

## **DEPARTMENT OF DEFENSE**

### **Department of the Navy**

#### **Record of Decision for Land Acquisition and Airspace Establishment To Support Large-Scale Marine Air Ground Task Force Live-Fire and Maneuver Training at the Marine Corps Air Ground Combat Center, Twentynine Palms, CA**

**AGENCY:** Department of the Navy (DoN), DoD

**ACTION:** Notice of Record of Decision

**SUMMARY:** Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, 42 United States Code (U.S.C.) §§ 4321-4370h, as implemented by the Council on Environmental Quality (CEQ) regulations, 40 Code of Federal Regulations (CFR) Parts 1500-1508, the Department of Navy (DoN) NEPA regulations (32 CFR Part 775), and Marine Corps Order (MCO) P5090.2A (with Changes 1, 2) *Marine Corps Environmental Compliance and Protection Manual*, Chapter 12, the DoN, after carefully weighing the operational and environmental consequences of the proposed action in an Environmental Impact Statement (EIS), announces its decision to establish a large-scale Marine Air Ground Task Force (MAGTF) training facility at the Marine Corps Air Ground Combat Center in Twentynine Palms, California (“the Combat Center”) to accommodate a required new program of sustained, combined-arms, live-fire, and maneuver training for all elements of a Marine Expeditionary Brigade (MEB)-sized MAGTF, including full-scale MEB Exercises and associated MEB Building Block training. To accommodate the required MEB training activities, the Department of the Navy, acting through the Combat Center, will: purchase additional private and state lands adjacent to the Combat Center; request withdrawal by Act of Congress of additional public lands adjacent to the Combat Center; pursue through the Federal Aviation Administration (FAA) the establishment and modification of military Special Use Airspace for proposed MEB-sized training range; and conduct the specified MEB training. Land withdrawal of more than 5,000 acres for the purposes of national defense may only be made by an Act of Congress. The DoN has selected Alternative 6, the Preferred Alternative, (with additional mitigation developed in consultation with the Bureau of Land Management [BLM]), for implementation and recommendation to Congress. Alternative 6 includes the withdrawal of public land and purchase of privately owned and state owned land collectively totaling approximately 167,971 acres of land west and south of the existing Combat Center.

All practical means to avoid or minimize environmental harm from the Preferred Alternative that were identified in the Final EIS have been adopted.

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**SUPPLEMENTARY INFORMATION:** The DoN announces its decision to establish a large-scale MAGTF training facility at the Combat Center to accommodate the required MEB training program. Potential impacts from six action alternatives and the No-Action Alternative have been analyzed in the Final EIS. The Preferred Alternative (Alternative 6), while not the best alternative from either an operational or environmental impact perspective, is the optimal alternative when considering both the operational factors and environmental impacts. The DoN will implement all practical means to avoid or minimize environmental harm from the selected alternative, as identified in the Final EIS.

Implementation of this action will be accomplished as described below and in the Final EIS, as well as through a proposed withdrawal and reservation of public lands. Withdrawal and reservation of public lands for military training purposes can only be made by Congress when the required public lands exceed 5,000 acres. As part of the proposed action, the DoN has prepared draft legislation that would withdraw and reserve approximately 154,000 acres of public lands for military training purposes. The draft legislation was developed in consultation with the Department of the Interior, Bureau of Land Management (BLM), and is currently under interagency review. The Administration is developing a proposal that would encompass these proposals, including any changes that might emerge from this review process. The Administration's position on the various provisions related to the withdrawals will be reflected in the final Legislative Proposal transmitted to Congress for further action.

Elements of the land withdrawal and reservation discussed below emerged during the EIS process and consultations with the BLM. Lands analyzed for withdrawal and private lands that would be purchased west of the Combat Center will include an estimated 146,667 acres, of which 103,618 acres will be an exclusive military use area (no public access) and 43,049 acres will be designated as a Shared Use Area that allows public access when Marine Corps training exercises are not being conducted. Lands that were analyzed for withdrawal or purchase to the south include an estimated 21,304 acres for exclusive military use only. The Preferred Alternative also includes establishment of new Special Use Airspace and modifications to existing airspace, and expansion of training operations to include two MEB Exercises each year in the west and south acquisition areas as well as the existing Combat Center, MEB Building Block training in the exclusive military use portion of the west acquisition area and maneuver and marshaling of units in the south acquisition area. The Preferred Alternative includes an additional 77 Combat Center personnel and the construction of up to three communications towers.

In response to the publication of the Final EIS, the BLM, a Cooperating Agency, recommended additional mitigation in the form of adjustments to the land management construct to further reduce adverse impacts to recreation from Alternative 6; the Marine Corps has agreed with BLM's recommendation. Specifically, the Shared Use Area (discussed as the Restricted Public Access Area (RPAA) in the Final EIS, and referred to as the Shared Use Area throughout this Record of Decision) would be expanded by approximately 5,000 acres in the southwest corner of the west study area, and the Exclusive Military Use Area (EMUA) correspondingly decreased in size. This minor expansion of the Shared Use Area would better accommodate public access between the western and southeastern parts of Johnson Valley. This area is routinely used by off-highway vehicles (OHVs) and has low densities of desert tortoise. Additionally, as proposed, BLM, rather than the Marine Corps, would manage the Shared Use Area primarily for recreation during the 10 months of the year when the area will be open to public access. The Marine Corps would manage the area primarily for military purposes during the two thirty-day periods that the area will be used for military training, i.e., MEB exercises. Only non-dud producing ordnance would be used in the Shared Use Area. Non-dud producing ordnance is ordnance that fails to function as designed but does not yield a "dud" that might detonate unexpectedly. Examples of non-dud producing ordnance include: small millimeter non-explosive bullets (ball and tracer cartridges), propelling charges, Bangalore torpedos, demo charges, blasting caps, detonation cord, fuses and primers. Dud producing ordnance is ordnance that has the potential to produce "dud" rounds that failed to explode or otherwise function as intended, and that may continue to pose a risk of detonation at a later time. Examples of dud producing ordnance include: air delivered bombs, and artillery and mortar rounds. Finally, the RPAA Management Group proposed in the Final EIS would be known as the Resource Management Group (RMG).

The Final EIS considered and eliminated an alternative that called for the BLM to manage the Shared Use Area. This alternative is fundamentally different than that described above. Under the alternative considered but eliminated, BLM would have managed and administered the Shared Use Area under a multiple use management regime. That alternative would also have made BLM responsible for ensuring public safety after a military live-fire training exercise. These factors made that alternative incompatible with the purpose and need of the proposed action. Alternative 6 proposes that BLM manage the Shared Use Area primarily for recreational purposes 10 months per year vice the full multiple use regime for BLM managed public lands. Moreover, the Marine Corps would be responsible for ensuring the Shared Use Area is safe for public access following the two thirty-day long live-fire military training exercises.

Pursuant to 40 CFR 1502.9(c), the Marine Corps conducted additional analysis to determine if the additional mitigation might constitute a substantial change in the proposed action relevant to environmental impacts such that a Supplemental EIS would be required. The additional adjustments to Alternative 6 are primarily administrative and not substantial in terms of environmental impacts. The additional acreage in the Shared Use Area is already heavily used by OHVs, and contains low numbers of Agassiz's desert tortoises (*Gopherus agassizii*). No other special status species are present in this area. Further, these acres were part of the evaluated Shared Use Area in Alternatives 4 and 5. The analysis of those alternatives in the Final EIS does not indicate significant impacts within that acreage. Under Alternative 6 as described in the Final EIS, the Shared Use Area would have been managed for recreation and environmental conservation (10 months of the year), and military purposes (two thirty-day periods each year) by the Marine Corps with the assistance of the BLM/Marine Corps management group. Instead, the Shared Use Area would still be managed for those same purposes, except by BLM for 10 months of the year and the Marine Corps only during the two thirty-day periods that the area is used for military training. Thus, there will be no change in impacts as addressed in the Final EIS.

The two recreation mitigation measures (REC-1 and REC-2) presented in the Final EIS would be implemented with minor administrative modifications. The Marine Corps and BLM would establish a Resource Management Group to address all issues associated with the Shared Use Area and would implement an effective community/public outreach plan to ensure the public is given every opportunity to understand the change in land use and potential dangers. Further, consideration would still be given to the potential use of portions of the EMUA for limited, controlled access on a case-by-case basis for organized OHV race events.

In addition to NEPA, the DoN considered other applicable laws, regulations, and Executive Orders during the preparation of this EIS.

**PURPOSE AND NEED:** The purpose of the proposed action is to fulfill the Marine Corps' requirement to conduct sustained, combined-arms live-fire and maneuver field training exercises for a MEB-sized MAGTF consisting of three battalion task forces and associated command, aviation and combat logistics support elements. This training requirement, drawn from a 2006 Marine Requirements Oversight Council decision that validated the need to establish a large-scale MAGTF training area, stems from the Marine Corps strategy to increasingly employ MEBs as its primary contingency response force. Marine Expeditionary Brigades must be capable of performing a variety of missions throughout the spectrum of conflict because they will encounter complex situations containing asymmetric threats, nonlinear battlefields, and unclear delineation between combatants and noncombatants. To overcome these challenges and operate effectively, MEBs must be able to conduct maneuver-intensive operations over extended distances, supported by closely coordinated precision fires, aviation-delivered ordnance, and sustained, focused logistical support. Large-scale MAGTF training currently relies on classroom instruction, command post exercises, and simulation to accomplish staff training requirements. These

methods offer limited practical experience and cannot provide realistic training opportunities that enhance the capability to rapidly and effectively integrate all elements of the large-scale MAGTF into a single cohesive force. The task of successfully integrating all elements of a MEB to produce an effective, joint interoperable war-fighting organization can most effectively be accomplished through realistic training that replicates operating conditions these units are likely to encounter. Consistent with this objective, MCO 3502.6, *Marine Corps Force Generation Process*, mandates a Building Block Training paradigm involving a progressive approach from individual Marine to unit collective training events that focus on core capabilities, unit cohesion, and theater-specific training. Block 1 supports individual training and unit instructor development; Block 2 supports collective training in core capabilities and theater-specific training at the Company level and below; Block 3 supports advanced collective training at the Battalion level; and Block 4 is a graduation predeployment training exercise and assessment. The proposed MEB Exercise represents Block 4 in this system and the associated MEB Building Block training represents Blocks 1, 2, and 3.

The Marine Corps needs the proposed action because existing facilities, ranges, and live-fire ground and air maneuver areas are inadequate to support the requirement for MEB-sized training exercises. An effective MEB-sized Block 4 assessment exercise requires live-fire and maneuver training space (and associated airspace) for three battalion task forces, while the Marine Corps' largest training site (the Combat Center) can only accommodate live-fire and maneuver training for up to two battalion task forces. The proposed action is needed to resolve training range deficiencies so MEB training can be accommodated in accordance with the 2006 Marine Requirements Oversight Council decision and the pre-deployment readiness directives of MCO 3502.6, and so that Marines are able to train as they will fight.

**PUBLIC INVOLVEMENT:** The DoN initiated a mutual exchange of information through early and open communications with interested groups and individuals starting on October 30, 2008, with the publication of a Notice of Intent (NOI) in the *Federal Register* (73 FR 64604). A correction was published in the *Federal Register* on November 21, 2008 (73 FR 70626) to correct an error regarding the scheduled dates for the public scoping meetings in the original October 30, 2008 NOI. The 90-day public scoping period for the proposed action officially began on October 30, 2008 with publication of the NOI, and ended on January 31, 2009. Three public scoping meetings were held from December 3 to 5, 2008, respectively, in Twentynine Palms, Victorville, and Ontario, CA. A total of 660 individuals attended the three public scoping meetings. In addition to the scoping meetings, the DoN provided various methods for the public to comment during the scoping period, including email, mail, phone, and fax. The DoN identified these methods in the NOI, the scoping letter, project website, press releases to the local media, display advertisements in local newspapers, and on the comment sheets and display boards of the scoping meeting. The DoN received 19,244 comments from the public and federal, state, and local agencies during the public scoping process. These comments were used to identify public concerns to be analyzed in the Draft EIS, and led to the development of Alternative 6, the Preferred Alternative.

A Draft EIS was prepared in accordance with NEPA of 1969 (42 USC §§ 4321-4370h); and the CEQ Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500-1508). The Draft EIS evaluated six action alternatives for establishing and operating a MEB-sized training facility at the Combat Center to fulfill MEB-sized MAGTF training requirements and the No-Action Alternative. The 90-day public comment period on the Draft EIS began on February 25, 2011 and concluded on May 26, 2011. The Draft EIS was sent to regulatory agencies, Native American Tribes, municipalities, elected officials, and to individuals who requested copies during scoping. Additionally, postcards announcing the availability of the Draft EIS were sent to all individuals and groups that had requested to be on a mailing

list during the scoping period. A copy of the Draft EIS was available on the project website at all times during (and after) the public comment period. Concurrently, a Notice of Availability of the Draft EIS was announced in the Federal Register (February 25, 2011, 76 FR 10583-10584), local newspapers, and on the project website. The DoN also published a Notice of Public Meetings in the Federal Register on March 1, 2011 (76 FR 11216-11218). The notices indicated locations (e.g., public libraries) where the Draft EIS was available to be reviewed, the duration of the public review and comment period, the opportunities available for submitting comments, and the time and location of the public meetings. The public meetings provided an opportunity for interested parties to comment on the content of the Draft EIS, which formed the basis for updating the Final EIS.

The DoN held three public meetings to inform the public about the proposed action and the alternatives under consideration, and to provide an opportunity for the public to comment on the proposed action, alternatives, and the adequacy and accuracy of the Draft EIS. Informational posters were displayed and subject matter experts were available during the open house to provide information about and answer questions on the Draft EIS. Comment forms and a stenographer were available to receive written or oral comments from the public. The public meetings occurred from April 12 to 14, 2011 in Joshua Tree, Ontario, and Victorville, CA, respectively. A total of 654 individuals attended the three public meetings. A total of 21,585 comments were received from the public and federal, state, and local agencies via the three official comment submittal methods (during public meetings, via the website, and by mail or hand-delivery). Most of the comments received related to recreation, noise, airspace, socioeconomics, safety, and general concerns that the Draft EIS did not meet the requirements of NEPA.

During the Draft EIS public comment period, the U.S. Environmental Protection Agency (EPA) reviewed and commented on the Draft EIS, and assigned a rating of Environmental Concerns–Adequate (EC-1). In assigning such a rating the EPA acknowledged that the Draft EIS identified significant environmental impacts, and that the Draft EIS adequately set forth the environmental impacts of the Preferred Alternative and those of the alternatives reasonably available to the project or action. This rating by EPA also indicates, by definition, that no further analysis or data collection was necessary. The Final EIS was prepared by incorporating responses to comments and additional analyses to further quantify or describe impacts. For example, a Displaced OHV Recreation Study (DORS) was completed to support Endangered Species Act Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS), and to address comments raised during public review of the Draft EIS. The primary objective of the DORS was to identify areas that will likely attract much of the displaced OHV recreation as a result of the elimination or restriction of public access to portions of Johnson Valley under the proposed action, estimate the extent of any increase in OHV recreation at the identified areas due to displacement from the EIS study areas, and identify any presence of or impact to special-status species at or near those areas.

The Final EIS was circulated in the same manner as the Draft EIS. The Final EIS was sent to regulatory agencies, Native American Tribes, municipalities, elected officials, and to individuals who requested copies. Postcards announcing the availability of the Final EIS were mailed to all individuals and groups on the mailing list. A copy of the Final EIS was available on the project website at all times during (and after) the thirty-day wait period. Concurrently, a Notice of Availability of the Final EIS was announced in the Federal Register (July 27, 2012), local newspapers, and on the project website. A total of 982 comments were received during the 30-day wait period, which ended August 27, 2012.

## **ALTERNATIVES CONSIDERED:**

The DoN developed six action alternatives based on their ability to meet all of the following eight screening criteria:

1. Allow for independent, offensive live-fire and maneuver of three battalion task forces.
2. Allow for 48-72 hours of continuous offensive operations by the three battalion task forces.
3. Allow for integrated air and ground maneuver live-fires with optimized freedom of action (within reasonable constraints).
4. Be contiguous with current Combat Center property and associated military airspace.
5. Avoid congressionally-designated wilderness areas, parks, wildlife refuges, designated critical habitat for threatened or endangered species, cities/towns, and interstate highways.
6. Allow for sustained tactical logistics and tactical communications over extended distances.
7. Provide opportunities for exercise design flexibility to avoid training evolution repetition.
8. Provide for at least 1,000 meters of buffer area between live-fire areas and any proposed or existing installation boundary.

Only alternatives that would satisfy all of these criteria were considered reasonable and carried forward for detailed analysis in the Draft EIS.

Each of the six action alternatives feature integrated land withdrawal and purchase, modification and establishment of airspace, and operational components. Some of these components are the same across different alternatives. Three of the alternatives (4, 5, and 6) include a Shared Use Area to allow civilian recreational use when military training activities are not performed. Under all alternatives, existing Special Use Airspace would be modified and new Special Use Airspace established via the FAA in relation to the lands acquired. All such Special Use Airspace would be returned to FAA control to be made available for commercial and general aviation when not being used by the Marine Corps.

All of the alternatives were evaluated from an operational and environmental impact perspective. Alternative 1 involves the withdrawal of public lands and purchase of privately owned and stated owned lands collectively totaling 180,353 acres to the west and 21,304 acres to the south of the Combat Center for a total of 201,657 acres. The MEB would maneuver in an east-to-west direction with the final objective in the west acquisition area. Alternative 1 would have significant impacts on land use, recreation, airspace management, and biological and cultural resources.

Alternative 2 is a reduced version of Alternative 1 involving the land withdrawal and purchase of 113,558 acres to the west and 21,304 acres to the south of the Combat Center for a total of 134,863 acres. Compared to Alternative 1, Alternative 2 would provide considerably less freedom of action and flexibility. Alternative 2 would have the greatest impact to public health and safety, as well as significant impacts on land use, recreation, airspace management, and biological and cultural resources.

Alternative 3 involves land withdrawal and purchase of 177,276 acres to the east and 21,304 acres to the south of the Combat Center. The MEB would maneuver in an east-to-west direction with the final objective located on the existing installation. The terrain features to the east of the Combat Center limit the ability to fire and maneuver in this area, and would also be constrained by Amboy Road. While having the least adverse impact on recreation, Alternative 3 would have significant impacts on land use, transportation, airspace management, air quality, water resources, biological and cultural resources, and socioeconomics.

Alternative 4 involves the same land and airspace as Alternative 1. MEB maneuver, though, would be from west-to-east and involve no use of dud-producing ordnance in the acquisition area. Further, the west acquisition area would be a Shared Use Area available for public access 10 months of the year when not being used for MEB training. This alternative would not allow for all three battalion task forces to converge on a single objective, and limits unconstrained MEB training. Alternative 4 would result in significant impacts to land use, recreation, airspace management, and biological and cultural resources.

Alternative 5 is the same as Alternative 4, but without the land withdrawal and purchase of the area to the south of the Combat Center. It too includes a Shared Use Area to the west of the Combat Center and its operational limits are similar to those of Alternative 4. Alternative 5 would have significant impacts to land use, airspace management, recreation, and biological and cultural resources.

Alternative 6 involves withdrawal of public lands and purchase of private and state lands collectively totaling 146,667 acres to the west and 21,304 acres to the south of the Combat Center for a total of 167,971 acres. Of the 146,667 acres to the west, 43,049 acres would be a Shared Use Area available for public access 10 months of the year. MEB maneuver would be from east-to-west with the final objective in the west acquisition area (EMUA). This alternative would have significant impacts to land use, airspace management, recreation, and biological and cultural resources.

From an operational perspective, the best alternative is Alternative 1. Alternative 5 is the environmentally preferable alternative, but is the worst alternative from an operational perspective. Alternative 6, while not the best alternative from either an operational or environmental impact perspective, is the optimal alternative when considering both the operational and environmental impact factors. This determination is based on the training value afforded by Alternative 6 and the amount of land area that would still be available and accessible to the public for recreational purposes.

**ENVIRONMENTAL IMPACTS:** The DoN prepared an EIS to evaluate the potential environmental impacts associated with implementation of each of the alternatives carried forward for analysis. Impacts were assessed for the following resource areas: land use, recreation, socioeconomics and environmental justice, public health and safety, visual resources, transportation and circulation, airspace management, air quality, noise, biological resources, cultural resources, geological resources, and water resources. Only those resources assessed as potentially having significant impacts, those with identified mitigation measures, and those that were strongly represented in public or agency comments are described in this Record of Decision, that is: land use, recreation, socioeconomics and environmental justice, public health and safety, airspace management, noise, biological resources, and cultural resources. Although impacts to socioeconomics and environmental justice, public health and safety, and noise were identified as less than significant in the EIS, these resources are included in this section because they were identified as important resources to the public or other stakeholders.

### ***Land Use***

The Preferred Alternative would allow shared OHV use and other recreational use of a portion of the withdrawn public lands. Approximately 46.3% of the existing Johnson Valley OHV Area would still be available for public recreation at least 10 months per year (43,049 acres of the withdrawn and purchased land available for 10 months per year and 44,665 acres of non-acquired land available year round). The Preferred Alternative would establish areas in which the Marine Corps could meet the live-fire and maneuver objective training requirements for a MEB, while also providing a Shared Use Area for recreational uses. In conjunction with the preparation of an Integrated Natural Resources Management Plan (INRMP), this alternative substantially meets the purposes of EO 11644 to control OHV use to protect resources, promote the safety of all users of those lands, and to minimize conflicts among the

various uses of those lands. The Preferred Alternative would result in inconsistencies with plans and designations including the Ord Mountain Grazing Allotment, the Upper Johnson Valley Yucca Ring Area of Critical Environmental Concern, and San Bernardino County residential and open space land use designations. The inconsistencies with plans and policies are considered to be significant and unavoidable as greater access is currently allowed by the Johnson Valley OHV Area Management Plan than would be allowed under shared use. Under the Preferred Alternative, access to and use of approximately 54.6% of the Johnson Valley OHV Area would be lost, and this resource is unique to the region. Land use impacts related to plans and policies are considered to be significant and unavoidable. Environmental impacts to all other land use categories identified in the EIS (*Land Status and Ownership, Mining, Grazing, Utilities, and Sensitive Land Uses*) are considered less than significant.

### ***Recreation***

Under the Preferred Alternative access to and use of approximately 54.6% of the Johnson Valley OHV Area would be lost, representing a significant impact to recreation. This recreational resource is unique to the region, given its combination of vast open space, large variety of desert views and scenic vistas, and unique geologic formations. About 46% of the Johnson Valley OHV Area would be available during approximately 10 months per year for public access (for the portion designated as a Shared Use Area, which includes Hartwell Hills, the unique terrain feature known as The Hammers) or all of the year (for the area not acquired). Even though the Marine Corps, as described and analyzed in the Final EIS, would be conducting live-fire training in the EMUA approximately 49 weeks each year, the Marine Corps would consider, on a case-by-case basis, and under strictly limited and controlled conditions, potential use of portions of the EMUA for major organized OHV race events, if such events can be safely held and do not affect military training. As training with dud-producing munitions occurs throughout the EMUA, the areas available for consideration to host organized OHV races would become more limited. Training with dud-producing munitions throughout the EMUA would eventually lead to range conditions that would severely limit, if not fully preclude, recreational access. The Preferred Alternative meets the purposes of EO 11644 to control OHV use to protect resources, promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands. The displacement of recreational activities to the remaining portion of the Johnson Valley OHV Area and other OHV areas would impact recreational opportunities, particularly at areas and routes that would receive the largest relative proportions of the displaced activities. Therefore, the Preferred Alternative would result in significant direct, indirect, and cumulative impacts to recreational resources.

### ***Socioeconomics and Environmental Justice***

The primary socioeconomic impacts associated with the Preferred Alternative are expected to result from the displacement of recreational and film industry activities that currently take place on public lands within the affected project area. Such activities generate business sales, jobs, sales tax revenues, and employee income in local communities. The Preferred Alternative would result in an estimated direct regional (county-wide) impact from lost sales and tax revenue (\$216,000 compared to \$8.7 million baseline) and direct local area impact from lost sales and tax revenue (\$1.5 million compared to \$5.96 million baseline) related to reduced recreational and film industry spending. An economic model estimated the beneficial combined impact (direct and indirect) from the net gain in regional sales (\$7.5 million), income (\$4 million), and employment (110 jobs, which includes the proposed new base staff and 33 additional jobs stimulated in the local economy), from the increase in Combat Center personnel associated with the Preferred Alternative. This beneficial impact would largely offset the impact in the reduction in local recreational and film industry spending. Sufficient capacity exists to absorb the added demand for housing and community services. The Preferred Alternative would result in a direct impact to individual small businesses that are largely dependent on recreational visitor spending. This may cause some smaller firms to fail as a result of reduced revenues from recreation. There would also be a small

direct reduction (\$28,456 or 0.005% of county total) in property tax revenues to local jurisdictions following the acquisition of private land (105 private property parcels) by the DoN. Impacts to mining, property values, and civilian impacts are considered less than significant, since property values are not anticipated to decrease directly/indirectly from increased noise. An indirect impact (higher fuel costs) related to civil aviation impacts is expected to occur, and economic impacts to livestock ranching and farming industries due to the loss of some land for grazing are considered less than significant. The EIS identified less than significant impacts to socioeconomics.

Although three locations in the vicinity of the Combat Center meet the Census Bureau definition of a “poverty area” (Homestead Valley, Lucerne Valley, and Joshua Tree), socioeconomic impacts that are attributable to the Preferred Alternative would not be significantly adverse and would apply equally to any affected populations, regardless of minority or income status. Therefore, in accordance with EO 12898 Criteria 2 and 3 for assessing environmental justice impacts, no environmental justice impacts would occur with respect to socioeconomics. No civilians residing outside the installation boundaries (including the land areas proposed for land withdrawal or purchase) would be exposed to average noise levels that exceed standard compatible land use thresholds (for airspace noise or ordnance noise). In addition, all three of the areas that meet the criteria for “poverty area” status would remain outside the area identified as having medium potential for noise complaints. Therefore, populations in the identified “poverty areas” would not be exposed to disproportionately high or adverse human health effects or risks from noise associated with implementation of the Preferred Alternative. In accordance with EO 12898, Criteria 2 and 3 for assessing environmental justice impacts, no environmental justice impacts would occur with respect to noise. Similarly, the EIS identified no other adverse environmental or health effects that would disproportionately affect minority or low-income populations.

### ***Public Health and Safety***

The Preferred Alternative would result in less than significant impacts to Public Health and Safety. Current procedures regarding prevention/response to aircraft-related accidents would continue and existing plans and procedures related to aircraft-delivered ordnance would be updated to include the new training areas. Under the Preferred Alternative there would be no change to permits or hazardous waste generator status and adequate solid waste capacity is present to accommodate proposed activities. Indirect impacts associated with the displacement of recreational activities (particularly OHV use) would result in increased use of certain other recreational areas and designated routes, potentially resulting in periodic increases in the density of the riding population and an associated marginal increase in the safety risks associated with OHV use. OHV participants are typically cognizant of the safety risks associated with the activity, and responsible drivers would be expected to adjust their speed and other factors as appropriate to the prevailing riding conditions at any given time, including the density of other riders present. Physical closure of mines would further limit potential unauthorized access by the public. Sites contaminated by previous mining activities would be clearly marked/mapped to minimize public access. Public access would be controlled through land use restrictions, signage, base master plan amendments, safety and security patrols, and notices provided by the Marine Corps. No known environmental health or safety risk would occur that may disproportionately affect children. During recreational activity in the Shared Use Area, the public could potentially come in contact with residual munitions that went undetected following range sweep operations to remove discarded/lost munitions and debris. Implementation of Special Conservation Measures (SCMs) related to public health and safety (e.g., range sweeps and public education) would reduce risks to public health and safety to a less than significant level in the Shared Use Area.

## ***Airspace Management***

The proposed Special Use Airspace configuration for the Preferred Alternative includes new restricted airspace, military operations areas and air traffic control assigned airspace; and modifications to existing military operations areas and air traffic control assigned airspace. The proposed Special Use Airspace is a critical and integral component of the capability required to accommodate military aviation activities and employment of indirect fire weapons such as artillery and mortars in the course of sustained, combined-arms live-fire and maneuver training. The Preferred Alternative would also accommodate a projected increase in military flight operations for training at the Combat Center. The proposed Special Use Airspace configuration further reduces impacts to regional air traffic by only using such new or modified airspace for specific times and only at certain altitudes. This configuration would facilitate FAA management of the airspace with much of each day's use remaining available. The proposed new and modified Special Use Airspace and projected increase in military flight operations would have minimal to moderate impacts on Victor airways. The proposed new and modified Special Use Airspace and projected increase in military flight operations would have moderate to significant impacts on jet route instrument flight rules (IFR) air traffic within or adjacent to the proposed new or modified airspace. There would be minimal to moderate impacts on routes used by general aviation aircraft operating under Visual Flight Rules (VFR), on public airports and instrument approach procedures within close proximity to the Special Use Airspace boundaries, and on private airfields within, beneath, or bordering the Special Use Airspace. The extent of impacts to these categories of non-military aviation activities would vary depending on the scope of military aviation activities. The proposed Special Use Airspace is configured in a manner that supports efficient and flexible use of airspace for military activities, allowing use of only those proposed lateral and vertical sectors of Special Use Airspace that are required to support military activities in a given location at a given time. Significant impacts to airspace management would occur with implementation of the Preferred Alternative.

## ***Noise***

Under the Preferred Alternative overflights would increase and occur at lower altitudes than baseline conditions. The 65 A-weighted decibels (dBA) Community Noise Equivalent Level (CNEL) and CNEL<sub>mr</sub> contours for the airfield and airspace operations, respectively, would be contained within the range boundary and no populations or off-base receptors would be exposed to CNEL (or CNEL<sub>mr</sub>) greater than 65 dBA. The 62-70 dBA CNEL contour would extend beyond the range boundary on 2,106 acres (408 acres less than the No-Action Alternative) and would not potentially affect the land use compatibility of any of the 51 applicable points of interest. The land area subject to a medium potential for noise complaints would increase by 21.2% compared to baseline and would encompass an estimated 1,478 more people. The area subject to high potential for noise complaint would increase by 59% compared to baseline, but would not include any residential populations. The probability of property damage from ordnance vibrations will be less than 0.0001%.

## ***Biological Resources***

Protected - Federally Threatened or Endangered Species: Activities under the Preferred Alternative would result in the loss of some desert tortoises and occupied habitat, as well as degradation of tortoise habitat, within high- and medium-intensity disturbance areas. A total of 125,265 acres of occupied desert tortoise habitat under the Preferred Alternative may experience impacts from military training during the estimated 50-year project lifetime: an estimated 28,790 acres in high-intensity areas, and 96,475 acres in medium-intensity areas. A potential also exists for a lower degree of impact in low-intensity disturbance areas. No designated desert tortoise critical habitat would be affected by MEB training. Further, under the Preferred Alternative, recreational use in the Shared Use Area would continue 10 months of the year,

so increased military activities would not be offset by a cessation of adverse effects from OHV use in this area. Instead, disturbance in the Shared Use Area from recreational vehicles would combine with disturbance from military training to produce significant adverse cumulative effects. In the Biological Opinion (BO) issued on July 17, 2012, the USFWS estimated that 662 larger (above 160mm) desert tortoises and as many as 4,098 smaller desert tortoises might be killed in the acquired lands in areas identified for heavy or moderate disturbance.

The USFWS estimate is different than the Marine Corps analysis presented in the Final EIS and BA due to different estimation methods utilized by USFWS and the Marine Corps. The Marine Corps estimates were based on TRED analysis, while the USFWS utilized a line and distance sampling methodology. Marine Corps estimates of tortoise mortality were higher than the USFWS estimates. During consultations, it was agreed to utilize the USFWS estimates as the baseline view, as it was not possible for the USFWS to further quantify the mortality rate discussed in this paragraph because of all the variables involved, including but not limited to predicting the number of desert tortoises of various sizes and the effectiveness of clearance surveys.

Under the Preferred Alternative, three new Special Use Areas established as an SCM would protect 14,950 acres of desert tortoise habitat: 12,015 acres in the west acquisition area and 2,935 acres in the south acquisition area. Approximately 234 to 367 (95% confidence interval [CI]) adult tortoises and 1,103 to 1,730 (95% CI) juvenile tortoises are located within these areas and would benefit from enhanced protection as compared to existing conditions.

The area comprising the Shared Use Area is some of the least dense area for desert tortoise populations. Closure of a portion of the Johnson Valley OHV Area under the Preferred Alternative (the EMUA) would be expected to result in concentration of OHV activity in the Shared Use Area and in the remaining portion of the Johnson Valley Off Highway Vehicle Area (approximately 70% of the displaced recreational users are expected to use the Shared Use Area and the remaining portion of the Johnson Valley OHV Area), which would result in greater adverse effects from OHV activity on those lands than currently occurs. Some OHV activity (23%) would also be displaced to other regional OHV Areas (e.g., Stoddard Valley), resulting in indirect impacts to tortoises in those areas. Due to the threatened status of the desert tortoise, these indirect impacts would be significant.

The Marine Corps has received an incidental take statement from the USFWS to account for take or loss associated with this alternative. Compliance with the BO, which includes the incidental take statement, addresses this impact under Section 7 requirements of the Endangered Species Act. Because death, translocation or displacement of this federally-listed threatened species would still occur, this impact would remain significant.

Other Status Species: Small crucifixion thorn populations in Blacktop, Emerson Lake, and southern Lavic Lake Training Areas would likely be destroyed or damaged during MEB Exercises as a result of crushing or ordnance explosion. Implementation of the mitigation measure (refer to *Mitigation Measures and Monitoring* Section below) to avoid this population through exercise design and/or to protect it with fencing would reduce these impacts to less than significant.

Environmental impacts to *Species with Other Federal Status, Other Special Status Species, Vegetation, Ecosystems, and Wildlife* would be less than significant.

### ***Cultural Resources***

Because specific avoidance measures may not be feasible in the conduct of military exercises, impacts to archeological sites may occur as a result of proposed military training in withdrawn and purchased lands as well as in the MEB corridors transecting the installation. Anticipated impacts to cultural resources

could result from ground disturbances introduced by military training exercises (e.g., direct and indirect weapons fire, MEB Objective operations, group and individual vehicle traffic, battalion movements, and the construction of roads and temporary use areas). Cultural resources in the Shared Use Area could be impacted by occasional MEB training and by the use of non-dud producing ordnance during the two thirty-day periods of military use. Cultural resources in the Shared Use Area might receive continued impacts from OHV use during the 10 months of public use. In the rare case of aircraft accidents, falling debris could cause impacts to archeological sites. Cumulative impacts to cultural resources are considered to be significant.

SCMs and other measures would be implemented to avoid or reduce impacts to cultural resources. The Combat Center's Programmatic Agreement with the California State Historic Preservation Officer (SHPO) would be modified to include all withdrawn and purchased lands, and an Integrated Cultural Resources Management Plan (ICRMP) would be developed for newly withdrawn and purchased areas. When the current Programmatic Agreement expires in 2014, a new Programmatic Agreement would be negotiated with the SHPO and the Native American Tribes that have an interest in lands under the jurisdiction of the Marine Corps. Additionally, the ICRMP developed for the five year period of FY 2017 through FY 2021 would combine management goals for both the existing Combat Center and withdrawn and purchased lands into one management document.

#### **MITIGATION MEASURES AND MONITORING:**

The impact analyses described in the EIS consider the influence of proposed SCMs as integral components of the proposed action. The EIS also recommends several resource-specific mitigation measures not already included as part of the proposed action. Mitigation is defined broadly to include measures to avoid, minimize, rectify, reduce, or compensate for adverse environmental impacts (40 CFR 1508.20). The DoN developed a new alternative, which was selected later as the Preferred Alternative (Alternative 6), after public comment to reduce the potential impact to several resource areas. The following mitigation measures have been developed for the Preferred Alternative in consultation with regulatory agencies and based on public input through the public involvement process.

#### ***Land Use***

Implementation of the Preferred Alternative would result in significant impacts to Land Use. In addition to creation of the Shared Use Area, the DoN considered potential mitigation measures but determined that none were feasible. No additional mitigation measures are recommended.

#### ***Recreation***

Significant impacts to recreational resources would occur as a result of the Preferred Alternative. With implementation of amended mitigation measures **REC-1** and **REC-2** and recreation SCMs described in the EIS, impacts to the OHV community and other recreational opportunities, though reduced, would still be significant.

REC-1 The Marine Corps, in cooperation with the BLM, would establish a Resource Management Group that would be charged with addressing all issues associated with the Shared Use Area. The Resource Management Group would implement an aggressive community/public outreach plan to ensure the public is given every opportunity to understand the change in land use and potential dangers.

REC-2 The Resource Management Group would meet at least once a year to discuss the suitability of procedures to facilitate recreational use of the Shared Use Area. The Resource Management Group would seek information from representatives of relevant State agencies, private OHV

interest groups, event managers, environmental advocacy groups, and others as needed and appropriate. Through this process, the management of the Shared Use Area would be continuously improved to balance Marine Corps training needs with recreational demand. The Resource Management Group would also consider the potential use of portions of the EMUA for strictly limited recreational use on a case-by-case basis for organized OHV race events and make recommendations to the Marine Corps.

The DoN considered other potential mitigation measures but determined that none were feasible for the Marine Corps to implement unilaterally to compensate for the loss of recreational opportunities within the EMUA (year round) and the Shared Use Area (during the two thirty-day periods when MEB exercises are occurring). Numerous comments on the Draft EIS stated that the Marine Corps should designate or obtain other lands in the region to mitigate the loss of the OHV area in Johnson Valley. The DoN does not have the jurisdiction or capability to designate or obtain other lands for OHV use and could not commit to such measures as part of this Record of Decision. The State of California has management jurisdiction over State lands. The BLM has management jurisdiction over public lands, which are designated for multiple use management. The BLM determines appropriate uses for public lands through the land use planning process. The areas that are currently unavailable for motorized recreation were designated as unavailable through that process to protect other resources, or because they were otherwise unsuitable for motorized recreation. The BLM has informed the Marine Corps that at this time there are no lands available to designate as a replacement OHV area. Accordingly, significant impacts to recreational resources would occur with implementation of the Preferred Alternative.

#### ***Socioeconomics and Environmental Justice***

Implementation of the Preferred Alternative would result in less than significant impacts to socioeconomics and environmental justice. The DoN considered potential mitigation measures but determined that none were feasible. No mitigation measures are recommended.

#### ***Public Health and Safety***

With implementation of the public health and safety SCMs and specific Shared Use Area management measures detailed in the EIS, less than significant impacts to public health and safety would occur with the implementation of the Preferred Alternative. The DoN considered additional mitigation measures but determined that none were feasible. No further or additional mitigation measures are recommended.

#### ***Airspace Management***

Implementation of the Preferred Alternative is expected to result in significant impacts to airspace management. The FAA intends to execute an aeronautical study of the proposed airspace configuration of the Preferred Alternative. The DoN would conduct additional airspace analysis to further support coordination with the FAA. Mitigation measures to minimize the impacts of the proposed airspace configuration would be determined by the FAA, the Marine Corps, and other key stakeholders, based on these studies and analyses, and further inter-agency coordination.

The following mitigation measure was identified to lessen the potential effects of the proposed airspace establishment:

- AM-1 Feasible measures expected to be developed may include scheduling of Special Use Airspace for military activities during off-peak civil air traffic periods, other scheduling and Special Use Airspace utilization measures, and raising Special Use Airspace floors to minimize impacts to local airports. Continued Marine Corps outreach to local airport operators and general aviation pilot groups will seek means of minimizing impacts on the general aviation community.

Although impacts would be lessened with implementation of final mitigation measures and continued coordination with FAA, it is expected that impacts to airspace management would be significant. Therefore, significant, unmitigated impacts to airspace management for some categories of non-military aviation activities are expected to occur with implementation of the Preferred Alternative.

### **Noise**

The DoN considered potential mitigation measures to address noise impacts but determined that none were feasible. No mitigation measures are recommended.

### **Biological Resources**

Protected - Federally Threatened or Endangered Species: On July 17, 2012, the USFWS issued a BO that concluded the implementation of the Preferred Alternative would likely result in the take of desert tortoises associated with military training as described in the proposed action, translocation efforts, and through authorized and unauthorized OHV use by recreationists displaced from the Johnson Valley Off-Highway Vehicle Area. Also, increased use in the remaining portions of the Johnson Valley Off-Highway Vehicle Area is likely to increase the amount or extent of take above current levels.

The following SCMs would extend to the withdrawn and purchased lands to partially offset impacts to desert tortoises. The full text of these measures is provided in the Final BO, which also includes other mitigation measures to further offset the impacts that would result from implementation of the Preferred Alternative.

- *New Special Use Areas:* As part of this measure the Marine Corps would establish two Special Use Areas in the western expansion area (12,015 acres combined) and one Special Use Area in the southern expansion area (2,935 acres). These Special Use Areas are areas that have not been identified as part of the training scenarios but that have habitat supporting moderate densities of desert tortoises. Two of these Special Use Areas are adjacent to existing protected areas (i.e., Ord-Rodman Desert Wildlife Management Area [DWMA] [adjacent to the western expansion area] and Cleghorn Lakes Wilderness [adjacent to the southern expansion area]). The third is located in the western portion of the western expansion area and is not contiguous with existing or proposed conservation areas. The Marine Corps would place all newly established Special Use Areas off-limits to mechanized maneuvers, off-road vehicle travel, bivouac sites, and any other military training involving off-road vehicle activity. The Marine Corps would sign these Special Use Areas, and fence them on the sides near proposed maneuver areas and the Johnson Valley OHV Area, to reduce the potential for effects from training activities and unauthorized access. Some Special Use Areas would serve as recipient sites for desert tortoises translocated from maneuver corridors and training objectives within the expansion areas (see below). The Marine Corps would also create a new Special Use Area within the Sunshine Peak Training Area (1,987 acres) and an existing Special Use Area within the Sunshine Peak and Lavic Lake Training Areas (8,901 acres) to increase the protection of desert tortoises within the boundaries of the existing installation. This represents a combined size of 25,844 acres of Special Use Areas.
- *Translocation Program:* The Combat Center would translocate tortoises from heavy and moderate disturbance areas before the first MEB exercise. As part of this measure, the Marine Corps would perform extensive pre-translocation surveys of recipient sites that would provide information that may be critical to the final translocation plan developed by the Marine Corps and USFWS. Before initiating training activities in the withdrawn and purchased areas, the Marine Corps would translocate all desert tortoises it finds within areas identified for heavy and moderate disturbance according to the final translocation plan. If changes to the MEB objective or other

training-related disturbances cause an effect to the desert tortoise that the USFWS has not considered in the BO, the Marine Corps may need to modify the translocation plan and re-initiate consultation. As part of this translocation plan, the Marine Corps would provide increased law enforcement in all areas. It would also construct tortoise fencing or other barriers to restrict movement of desert tortoises back into heavy or moderate disturbance areas.

- *Desert Tortoise “Headstarting” and Population Augmentation:* The Marine Corps would develop and integrate population augmentation strategies into translocation and monitoring efforts. As part of this measure, the Marine Corps would implement an experimental population augmentation within designated Special Use Areas and/or other recipient sites for translocation. The Marine Corps would establish a new head-starting facility in the western-most Special Use Area in the proposed western acquisition area. The Marine Corps would coordinate with the USFWS in development of the population augmentation strategy and cover this work under its existing section 10(a)(1)(A) recovery permit.
- *Monitoring:* Monitoring would occur every five years over 30 years to ascertain the long-term effects of translocation and augmentation upon resident, translocated, control, and headstarted tortoises. Results of translocation and monitoring efforts would be reported annually to USFWS, and other agencies and interested parties. This monitoring would be done via health assessments and electronic tracking by expert biologists.

The BO includes a set of Reasonable and Prudent Measures that would further minimize the impacts of implementing the Preferred Alternative. These additional measures and associated Terms and Conditions are listed below.

#### Reasonable and Prudent Measures

The Marine Corps would ensure:

1. That the rate of mortality or injury of translocated and resident desert tortoises is not elevated above the rate of mortality or injury for other populations within the action area that are not affected by translocation.
2. That the level of incidental take anticipated in the BO is commensurate with the analysis contained therein.

#### Terms and Conditions

The following term and condition implements reasonable and prudent measure 1:

- If monitoring of translocated and recipient site desert tortoises indicates a statistically significant elevation in mortality rates above that observed in the control population, the Marine Corps must request re-initiation of consultation on the proposed action.

The following term and condition implements reasonable and prudent measure 2:

- The Marine Corps would re-initiate formal consultation with the USFWS if:
  - a. 10 individuals of any size are injured or killed during the translocation of desert tortoises from the acquisition areas. This number is only for desert tortoises that might be injured or killed during the process of moving them between the acquisition and translocation areas; the recovery permit for post-translocation monitoring and research would address injury and mortality associated with that work.
  - b. 20 desert tortoises of any size are killed or injured in any calendar year as a result of

training and preparation work for training within the expanded boundaries of the Combat Center (i.e., the acquisition areas and the former boundaries).

**Crucifixion Thorn:** The following mitigation measure was identified to offset the biological resources impacts resulting from the implementation of the Preferred Alternative, and considers public concerns raised during the scoping process. Impact avoidance is the preferred approach for management of biological resources. Adopted mitigation measures as part of this action include the following:

BIO-1 As feasible, avoid the small populations of crucifixion thorn in the Blacktop, Lavic Lake, and Emerson Lake Training Areas, through exercise design and/or installation of protective fencing, before commencement of ground-disturbing training activities.

### ***Cultural Resources***

Implementation of the Preferred Alternative (including SCMs described in the EIS) would result in significant cumulative impacts to cultural resources. In addition to the adoption of the SCMs for cultural resources, an ICRMP would be prepared for the withdrawn and purchased areas. This ICRMP would later be merged with the existing installation ICRMP which expires in 2016. The installation ICRMP would be revised in consultation with the SHPO and Tribes and any additional mitigation measures required would be included and implemented to lessen the potential effects of the proposed action on cultural resources.

**AGENCY COORDINATION AND CONSULTATION:** The BLM and FAA have participated in the preparation of the EIS as Cooperating Agencies. As defined in 40 CFR 1508.5, a cooperating agency “means any federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major federal action significantly affecting the quality of the human environment.” A cooperating agency’s responsibilities include participation in the NEPA process as early as possible, participation in the scoping process, and upon the lead agency’s request, development of information to be included in the EIS, and staff support during EIS preparation (40 CFR 1501.6). Under 40 CFR 1501.6, federal agencies with jurisdiction by law shall be cooperating agencies if requested by the lead agency.

The land being considered for withdrawal and purchase under the proposed action is predominately public land administered by the BLM, while the airspace being considered for establishment or modification is controlled by the FAA. Therefore, at the beginning of the EIS process, the DoN requested that these entities become cooperating agencies. Each agency signed a letter of agreement indicating their willingness to be a cooperating agency, and agreeing to specific roles and responsibilities for the lead and cooperating agencies (see EIS, Appendix A, *Agency Correspondence*). As the lead agency, the DoN has met its obligations to the cooperating agencies, including routine and frequent coordination throughout the EIS process. The cooperating agencies have also fulfilled their obligations as stipulated in their agreement.

### ***Bureau of Land Management***

The BLM’s involvement as a cooperating agency in the development of the EIS was triggered by:

- its current jurisdiction by law and special expertise over the majority of lands segregated for consideration of expansion of the Combat Center at Twentynine Palms;
- its receipt of a subsequent public lands withdrawal application; and
- its procedural responsibilities under Section 204 of the Federal Land Policy and Management Act (FLPMA) to identify and submit proposed public land withdrawals larger than 5,000 acres

through the Secretary of the Interior to Congress, including providing the information identified in Section 204 (c)(2) of that Act.

The BLM has unique knowledge of the public lands under its control and has the expertise essential to help the DoN evaluate appropriate parcels of land to meet MEB training requirements. As outlined in FLPMA and implementing regulations in 43 CFR Part 2300, the BLM is responsible for processing public land withdrawal applications from federal agencies and is responsible for submitting preliminary findings and recommendations on such applications to the Secretary of the Interior. However, a land withdrawal of more than 5,000 acres for the purposes of national defense may only be made by an Act of Congress.

In accordance with 43 CFR Subpart 2310, the DoN submitted a land withdrawal application to the Barstow Field Office of the BLM on August 14, 2008. Subsequently, in accordance with 43 CFR § 2310.2(a) and § 2310.3-1(b), the BLM published a Notice of Proposed Legislative Withdrawal and Opportunity for Public Meeting on September 15, 2008. The Notice provided a 90-day comment period, from September 15, 2008 through December 15, 2008, for stakeholders to express their views on the impacts of the proposed land withdrawal. In addition, the BLM held three meetings to inform the public of the BLM's responsibility related to the withdrawal request. One open house format meeting was held in Twentynine Palms, California on October, 23, 2008, and two open house format meetings were held in Victorville, California on October 24, 2008. Comments received during the BLM public meetings were considered in the Marine Corps' scoping process. On June 11, 2009, the Marine Corps submitted an updated set of legal descriptions to BLM, which reduced the segregation area that was identified in the Marine Corps' land withdrawal application of August 14, 2008. The Marine Corps removed from consideration approximately 33,000 acres of federal land, approximately 4,000 acres of state land, and approximately 25,000 acres of privately-owned land. This decision was based on additional analysis of the Marine Corps' training needs and public comments during the EIS scoping period. The Department of the Interior authorized an administrative withdrawal of the subject lands in aid of legislation on September 11, 2012.

As stated above, the DoN, in consultation with BLM, developed draft legislation that would withdraw and reserve the subject public lands for military training and recreational purposes. The draft legislation is currently under interagency review, and, upon completion of the review, a final Administration Legislative Proposal will be transmitted to Congress for further action. The Administration's position on the various provisions related to the withdrawals will be reflected in the transmitted final Legislative Proposal.

### ***Federal Aviation Administration***

Congress has charged the FAA with administering all navigable airspace in the public interest as necessary to ensure the safety of aircraft and the efficient use of such airspace. As the agency with jurisdiction by law and special expertise with respect to those portions of the proposal involving establishment of new or modified Special Use Airspace, the FAA participated in the preparation of the EIS.

No airspace decision has been or will be made before complete environmental review and consultation with the FAA, other stakeholders, and the public. The necessary coordination with the FAA will be iterative. Airspace dimensions, altitudes and times required may change as the cooperative effort is conducted. The EIS incorporates the best available current information on airspace dimensions in the proposed action based on preliminary information from the FAA describing existing airspace uses and in light of ongoing discussions with the FAA. Use of the best available information provides the public,

agencies, and decision-makers the opportunity to evaluate the consequences of the proposed action in accordance with CEQ regulations (specifically 40 CFR 1500.1[b]). As the development of Special Use Airspace proposals evolves, the DoN will evaluate results in relation to new information and afford the public the opportunity to comment through the FAA airspace proposal process.

### ***Other Agency Coordination***

In addition to consideration under NEPA, the proposed action is subject to federal and state regulatory requirements and, therefore, the DoN has consulted and coordinated with the USFWS, California SHPO, California State Lands Commission, California Department of Fish and Game, Mojave Desert Air Quality Management District, and others on the proposed action. In addition, government-to-government consultation was conducted with potentially affected Native American Indian Tribes and Nations. These include the Chemehuevi Indian Tribe, Colorado River Indian Tribes, Twentynine Palms Band of Mission Indians, Morongo Band of Mission Indians, Fort Mojave Indian Tribe, San Manuel Band of Mission Indians, and Agua Caliente Band of Cahuilla Indians.

**RESPONSE TO COMMENTS ON THE FINAL EIS:** The DoN publicly distributed the Final EIS on July 27, 2012. The DoN reviewed and considered all comments that were received during the 30-day wait period. A total of 982 comments were received on the Final EIS, consisting of 9 comments from government agencies, 182 comments from private organizations, and 791 comments from individuals. The majority of the comments received, particularly from individual members of the public, reiterated previous concerns about the proposed action, particularly the alternatives involving withdrawal of public lands to the west of the existing Combat Center. Several organizations, groups, and local agencies also reiterated their previous dissatisfaction and disagreement with specific portions of the EIS analysis, and further expressed disagreement with the changes made (or not made) in the Final EIS in response to their previous Draft EIS comments.

A comment letter from the U.S. Environmental Protection Agency (EPA) requested clarification in the Record of Decision regarding the DoN's response to EPA's Draft EIS comments as they relate to the analysis of impacts from munitions constituents on water resources, coordination with U.S. Army Corps of Engineers to complete jurisdictional delineation of streams, and tribal consultation for cultural resources. The analysis represented in the EIS was based on the results of two Marine Corps Range and Environmental Vulnerability Assessment (REVA) program evaluations (2008 baseline and 2012 5-year review, completed in June of 2012). Based on the results from the baseline assessment and 5-year review, munitions constituents were determined to not be migrating off-range at levels that could be harmful to human health and/or the environment. The Marine Corps believes this provides sufficient support for evaluating the susceptibility of a wider range of potential ecological receptors than those specifically noted in the REVA evaluations. Additionally, the determination of any "Waters of the US" aboard the Combat Center will be validated in early 2013. Tribal consultation has been concluded and no tribal issues were identified.

**CONCLUSION:** After careful consideration of the purpose and need for the proposed action, the analysis contained in the Final EIS, further consultation with the Bureau of Land Management, and comments received on the Draft and Final EIS from federal, state, and local agencies, non-governmental organizations, and individual members of the public, I have decided to proceed with the implementation of Alternative 6, with mitigation described above, which would afford an opportunity for all three battalion task forces to converge on a single MEB objective. The designation of a portion of the west acquisition area as a Shared Use Area requires the Marine Corps to restrict the use of dud-producing ordnance in that area. Alternative 6, while not the best alternative from either an operational or environmental impact perspective, is the optimal alternative given both the operational and environmental

impact factors considered together. This determination is based on the training value afforded by Alternative 6 and the amount of land area that would still be available and accessible to the public for recreational purposes.

11 FEB 2013

Date



Joseph Ludovici  
Principal Deputy Assistant Secretary of the Navy  
(Energy, Installations & Environment)(Acting)