

PROGRAMMATIC AGREEMENT

**AMONG THE UNITED STATES NAVY
AND THE**

**BUREAU OF RECLAMATION, MID-PACIFIC REGION AND
THE NEVADA STATE HISTORIC PRESERVATION OFFICER**



**REGARDING THE EFFECTS OF DEMOLITION AND CONSTRUCTION
AT NAVAL AIR STATION FALLON, NEVADA BOMBING RANGE BRAVO-16**

WHEREAS, the United States Department of the Navy (Navy) has prepared an *Environmental Assessment for Proposed Addition of Training Activities and Range Enhancements at Naval Air Station Fallon on Training Range Bravo-16 Churchill County, Nevada* (EA) and plans to enhance training on Naval Air Station Fallon Bombing Range Bravo-16 by alteration, demolition, and construction of facilities on the range (herein referred to as the "Undertaking" as defined in 36 CFR 800.16[y]); and

WHEREAS, the Navy has identified alternatives in the Undertaking that have the potential to adversely affect historic properties and intends to use this Programmatic Agreement (PA) to comply with regulations (36 CFR 800) implementing Section 106 of the National Historic Preservation Act (NHPA) (P.L. 89-665, as amended; 16 U.S.C. 470f) and Section 110(f) of the same Act (16 U.S.C. 470h-2[f]); and

WHEREAS, the Navy has determined that demolition and construction activities associated with the Undertaking may have an adverse effect upon properties eligible for inclusion in the National Register of Historic Places (National Register), including the North, Middle, and South spotting towers and 27 archaeological sites (see Appendix A; Figure 1) but that the exact nature of those effects have not yet been determined and that a phased approach for implementing Section 106 of the NHPA is therefore appropriate; and

WHEREAS, the Bravo-16 bombing range includes land withdrawn from the Bureau of Land Management (BLM), with whom the Navy signed a Programmatic Agreement in 2011, pursuant to which BLM has indicated it does not wish to participate in consultation(s) on matters addressed by this PA; and

WHEREAS, the Bravo-16 bombing range includes land withdrawn for the Bureau of Reclamation (BOR), and BOR wishes to be a Concurring Signatory on the PA; and

WHEREAS, the Navy has consulted with the Nevada State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, has notified the Fallon Paiute Shoshone Tribe, and has notified the public and interested parties through the National Environmental Policy Act process; and

WHEREAS, the Navy has notified the Advisory Council on Historic Preservation (ACHP) pursuant to 36 CFR § 800.6(a)(1), requesting their participation, of which ACHP has declined, and will execute this PA to evidence satisfactory compliance with Section 106 of the NHPA.

NOW, THEREFORE, the Navy and the SHPO (Parties) agree that the Undertaking shall be administered in accordance with the terms of this PA in order to take into account the effect of the Undertaking on historic properties and to satisfy the Section 106 responsibilities of the Navy and BOR, for all aspects of the Undertaking.

I. ROLES AND RESPONSIBILITIES

- A. The Parties agree that the Navy is the lead Federal agency for administering and implementing the PA. This includes but is not limited to consulting and coordinating with other land managing agencies; ensuring that all Parties carry out their responsibilities; overseeing all cultural resources work; assembling all submissions to the SHPO including reports, determinations of eligibility and effect, and treatment or data recovery plans; and seeking SHPO concurrence with all agency compliance decisions.
- B. Reporting on and documenting the actions cited above, the Navy shall conform to the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR. 44716-44740) and the SHPO's *Guidelines for Section 106 Submissions to the Nevada State Historic Preservation Office*.
- C. The Navy shall consult with Indian Tribes whose aboriginal territories included portions of the Undertaking or who have previously expressed interest in undertakings within the Area of Potential Effect (APE) and include other land managing agencies in those consultations that involve land under any such agency's jurisdiction.

II. ANTI-DEFICIENCY ACT

All requirements set forth in this PA requiring the expenditure of Navy funds are expressly subject to the availability of appropriations and the requirements of the Anti-Deficiency Act (31 U.S.C. §1341). No obligation undertaken by the Navy under the terms of this PA shall require or be interpreted to require a commitment to expend funds not appropriated for a particular purpose. If the Navy cannot perform any obligation set forth in this PA because of the unavailability of funds, the Navy, the SHPO, and the ACHP intend that the remainder of the PA will be executed. Any obligation under the PA that cannot be performed because of unavailability of funds must be renegotiated among the Navy, the SHPO, and the ACHP.

III. STIPULATIONS

The Navy, in its capacity as lead agency, shall ensure that the following measures are implemented:

Stipulation I: Identification, Inventory, and Site Evaluation

A. Proposed Undertaking

The Navy proposes to modify use of Range Bravo-16 by adding new types of training (primarily ground training) and by enhancing the range facilities. Under the EA, three alternatives have been proposed, the definitions of which can be found in Appendix B. The Navy will implement Section 106 of the NHPA in phases as undertakings occur and funding becomes available.

B. Existing Knowledge and Documentation

The APE of the Undertaking has previously been determined by the Navy in consultation with SHPO. The entire APE was inventoried for archaeological resources to BLM Class III standards during a series of surveys from 2011 to 2013. A total of 27 archaeological resources that are eligible (n=11) or unevaluated (n=16) for inclusion to the National Register of Historic Places were identified (see Appendix A). In addition, the three Bravo 16 range towers were recorded in 2011 and determined to be unevaluated under Criterion C pending further research. The Navy has been in consultation with the Fallon Paiute-Shoshone Tribe to identify properties of traditional religious or cultural importance within the APE since 2011.

C. Phased Approach for Section 106 Compliance

Due to the uncertainty of project funding and implementation, a phased approach for Section 106 compliance will be followed.

Task I: Evaluation of Unevaluated Historic Properties

The Navy, in consultation with the SHPO, BOR (when properties are on BOR land), and relevant Tribes, shall develop a testing plan for all unevaluated historic properties in the project APE prior to the commencement of any undertaking that may have an adverse effect to historic properties. Consulting parties shall have thirty (30) calendar days from receipt to provide their written comments on the plan. The Navy shall edit the plan to address all comments prior to its finalization and shall provide a final copy to SHPO and BOR prior to its implementation.

1. The Navy may implement the testing plan in phases consistent with the availability of funding and prior to the commencement of undertakings under the EA. Field work will be undertaken by archaeologists meeting the Secretary of the Interior Standards for Professional Qualification (36 CFR Part 61) and possessing permits and fieldwork authorization(s) from the BLM and/or the BOR, as appropriate. The Navy will seek agreement with BOR on the eligibility and resolution of adverse effects for cultural resources on BOR lands, prior to submittal to the SHPO. The Navy will provide the results of evaluation to the SHPO and relevant federal land management agencies. The Navy shall ensure that all records and materials resulting from evaluation efforts will be curated at a facility in Nevada in accordance with 36 CFR 79. If requested, tribal information will be treated as confidential.

Task II: Mitigation of Historic Properties Eligible under National Register Criterion D Only

The Navy, in consultation with the SHPO, BOR (when properties are on BOR land) and relevant Tribes, shall develop a plan for the mitigation of historic properties prior to the commencement of any undertaking that may have an adverse effect.

1. The Navy may implement mitigation in phases consistent with the availability of funding and prior to the commencement of undertakings under the EA. Field work will be undertaken by cultural resource professionals meeting the Secretary of the Interior Standards and possessing permits and fieldwork authorization(s) from the BLM and/or the BOR, as applicable.
2. All fieldwork must be completed and a fieldwork completion report submitted to SHPO, BOR (when properties are on BOR land), Tribes, and interested parties prior to the initiation of the undertaking. The report shall include a description of methodology and preliminary results and shall be submitted within thirty (30) days of fieldwork completion. The SHPO, BOR, Tribes, and interested parties shall have fifteen (15) days to review the report and provide comments to the Navy.
3. The Navy will provide the results of mitigation to the SHPO and relevant federal land management agencies for review and comment. The Navy shall ensure that all records and materials resulting from mitigation efforts will be curated at a facility in Nevada in accordance with 36 CFR 79. Any materials recovered on BOR lands will require curation agreement between the Navy and BOR or be transferred to BOR for curation.

Task III: Mitigation of Historic Structures Eligible under National Register Criterion A-D

The Navy, in consultation with the SHPO, shall develop a treatment plan for historic structures. The plan shall conform to the standards described in Appendix G of the State Protocol Agreement between the Bureau of Land Management, Nevada and the SHPO dated February 2012.

1. The Navy may implement the treatment plan in phases consistent with the availability of funding and prior to the commencement of undertakings under the EA. Field work will be undertaken by persons meeting the Secretary of the Interior Standards for historian or architectural historian. The Navy will provide the results of mitigation to the SHPO for review and comment. The SHPO shall have thirty (30) calendar days from receipt to provide their written comments. The Navy shall edit the report to address all comments prior to its finalization and shall provide a final copy to SHPO.
2. Specific conditions under the treatment plan shall include the submission of the original plans and historic photos of the affected structures to SHPO. The plans shall be submitted as two hardcopies and one digital copy on CD-R media. Digital copies of historic photographs shall also be submitted to SHPO on CD-R media. Photographic

documentation shall also be provided to SHPO and shall conform to the standards in Appendix G of the State Protocol agreement.

Stipulation II: Consultation

Consistent with Section 106 of the National Historic Preservation Act and the phased approach proposed in this PA, the Navy will continue to consult with SHPO, BOR, relevant Tribes, and other interested parties as funding becomes available and projects are implemented.

IV. DISPUTE RESOLUTION

- A. Should any Party to this PA object in writing to the manner in which the terms of this PA are implemented, to actions carried out or proposed with respect to implementation of the PA, or to documents prepared in accordance with and subject to the terms of the PA, the Navy shall consult with such party(ies) to resolve the objection within 30 days of receipt of written notification of the objection.
- B. If the objection is resolved during the 30-day consultation period, the Navy may proceed with the subject action in accordance with the terms of such resolution.
- C. If, after initiation of such consultation by either the SHPO or the Navy, the Navy determines that the objection cannot be resolved during the 30-day consultation period, in accordance with 36 CFR § 800.6(b)(2), the Navy will forward all documentation relevant to the dispute, including the Navy's proposed resolution, to the ACHP, and ensure such documentation is available to other Parties and Concurring Signatories. The ACHP shall provide the Navy with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Navy shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, Signatories, and Concurring Parties, and provide them with a copy of this written response. The Navy will then proceed according to its final decision.
- D. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day period, the Navy may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Navy shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA, and provide them and the ACHP with a copy of such written response.
- E. The Navy's responsibility to carry out all actions under this PA that are not the subject of the dispute will remain unchanged.
- F. At any time during implementation of the measures stipulated in this PA, should a member of the public raise an objection pertaining to such implementation, the Navy shall notify the other signatories and consider the objection, consulting with the objector and, should the objector so request, with the other signatories to address the objection. The Navy shall

reasonably determine the time frame for such consultation. Within 15 days following closure of this consultation period, the Navy will render a decision regarding the objection and notify all consulting parties hereunder of its decision in writing. In reaching its decision, the Navy will take all comments from the consulting parties into consideration. The Navy's decision regarding resolution of the objection will be final.

V. REVIEW

The Parties to this Agreement shall review its terms annually no later than July 1 of each fiscal year beginning with the first fiscal year that it is in effect to determine whether continuation, amendment, or termination is appropriate. Interim review may be initiated by any Signatory party to this Agreement.

VI. AMENDMENT

The Navy or the SHPO may propose to amend this PA, whereupon the Navy and the SHPO will consult to consider such amendment pursuant to 36 CFR 800.6(c)(7) and 800.6(c)(8). This PA may be amended only upon written concurrence of the Navy and the SHPO.

VII. DURATION OF THE PA

This PA shall remain in effect for fifteen (15) years from the date of its execution. If proposed actions in the APE are not completed prior to this time, the Navy may consult with SHPO to reconsider the terms of the PA and amend it in accordance with Section VI above.

VIII. TERMINATION

- A. Navy or SHPO may terminate this PA. The signatory proposing termination will notify the other signatories in writing, explain the reasons for proposing termination, and consult with the other signatories for at least sixty (60) days to seek alternatives to termination. Should such consultation result in agreement upon an alternative to termination, including amendment of the PA, the Parties will proceed in accordance with the terms of that agreement.
- B. Should such consultation fail, the signatory proposing termination may terminate this PA by promptly notifying the other signatories in writing. Termination hereunder will render this PA without further force or effect.
- C. If this PA is terminated hereunder, and if the Navy determines that its Undertaking will nonetheless proceed, then the Navy will consult in accordance with 36 CFR § 800.6 to develop a new PA reflecting resolution of adverse effects associated with the Undertaking or request the comments of the ACHP pursuant to 36 CFR Part 800.

IX. EXECUTION


Execution and implementation of this PA evidences that the Navy has afforded the ACHP an opportunity to comment on the Undertaking and has taken into account the effects of the Undertaking on historic properties.

X. IMPLEMENTATION

This Agreement becomes effective on the date of the last signature below and will be implemented immediately upon signature by all parties.

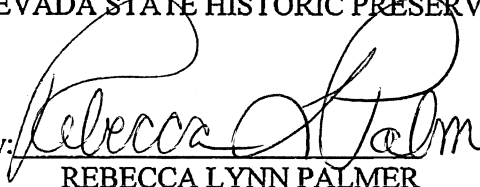
SIGNATORIES:

COMMANDING OFFICER, NAVAL AIR STATION FALLON

By: 
L. E. STEINBAUGH
Captain, U. S. Navy
Commanding Officer

Date: 25 July

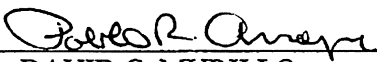
NEVADA STATE HISTORIC PRESERVATION OFFICER

By: 
REBECCA LYNN PALMER
State Historic Preservation Officer

Date: 8/19/14

CONCURRING SIGNATORY:

DIRECTOR, BUREAU OF RECLAMATION, MID-PACIFIC REGION

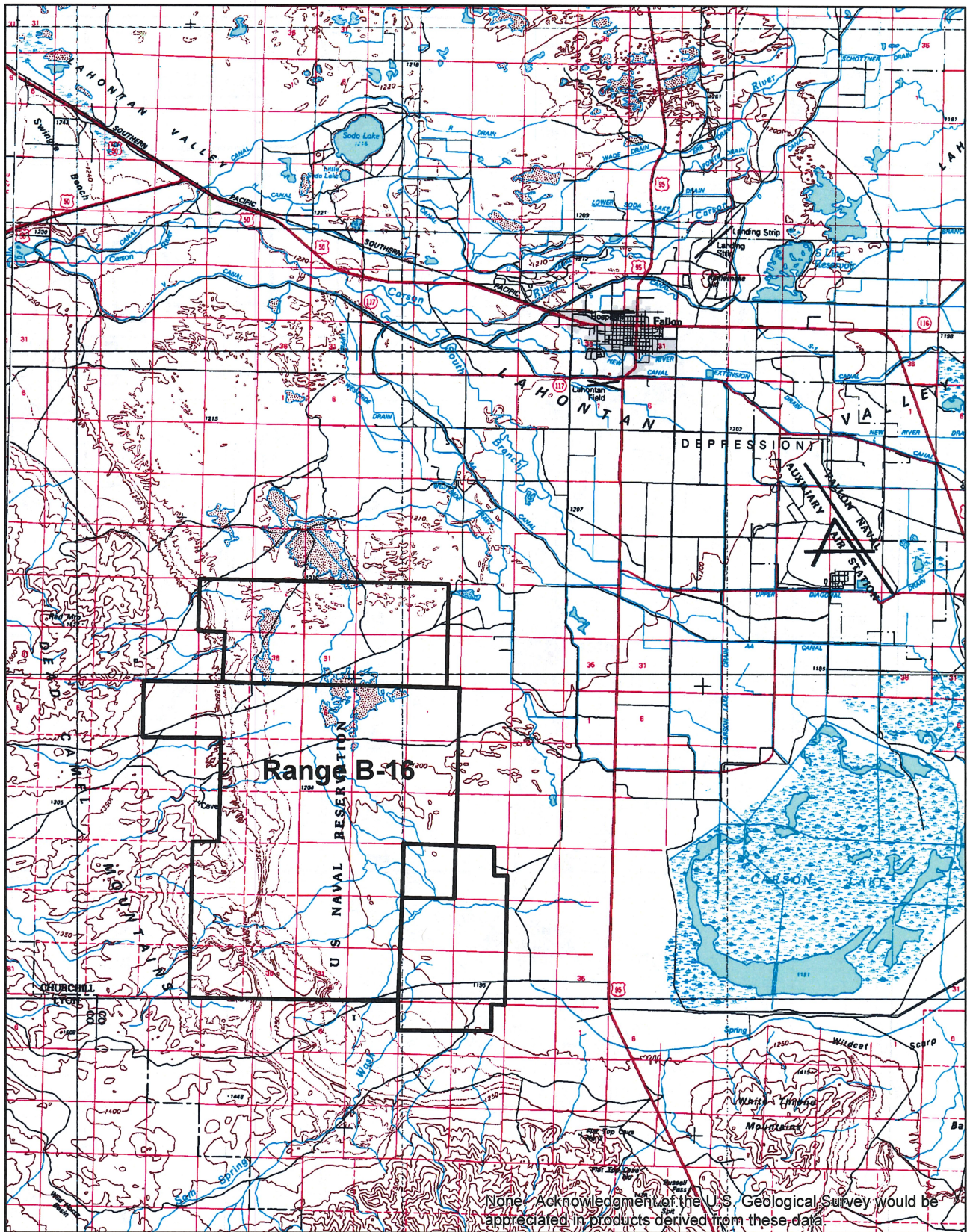
By: 
DAVID G. MURILLO
Regional Director

Date: 8/15/14

ACTING FOR

This attachment contains information that may be exempt from
Freedom of Information Act requests.

Please consult the appropriate federal agency to obtain this information.



NAS Fallon Technical Report No. 133.
Figure 1. Project Location



APPENDIX B
AREA OF POTENTIAL EFFECT AND DESCRIPTION OF UNDERTAKING

A. The Undertaking under Alternative 1 of the EA may include:

1. Installing two rail-mounted target systems to simulate real life targeting for both air-to-ground and ground-to-ground small arms live fire training. The rail-mounted system would use an electrically powered cart to propel a full or subscale vehicle target silhouette. The electrical system would be powered by onboard batteries.
2. Developing a semi-prepared expedient landing zone for C-130 aircraft with provisions for Aircraft Rescue and Fire Fighting trucks. The landing zone would be leveled to the same grade as the natural playa and compacted. The landing zone dimensions would be 4,600 feet (1.4 kilometers) long by 85 feet (26-27 meters) wide including a 300-foot (91-meter) overrun on each end of the landing zone. Based on dry lakebed dimensions, an estimated 1,000 feet by 85 feet (305 meters by 26 meters) of vegetation and low sand dunes would be removed.
3. Developing a launch and recovery area for Unmanned Aerial Systems. The UAS launch and recovery area would be either superimposed over, or adjacent to, the C-130 landing zone.
4. Re-routing the primary access road to B-16 off Sand Canyon Road along the old north south run-in line, an existing gravel road. The old run-in line is still defined and usable as a road, but would need to be widened in some sections to a minimum of 24 feet (7.3 meters) to match the width of the existing access road.
5. An additional range safety tower would be constructed near the C-130 landing zone/UAS launch and recovery area. This would include communications equipment (radio relays and microwave relay) and range surveillance cameras in the vicinity of the north perimeter intersection with the old north run-in line. The new tower height, size, and lighting requirements would be at the discretion of Naval Facilities Engineering Command Southwest (NAVFAC SW) planning guidance.
6. Installing exclusionary fencing around two areas of jointly administered withdrawn land (Bureau of the Interior and the Navy), and closing these areas to public access. Approximately 7 miles of 3-strand barbed wire fence would be constructed.
7. Installing visual cueing items, including Relocatable Habitat Units (RHU), for more realistic training. The Navy proposes to install third-world style buildings or hut mock-ups as well as other real world interactions at various locations to enhance realism for on-going training. Visual cueing items would be placed directly on the ground. Each building mock-up would measure approximately 8 feet long by 8 feet wide by 8 feet high (2.5 meters long by 2.5 meters wide by 2.5 meters high). RHUs and larger modular container systems measuring 40 feet long by 16 feet wide by 24 feet high (12 meters long by 5 meters wide by 7.5 meters high) may also be placed on the range. The ground would be leveled to provide a stable surface for each building mock-up. Each leveled pad would be no more than 20 feet (6 meters) larger than the footprint of each building mock-up. A buffer zone around each building mock-up would allow vehicle access.
8. Establishing free maneuver areas for Tactical Ground Mobility (TGM) training in the southwest and northwest sections of B-16 (2,500 acres [1,012 hectares] and 860 acres [348 hectares], respectively). TGM training includes Off Road Vehicle and navigation training.

using All Terrain Vehicles (ATV), lightweight tactical ATVs, light-medium pickup trucks, Humvees, and armored vehicles.

B. Alternatives 1 and 2 are similar; however, the Undertaking under Alternative 2 could differ by:

1. Using wheel mounted remote-controlled moving targets instead of rail mounted targets;
2. Repairing and improving the existing access road, rather than re-routing it to the old run-in line;
3. Using Conex boxes for visual cueing items, rather than installing RHUs. The footprint and area of disturbance would be similar to that of the RHUs;
4. Decommissioning and demolishing the three historic range towers at B-16 rather than construct a new range tower.

C. A No Action Alternative is also considered in the analysis under the EA. Under the No Action Alternative:

1. The areas identified for closure from public use would remain open to the public.
2. Training would continue to be conducted with currently used methods and locations, however the training would result in a degraded readiness status and create operation risk to combat forces.