churchill County's Master Plan in relation to its customs and culture failed to incorporate much of Chapter 12 dedicated to its Policy Plan for Public Lands, which is probably more directly related to the impacts of the proposed FRTC project. The County appreciates the Navy's attempt to address the below text but feels that most of the excerpt is still relevant. See below excerpts from the Chapter 12, and update this analysis to include these key aspects (*emphasis added*):

Public Lands are part of the rich heritage of Churchill County. From the earliest mining activities, to modern day ranching, energy development, and military training, the use of public land resources has been an integral part of the rural lifestyle and local economy. The county and citizens support the continued multiple use of the public lands in Churchill County. The policies are intended to further agriculture, mining, military training, renewable energy development and recreation, as principal economic bases of the county.

Open public access to recreation, wildlife, and resources should be available to all. The multi-use nature of public lands requires that management decisions be made with the public's interest at the forefront, and careful consideration to maintaining sustainable resources for future generations. The county desires to maintain a thriving ecological balance among all species and resources found on public lands. This includes wild horse herds, managed at populations that are consistent with the land's capacity to support them, wildlife populations that are sustainable via hunting and natural predation, and livestock populations controlled by careful management of grazing permits.

Churchill County recognizes that certain private property interests exist on public lands. Any established private property, including mining claims, water rights, access easements, or any other private interests, must be upheld and the property owners should be considered as equal stakeholders in decisions that may affect their interests.

*This policy portion of the Churchill County Master Plan outlines expectations and desires of the people of Churchill County, and requires consultation prior to decisions that affect public lands within the County's boundaries. Churchill County is desirous of cooperation from the Bureau of Land Management and other Federal agencies in being guided by these policies. **If at any time, according to the National Environmental Protection Act (NEPA), FLPMA or any other legislation, the U.S. Government (under any agency) intends to change uses or availability of resources on public lands in a way that will impact current historical and cultural uses, input from the citizens of the County is required and the Board of County Commissioners will be consulted. In addition, the County Commission should be consulted on any interpretation of these policies.***

The above excerpt from the Introduction to Chapter 12 should lead the Navy to a different conclusion as to the social impacts associated with the withdrawal of substantial withdrawal of

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public lands in Churchill County. The same could be said for the previous comments that have been submitted after review and approval of the County Commission.

Page 3.13-1 and 2: The County appreciates the Navy's attempt to classify social impacts, but adamantly disagrees that social impacts would not be significantly impacted.

Page 3.13-9: Based on the Navy's summary of the County's previous comments, the social analysis should have been updated to include the loss of access to public lands currently managed for multiple use. The County appreciates the Navy's current attempt but still feels that the analysis does not fully explore the full implication of the proposed expansion on socioeconomics.

Page 3.13-55: Once again, the County asks the Navy to estimate economic loss (as it has for other economic sectors) based on the impact of the RFDS of potential loss of at least one geothermal plant, one locatable mineral operation, etc.

Page 3.13-60 and 61: The County requests disclosure of significant social impacts in the impact conclusion section, due in large part to the loss of public land access and the transfer or large areas of public lands from multiple use management to single use.

The County disagrees with the conclusion that impacts to agriculture, recreation and tourism recreation is not significant.

The County agrees that significant impacts to geothermal and mining opportunities will be significant and finds it ironic that this is the one sector where financial impacts were not estimated. The County once again requests a financial analysis of this impact.

Chapter 3.14: Public Health and Safety:

Page 3.14-65: The County appreciates that the Navy is developing a Wildland Fire Management Plan, it is a bit surprising the such a plan didn't exist prior to now. However, such a plan is not going to alleviate the risk of fire unless the Navy requests and acquires funding to implement the plan. Given the Navy's proposal will both increase fuel loading (removal of livestock) on Bravo Ranges and increase ignition risks (more targets, lower flight floors) increased wildfire remains a significant unresolved concern.



EUREKA COUNTY BOARD OF COMMISSIONERS

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February 6, 2020

Naval Facilities Engineering Command Southwest

Code EV21.SG

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Building 1, 5th Floor

San Diego, CA 92132

RE: Eureka County Comments to the Fallon Range Training Complex (FRTC) Modernization Project Final Environmental Impact Statement (FEIS)

FRTC Modernization Project Team:

The Eureka County Board of County Commissioners submits the following comments on the above-referenced Fallon Range Training Complex (FRTC) Modernization Final Environmental Impact Statement (FEIS), as announced in Federal Register Vol. 85, No. 7 / Friday, January 10, 2020, page 1313. We approved these comments at our regular meeting today.

As Navy is aware, Eureka County was a very active cooperating agency on the development of this EIS including active participation, past and current, with the State of Nevada agencies and other cooperating agencies on the State Consolidated Request.

We acknowledge that our active participation in this process has resulted in many changes to the Proposed Action and alternatives, especially Alternative 3, that address many of our previous issues, concerns, and requests. We thank Navy for making these changes. We also acknowledge there were many requests we made that did not affect any change in Navy's proposals or analysis. We continue to assert our previous comments and requests and reserve the right to continue to advocate for and pursue these changes through the State Consolidated Request process, Record of Decision language, Congressional legislative process, or litigation.

We have reviewed the FEIS and have noted some discrepancies or errors that should be clarified or corrected, summarized below, and some outstanding requests.

Still Disconnect Regarding Crescent Valley Airport Exclusion Area

There still is still disconnect in some areas in the FEIS regarding the exclusion area around the Crescent Valley airport. There are multiple locations in the FEIS clearly stating that an "airport exclusion area" would be requested of FAA "around the Gabbs, Crescent Valley, and Eureka airports" (Executive Summary pages 17 and 18, p. 1-39, and many responses to DEIS comments in Appendix F including pp. F-112 and F-1734). Yet, there are still many areas where language regarding the airspace exclusion zones do not specifically include Crescent Valley Airport – see Section 1.10.13.5 on p. 1-46 and Section 3.7.3.5.3 on p. 3.7-81. Also, p. 3.6-14 still says that Crescent Valley Airport would be under a Noise Sensitive Area buffer. It is the Town

of Crescent Valley that should be under a Noise Sensitive Area, not the Airport, which should be an exclusion zone.

Duckwater MOA floor is too low

We still do not support the proposed Duckwater MOA floor to 200 feet AGL and again request Navy re-evaluate this to match the Diamond MOA floor of 1200 feet AGL or, at the least, match the 500 feet AGL consistent with the requirements stated in "90 Days to Combat." Or, as a compromise, Navy could assure that only helicopter flights will occur below 1200 feet AGL. The impacts from Navy activities being done to 200 feet AGL will prove severe for people, wildlife, and land use including agriculture and the proposed vanadium mine in this MOA.

Improve radio communications for civilian aircraft and provide better coordination on GPS jamming, especially for precision agriculture

Previously, we requested Navy commit to improve radio communications (including necessary infrastructure such as new radio towers, etc.) for civilian aircraft (including crop dusters) within the VFR Corridor and the eastern SUA because discussion with local pilots highlighted that connection with Desert Control is non-existent in some areas and "dead zones" exist throughout the VFR corridor and eastern areas near Eureka proposed as SUA/MOA. Navy's response to this request was "Improving communication infrastructure is outside the scope of this process" or "The Navy is not proposing to develop additional radio facilities underneath the eastern portion of the FRTC SUA." We find these responses unjustified and cavalier. We are puzzled how Navy can propose to "modernize" the FRTC and convert ATCCAA to MOA without addressing this known safety issue in the proposed SUA.

Regarding GPS jamming, we previously requested better systems in place for Navy to transparently provide information and notice to affected interests about locations and timeframes that GPS jamming would take place to allow folks to avoid crucial or safety-sensitive actions requiring GPS use during these jamming times and at these places. We are especially concerned about the impact on GPS-guided precision agriculture, especially in Diamond Valley where a high percentage of farmers have tractors and implements equipped with GPS to assist in field work and precise application of fertilizer and pesticides. In one location in the FEIS, Navy responded that "Navy will not interfere with civilian use of the electromagnetic spectrum, including GPS" (Appendix F, p. F-219). Yet, in another location in the FEIS, Navy states "GPS-Jamming events/time periods will be announced via NOTAM to allow for civil GPS use planning" (Appendix F, p. F-262). If Navy "will not interfere" with GPS, why would GPS-jamming events need to be announced via NOTAM? Further, at many Cooperating Agency meetings, Navy made it clear that GPS jamming does occur. Our comment had to do with improving the system to report scheduled GPS-jamming, not to simply work through the already-known-to-be ineffective use of NOTAM notification for agricultural spraying through aircraft and especially for precision agriculture and domestic GPS use.

Impacts to Eureka County ranchers on La Beau Flat allotment and access to well and corrals on existing B-17

We greatly appreciate the effort outlined by Navy to seek to minimize impacts to ranchers and mitigate grazing losses that cannot be avoided. We have broad experience in grazing impact mitigation due to our common interface with this issue during mining permitting. We are willing to assist Navy in every way feasible to assist in this process as the FRTC withdrawal moves forward and grazing mitigation developed and implemented.

We are also very grateful for Navy agreeing to relinquish the 12 acres adjacent to SR 839 where the current stockwater well is located on B-17 for continued access and use. However, we note that the FEIS only references this action in relation to stockwater (and wildlife water?) access. This location will also provide a necessary location to re-locate the existing corrals, loading chute, and base camp for the La Beau Flat allotment that will fall within the withdrawal area. This will work to mitigate other economic and operational losses to the ranchers in the allotment. Please reflect this in the FEIS and ROD. For instance, where the FEIS says in many locations, including, but not necessarily limited to, p. 2-8 (Table 2-1), p. 2-45 (Table 2-7), p. 3.9-74, and p. 5-61, "The Navy is currently performing a land parcel survey to allow the potential relinquishment of 12 acres of land on the existing B-17 adjacent to State Route 839 to allow continued use of the area for local livestock and wildlife watering efforts" it should be changed to read "The Navy is currently performing a land parcel survey to allow the potential relinquishment of 12 acres of land on the existing B-17 adjacent to State Route 839 to allow continued use of the area for local livestock watering efforts and to provide a site for the re-location of the corrals, loading chute, and base camp located farther south that will become unavailable in the withdrawal." Note that we suggest removing "wildlife watering efforts" as the well is not permitted nor used for any wildlife watering. See the figure below from the FEIS that is annotated to show the well for continued access and the existing corrals and base camp area that will need to be re-located under Alternative 3.

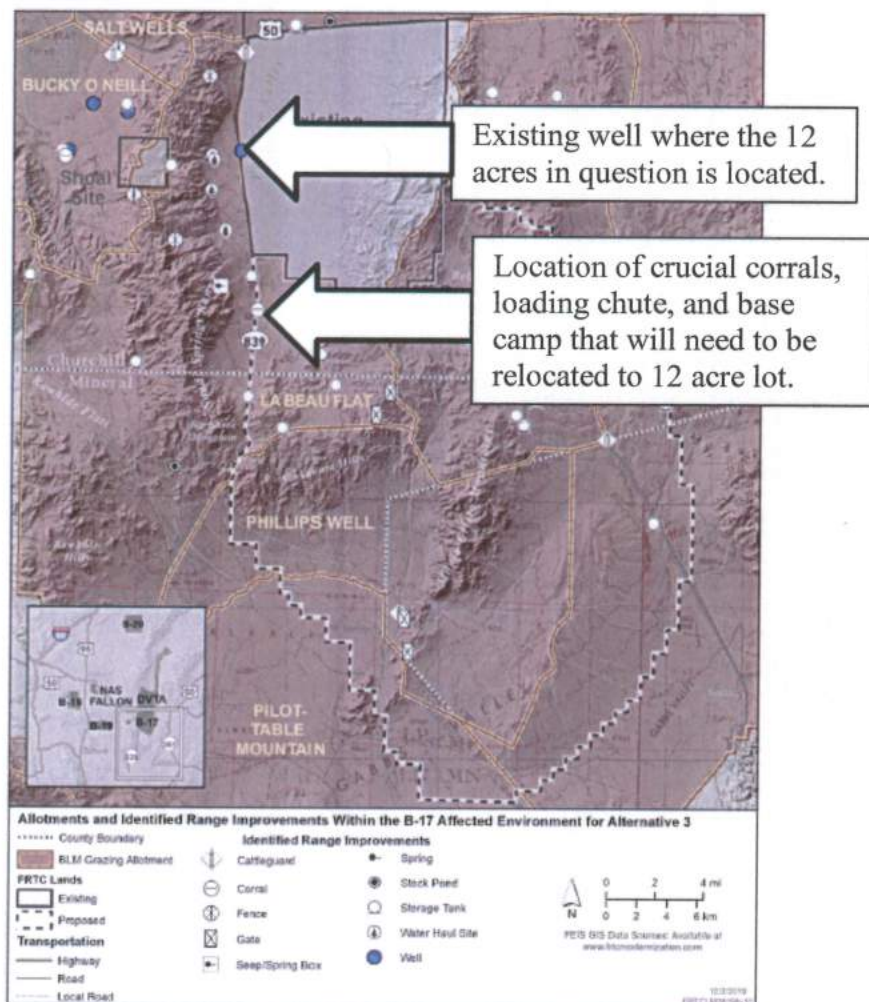


Figure 3.4-4: Allotments and Identified Range Improvements Within the Bravo-17 Affected Environment for Alternative 3

Vested Water Rights

There are mistakes in the FEIS related to vested water rights and undetermined (i.e., unadjudicated) claims of vested water rights. On p. 1-47, the FEIS mistakenly states "The Navy does not have the authority to validate vested water rights. Only the State Engineer can validate water rights." The State Engineer does not validate vested water rights. The State Engineer goes through an adjudication process outlined under State Law. The State Engineer ultimately publishes a Final Order of Determination that then goes to a State District Court for the final decree. Only a Court can bring finality to a vested water right (i.e, validate). Further, a Court can determine the validity of a vested water right on its own in certain cases of disputed water rights without the State Engineer going through a formal adjudication process first.

Next, the flow-chart graphic on p. 3.9-4 does not apply to claims of vested right but vested claims are erroneously included in the graphic. The flow-chart applies to appropriative water rights only. Claims of vested right, when filed, are not published in a local newspaper and are not protestable. The State Engineer does not approve or deny claims of vested right. Proofs of completion and proofs of beneficial use do not apply to vested claims. The State Engineer only make a preliminary determination of a vested claims validity for submittal to a Court for a final decree and only during a formal adjudication proceeding.

Other

On p. 1-31, there is a reference to NRS 568 that reads "Grazing and ranching" but should read "Grazing and Ranging."

Previously, on the DEIS, we pointed out that Nevada law dictates what constitutes a legal fence for purposes of keeping livestock in or out and have special provisions for fences bordering public roads. We requested Navy cross-reference and ensure fences built meet Nevada law - NRS 569.431 through NRS 569.471. Navy simply responded "Fence design will include any provisions that are typical for Nevada fences, while retaining their wildlife-appropriate design." Navy must commit that fences built meet the standard under Nevada law in NRS 569, not just meet some "typical" standard.

Also, in Cumulative Impacts, Chapter 4, the status of many of the projects in Eureka County in Table 4-11 is incorrect or has changed. For instance, actions stated are to come have already occurred on many projects already including Gold Bar Mine (fully permitted and looking to expand to Gold Bar South), Mt. Hope Project (ROD signed, water rights in place), and Prospect Mountain Project (NEPA complete, decision signed). Some outright errors include the Ruby Hill Mine being owned by Barrick (Barrick has owned this for many years now) and the Carlin Route for Yucca Mountain is nowhere near Lincoln County and is not in the same region as the Basin and Range Monument. For Yucca Mountain, the Caliente Route (first preferred route) runs right through the Basin and Range National Monument which then moves the Carlin Route to the next preferred route in the list.

Conclusion

Again, we thank Navy for the good changes that have occurred in the EIS and underlying proposed actions since the DEIS. We hope Navy will make additional final changes to address our outstanding comments and requests above and we welcome close coordination with the Navy to clarify or address these. We look forward to working with Navy to ensure the implementation of the FRTC Modernization will be done in a way intended and any future actions will not impede the rights or livelihoods of Eureka County citizens.

Sincerely,


Mike Sharkozy, Vice Chair
Eureka County Board of Commissioners

cc: Nevada Congressional Delegation
Nevada State Clearinghouse (via email to Scott Carey)
Churchill County Board of Commissioners (via email to Jim Barbee)



Nevada Association of Counties

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February 07, 2020

The Honorable Catherine Cortez Masto
516 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Jacky Rosen
144 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Mark Amodei
104 Cannon House Office Building
Washington, D.C. 20510

The Honorable Steven Horsford
1330 Longworth House Office Building
Washington, D.C. 20510

Governor Steve Sisolak
State Capitol Building
101 North Carson Street
Carson City, NV 89701

Re: Nevada Association of Counties Comments on the Final Environmental Impact Statement (FEIS) for the Fallon Range Training Complex Modernization (FRTC): Expansion of Land Ranges, Airspace Modifications, and Public Land Withdrawal Renewal (83 Federal Register 66685) and Request for Congressional Support with the Upcoming Legislative Process.

Dear Senator Cortez Masto, Senator Rosen, Mr. Amodei, Mr. Horsford, and Governor Sisolak,

The Nevada Association of Counties ("NACO") hereby submits this Final Environmental Impact Statement ("FEIS") comment letter for the Department of Defense ("DOD") Military Land Withdrawals, initiated by the Federal Register for the Fallon Naval Base 81 Fed. Reg. 58919 (August 26, 2016). This letter is timely submitted during the 30-day waiting period (February 10, 2020). NACO has been designated as a representative to submit comments on behalf of Lander County, Pershing County, and Mineral County for this project. NACO's role representing these three counties is codified in the signed

Memoranda of Understanding (“MOU”) between the Navy and those counties, and in the Cooperating Agency Request Letters issued by each county. NACO’s role is critical in providing a continuous point of contact as well as the expertise and information needed on this project. NACO does not submit information to the Navy without prior approval from Lander County, Pershing County, and Mineral County. As a matter of practice NACO coordinates regularly with the designated representatives for Eureka County, Churchill County, and Nye County. This letter also represents the Nevada Association of Counties as the statewide organization that represents all of Nevada’s counties, however, if NACO’s comments conflict with those provided by associated counties, NACO would ask you to defer to the county-specific comment as the individual counties better understand their circumstances and needs.

This review and comments were coordinated with counties impacted by the proposed Fallon Range Training Complex Modernization to the extent possible.

Mitigation and Impacts

NACO submitted comments during the coordination process, during the response period for the Draft Environmental Impact State (“DEIS”) and has expressed in conversations and multiple meetings with the Navy and Department of Defense officials our concern with the absence of a full mitigation analysis of the withdrawal plan. To this end, NACO again requests that the Record of Decision (“ROD”) include a full impact and mitigation analysis, that seeks to inform the public and decision makers of the impacts of each proposed alternative and outlines the appropriate mitigation measures commensurate with the level of impacts. This full analysis is still lacking in the FEIS.

NACO believes it is imperative to provide an analysis and a detailed estimate of the costs of the entire scope of the proposed withdrawal, as well as required design features. A mitigation plan must also be included that is based on this analysis, and that plan should include an appropriations package for submittal to Congress that would provide for compensation of the impacts of the proposed withdrawal by replacing or providing substitute resources. Congressional approval is an important aspect of this process, and appropriations will be required to make counties and their local communities whole from impacts that will occur. NACO has asked from the beginning that the Navy mitigate the infrastructure and revenue impacts to local governments and communities.

NACO believes the Navy acted in good faith during our numerous meetings regarding the DEIS and that there are several mechanisms available for the Navy to conduct mitigation (i.e. Taylor Grazing act, Federal Highway funds, etc.); however, discussions and



workshops hold little value, if the information is not memorialized in the DEIS and the Record of Decision. For instance, NACO participated in a mitigation workshop to discuss potential mitigation measures with the Department of Defense. Although a list of potential mitigation measures was offered and discussed, none of these measures are identified in the DEIS, or the subsequent FEIS.

The Nevada Consolidated Proposal

Attached to this comment letter is, *The Nevada Consolidated Proposal to the U.S. Navy's Fallon Range and Training Complex Modernization (FRTC)*. This proposal is a collection of concerns and proposed solutions to potential impacts as the FRTC is currently proposed under the Navy's preferred alternative. As you can see in the document, this consolidated proposal is supported by the Office of the Governor, nine state agencies, multiple local government stakeholders and was developed with tribal input. NACO, and the other entities that signed on to this proposal, support the Navy and their ability to carry-out their training and mission programs effectively. FRTC has national implications with significant local impacts. This document represents the latest update, based on modifications by the Navy from the DEIS to the FEIS, to the outstanding issues on the FRTC.

NACO encourages Nevada's Congressional Delegation to review this proposal and determine what legislative remedies might be explored to alleviate impact and garner additional community support for the FRTC Modernization.

Significant Impacts Not Addressed

While the consolidated proposal outlines a comprehensive list of unresolved concerns, NACO continues to see critically important elements of existing county infrastructure (and rights of way) that will be impacted by the Navy's preferred alternative. In Pershing and Churchill Counties, Pole Line Road is subject to closure under the preferred alternative. This road provides critical access to the Buena Vista Mine and an important access point to a railroad spur that serves the mining operation. This access point is especially important to Pershing County as it is imperative to a mining project that would provide extensive and much needed economic development opportunities to Pershing County. To reiterate, these impacts are not addressed in the FEIS with a corresponding impact and mitigation plan.



Additionally, NACO would like to restate our concerns with the following issues, which are outlined in further detail in the attached document:

- Loss of county revenue sources: from grazing, mining, recreation, and other economic sectors.
- Loss of County permits, ROWs, and access to County assets, including water resources and wells.
- Impacts to key industries, such as mining, grazing, renewable energy, tourism, and recreation.
- Takings associated with public land uses, loss of investment-backed licenses associated with mining, grazing, renewable energy, water rights, and other economic activities within withdrawal areas. (including future impact to county revenues and community viability)
- Access to public land uses, especially wildlife restoration projects, recreation, private property, and economic activities.

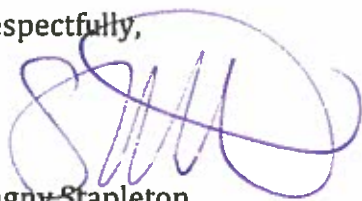
NACO also believes that the Navy has not adequately analyzed wildfire management and mitigation in their DEIS. Addressing the threat of wildfire across Nevada has become a top priority for local governments and communities statewide. The FEIS still does not adequately describe the environmental consequences of increased fuel loads and wildfire risk that will result in further grazing losses forced by the proposed withdrawal. Managed livestock grazing can be an important and cost-effective tool to reduce wildfires in Nevada and throughout the West. The socioeconomic analysis does not consider the costs of potential wildfires caused by the reduction in grazing allotments from the proposed withdrawal and is therefore incomplete. We appreciate that the Navy has added a fire management plan to their FEIS. NACO views this as a positive action to reduce the threat of wildfire and so we hope this will be quantified in the ROD.

Conclusion

Thank you for your time and consideration of NACO's comments on behalf of Lander, Mineral, Pershing Counties, and NACO. Further, NACO supports comments provided by Nye County, Eureka County, Churchill County, and the State of Nevada. NACO, and the counties we are representing believe a strong partnership with the Navy is vital to national security - supporting an alternative solution, one that also protects and strengthens the communities in which the Navy operates, is key. We look forward to continuing working with you to achieve these goals.



Respectfully,



Dagny Stapleton
Executive Director

DS/vwg

Cc: Congresswoman Dina Titus
Congresswoman Susie Lee
Mr. Bradley Crowell, Director, Nevada Department of Conservation and Natural Resources
Mr. Todd C. Mellon, Principal Deputy Assistant of the Navy
Capitan Evan L. Morrison, Commanding Officer, Naval Air Station Fallon.
Alex Stone, Project Manager, FRTC Modernization Environmental Impact Statement
Ms. Sara Goodwin, SW Regional NEPA Coordinator, Naval Facilities Engineering Command Southwest
Mr. Jim Barbee, Churchill County Manager

Enclosure



Assembly Joint Resolution No. 7—Committee on
Natural Resources, Agriculture, and Mining

FILE NUMBER.....

ASSEMBLY JOINT RESOLUTION—Expressing the opposition of the Nevada Legislature to the expansion of the Fallon Range Training Complex as described in the Fallon Range Training Complex Modernization Draft Environmental Impact Statement.

WHEREAS, The Fallon Range Training Complex was established in Northern Nevada in the 1940s and currently spans more than 230,000 acres of land located approximately 65 miles east of the City of Reno; and

WHEREAS, The United States Department of the Navy released the Fallon Range Training Complex Modernization Draft Environmental Impact Statement in November of 2018 to present three proposals for the expansion of the Fallon Range Training Complex located at the Fallon Naval Air Station; and

WHEREAS, The proposal preferred by the Department of the Navy would require more than 600,000 acres of land spread across Churchill, Lyon, Mineral, Nye and Pershing Counties to be allocated to the Department of the Navy for the expansion of training sites and those lands would no longer be available for public or private use by citizens; and

WHEREAS, Adoption of the proposal would result in numerous negative environmental and economic consequences including, without limitation: (1) conversion of land in the Fallon National Wildlife Refuge; (2) the elimination of public access for recreational purposes in certain areas; (3) conversion of land proposed for the Fox Peak Area of Critical Environmental Concern; (4) restrictions on the exploration of mineral and mining development within the converted areas; (5) reduction in livestock grazing areas in this State; and (6) the closure or reduction of at least one State Route; and

WHEREAS, The Legislature of this State is concerned that implementation of the Fallon Range Training Complex Modernization Project has the potential to be detrimental to the people of this State as well as the vulnerable natural resources of its public lands; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the members of the 80th Session of the Nevada Legislature hereby express their opposition to the expansion of the Fallon Range Training Complex; and be it further



RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the President of the United States, the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives, the Secretary of the Interior and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.



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).*