

**MEMORANDUM OF AGREEMENT
BETWEEN
DEPARTMENT OF DEFENSE (DOD), THROUGH THE DEPARTMENT OF THE
NAVY (DON) COMMANDER NAVY REGION SOUTHWEST
AND
DEPARTMENT OF INTERIOR (DOI), THROUGH THE
BUREAU OF LAND MANAGEMENT (BLM) NEVADA STATE OFFICE
GOVERNING COORDINATION FOR RENEWAL OF THE EXISTING
WITHDRAWAL AND RESERVATION OF PUBLIC LANDS AND WITHDRAWAL
AND RESERVATION OF ADDITIONAL PUBLIC LANDS FOR
DON AND DOD MILITARY TRAINING ACTIVITIES AT
NAVAL AIR STATION FALLON**

N00242-151029-F19-MOA

I. PARTIES TO THE AGREEMENT

1. This Memorandum of Agreement (herein Agreement) is made by and between Commander, Navy Region Southwest and the Bureau of Land Management (BLM) Nevada State Office to provide for the coordination of the renewal of the existing withdrawal and reservation of public lands and the withdrawal and reservation of additional public lands in the State of Nevada for use by the Department of the Navy (DON) and Defense of Defense (DOD) for military purposes. The withdrawn public lands both do and would comprise a portion of the military ranges on Naval Air Station (NAS) Fallon, principally the Fallon Range Training Complex (FRTC).

II. PREAMBLE

WHEREAS:

1. DON and DOD trains military personnel in the State of Nevada to maintain mission ready status in their assigned units, including training and validation of Naval Aviation and other units;
2. DON and DOD have evolving training needs that require the continued use of public lands already withdrawn, as well as additional public lands proposed for withdrawal and acquisition of non-Federal land within the State of Nevada in the foreseeable future;
3. DON will determine the preferred alternative for the continued use of public lands already withdrawn, as well as additional public lands proposed for withdrawal and acquisition of non-Federal land within the State of Nevada to meet its training needs;
4. BLM is responsible for and has jurisdiction over the use and management of public lands, as defined by the Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1701, as amended) (FLPMA) within the State of Nevada;

5. BLM is responsible for processing public land withdrawal applications received from other Federal agencies and is responsible for submitting preliminary findings and recommendations on such applications to the Secretary of the Interior per 43 CFR Part 2300;

6. The Economy Act (31 U.S.C. § 1535, as amended) allows a Federal agency to enter into an agreement with another Federal agency for services, and Section 304 of FLPMA allows the Secretary of the Interior to establish reasonable fees respecting applications and other documents relating to the public lands;

7. DON will require the cooperation, coordination, and assistance of BLM in any continued use of public lands already withdrawn, as well as additional public lands proposed for withdrawal for DON and other DOD military training, including compliance with:

a. The National Environmental Policy Act (NEPA) 42 U.S.C. § 4321 et seq. and 40 CFR Parts 1500-1508, the Department of the Navy's NEPA implementing regulations at 32 CFR Part 775, the Department of the Interior's (DOI's) NEPA implementing regulations at 43 CFR Part 46, and DOI Manual (516 DM 1-4, 11), and BLM planning regulations (43 CFR §§ 1601.0-5, 1610.3-1 and 1610.4).

b. The Engle Act, 43 U.S.C. §§ 155-158, for public land withdrawals; 43 CFR § 2310 Withdrawals, General Procedures.

8. The parties agree to work cooperatively in the manner expressed in the Agreement.

9. The Naval Aviation Warfighting Development Center (NAWDC) supports the Naval Aviation mission through the training of Naval Aviation forces in advanced Tactics, Techniques and Procedures (TTP) across all assigned mission areas. NAWDC's mission also includes the development, validation, and standardization of combat TTPs for Naval Aviation and the training of Carrier Air Wings to execute Major Combat Operations. NAWDC assesses the combat readiness of our deploying forces by measuring their combat TTP performance in a threat-realistic environment and it accomplishes this mission for all deploying Carrier Air Wings at the FRTC, NAS Fallon, Nevada.

10. The FRTC supports the shore-based portion of integrated training within the Optimized Fleet Response Plan. This phase both trains and assesses our deploying Naval Aviation forces. The FRTC must possess the capabilities required to train and assess deploying forces for combat readiness in support of DOD objectives.

11. The FRTC provides critical maneuver space for Naval Special Warfare tactical ground mobility programs, utilized for personnel training as part of special forces combat readiness preparation and skill maintenance, including overland combined arms scenarios.

III. AUTHORITY FOR ENTERING INTO THIS AGREEMENT

1. The parties enter into this Agreement in accordance with Section 307 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1737) (FLPMA), 10 U.S.C. § 5013, NEPA Section 102 (42 U.S.C. § 4332), and the Economy Act (31 U.S.C. § 1535).

IV. PURPOSE

1. The purpose of this Agreement is to facilitate the administrative processing of the renewal of the withdrawal of the public lands already withdrawn, as well as the withdrawal of additional public lands in the State of Nevada for DON and DOD military training purposes while meeting the requirements of the FLPMA and the Engle Act.

V. TERM

1. This Agreement will be effective for a term of five (5) years from the date of the last signature by the authorized officials of the BLM and the DON.

2. Either Party may terminate this Agreement by providing 45 days prior written notice to the other Party.

3. This Agreement supersedes all previous Agreements concerning the subject matter entered into by the specific signatory parties.

4. This Agreement may be extended for an additional period not to exceed 5 years by the mutual agreement of both parties and the development and execution of an amendment to this original Agreement.

VI. RESPONSIBILITIES

1. DON and BLM together will:

a. When applicable, follow procedures necessary to renew the existing withdrawal of and withdraw additional public lands for military purposes associated with NAS Fallon per the Engle Act.

b. Establish separate interagency agreements covering specific individual projects relating to continued or proposed DON use of public lands withdrawn for military use in the State of Nevada.

c. Exchange relevant unclassified information in an open, timely, and cooperative manner. The Parties acknowledge that all supporting materials, draft, and final documents will become part of the Administrative Record and may be subject to the requirement of the Freedom of Information Act (FOIA) (5 U.S.C. § 552) and other Federal statutes. DON and BLM will coordinate on any requested release of documents to a third party.

d. Designate primary and alternate points of contact for administration of this Agreement and subsequent documentation expressing specific taskings and service, for example, the Statement of Work (SOW), Fair Government Estimate (FGE), and Determination and Findings (D&F).

2. DON will:

a. Communicate the execution of this Agreement to those elements throughout its chain of command working to complete tasks associated with any project involving the continued use public land within the State of Nevada already withdrawn or proposed for withdrawal for military training purposes.

b. Submit the withdrawal application in accordance with 43 C.F.R. § 2310 and the Engle Act. Fund all required activities to pursue a withdrawal renewal or withdrawal of additional public lands as listed under 43 C.F.R. § 2310.3-2.

c. With the exception of those activities listed in Section VI.3, below, fund all activities to pursue a withdrawal renewal or withdrawal of additional public lands as listed in 43 C.F.R. Part 2300, including any reimbursement pursuant to this agreement to BLM for such activities.

d. Serve as the Lead Agency for any NEPA documents produced in support of DON and DOD requested continued use of currently withdrawn public land, as well as withdrawal for military use additional public lands in the State of Nevada. DON retains final responsibility for the content of all NEPA documents pertaining to the renewal of the existing withdrawal, as well as the proposed withdrawal for military use. DON will follow all guidance under 43 CFR § 2310.3-2.

e. Serve as Lead Agency for any consultation with the U.S. Fish and Wildlife Service under the Federal Endangered Species Act (ESA) as amended.

f. Serve as Lead Agency for consultation with the State Historic Preservation Office (SHPO) under the National Historic Preservation Act (NHPA) and discussion with Native Americans/consultation Federally-recognized Indian Tribes.

g. Prepare an Integrated Natural Resources Management Plan for natural resources found and managed on NAS Fallon.

h. Provide responses to BLM comments on all documents. Inconsistencies will be discussed and concurrence by both parties obtained prior to finalizing documents.

3. BLM will:

a. Communicate execution of this Agreement to the appropriate Field, District, State, and Washington D.C. offices of the DOI.

b. BLM shall be a Cooperating Agency for NEPA. BLM shall, at a minimum, independently evaluate and review all versions of the prepared NEPA documents prior to their publication and release.

c. Prepare a Findings and Recommendations Report for the Secretary of the DOI. A copy of this Report will be provided to the DON for review prior to the Report being sent to the Secretary of the DOI.

d. In close cooperation with the DON's legislative proposal process, prepare the draft legislative proposal to implement the DON's withdrawal request and proposed recommendations.

e. Fund BLM activities under Section VI (4) of this Agreement.

f. BLM shall review documents for technical accuracy and legal adequacy, providing guidance to the DON utilizing their specialized expertise. BLM shall specifically indicate whether the documents reviewed meet BLM requirements, and, if they do not, provide authority and guidance for improvement and modifications.

g. BLM shall provide written approval and/or areas of concern that prevent their approval, on final documents to DON prior to release for publication.

4. Under the Economy Act, Section 304 of FLPMA, or other applicable authority, BLM may, at its discretion, also perform additional services, as reimbursable taskings, to include:

a. Provide information and advice to the DON on NEPA, NHPA, ESA and Tribal consultation issues, to include:

- i. Identify data needs;
- ii. Consider management actions to resolve issues;
- iii. Participate in the development of mitigation measures.

b. Guide and participate in resource management planning processes.

c. Participate with DON in pre-application consultation and withdrawal proposal process prior to DON publishing a Notice of Intent (NOI) in the Federal Register.

d. Attend public meetings as required for public scoping with the DON to explain the BLM role in the withdrawal process.

e. Assist in the development of the Draft and Final Environmental Impact Statement (EIS) and any other notices (as requested) prepared for publication in the Federal Register.

f. Attend public meetings as required for on the Draft EIS.

g. Participate in strategic planning efforts intended to expedite the withdrawal process and support inter-agency communication during the public land withdrawal process.

h. Participate in information sessions not otherwise required by law or regulation, for example, briefs to Congressional committee members or committee staff.

VII. FINANCIAL ADMINISTRATION

1. Subject to availability of funds, and the execution of a Military Interdepartmental Purchase Requests (MIPR) described below, DON will fund BLM for costs incurred for activities or analyses, such as those listed in Section VI (4) of this Agreement, associated with continued and future use of any withdrawn public lands that comprise the NAS Fallon military ranges for DON and DOD military training purposes.

2. BLM will work with the DON to develop a FGE and schedule for the services to be provided by the BLM during this process. BLM will provide an initial cost estimate within 45 days of the execution of any project specific agreement entered into by the Parties to this Agreement. This cost estimate will itemize the types of expenses, for example, personnel and travel.

3. Where additional funding is needed, the DON will be notified at least 30 days in advance of the date that funds are required. Any funding remaining at the expiration of this Agreement will be returned by BLM to the DON.

4. The DON shall prepare a SOW to describe the assistance needed and use a MIPR to authorize the expenditure of a fixed amount of funds by BLM on a reimbursable basis. The DON financial point of contact will be specified on each MIPR. BLM shall sign and return acceptance forms to confirm their ability to provide the services requested. BLM will notify DON of expenditures on a quarterly basis and provide expenditure records when requested by DON.

5. BLM will base salary expenditures for governmental employees according to General Schedule plus benefits and leave surcharge. Travel expenses will comply with Federal Travel Regulations.

VIII. DISPUTE RESOLUTION

1. The Parties will attempt to resolve any dispute informally. Either Party to this Agreement may provide the other Party written notice of a dispute concerning the implementation of this Agreement.

2. If disputes cannot be informally resolved after 15 days following written notice of a dispute, either signatory of this Agreement may request elevation of the matter to the next management level for resolution by issuing a written statement of dispute.

IX. CONDITIONS – Both parties understand and mutually agree:

1. Implementation of this Agreement is of mutual benefit;

2. BLM will not undertake any activities at the expense of DON in advance of the complete execution of necessary funding documents;
3. This Agreement does not constitute a commitment of funds, and that performance under this agreement by either party is dependent upon lawful appropriation, availability, and allocation of funds by proper authorities. Any requirement for the DON to pay or obligate funds, under the terms of this Agreement shall be subject to the availability of appropriated funds, and no provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341 et seq.;
4. This Agreement may be modified or amended only by mutual agreement of the parties in writing and signed by each of the parties hereto;
5. DON and BLM may develop and execute additional inter-agency agreements for any services beyond the scope of this Agreement;
6. Any documents or data exchanged between the Parties to the Agreement will not be released to a third party unless the designated representative of the party that generated the document or data approves the release;
7. Nothing herein contained shall be construed as limiting or affecting in any way the vested or delegated authority of the DON and BLM.

X. PRIMARY POINTS OF CONTACT

1. Primary Point of Contact for the DON:

Mr. Ed Rybold, NAS Fallon
Command Integrator/N5
(775) 426-2405
Edmund.rybold@navy.mil

2. Alternate for DON Real Estate Matters:

Ms. Alia Sumpter, Senior Realty Specialist
Naval Facilities Engineering Command Southwest
(619) 532-3027
alia.sumpter@navy.mil

3. Alternate for DON Environmental Planning Matters:

Ms. Amy Kelley, Senior Community Planner NEPA Program
Naval Facilities Engineering Command Southwest
(619) 532-2799
Amy.p.kelley@navy.mil

4. Alternate for DON Administration of this Agreement Matters:

Ms. Amy Kelley, Senior Community Planner NEPA Program

Naval Facilities Engineering Command Southwest
(619) 532-2799
Amy.p.kelley@navy.mil


5. Primary Point of Contact for the BLM:

Ms. Colleen Sievers, Resource Management Plan Project Manager
BLM Carson City District
(775) 885-6168
csievers@blm.gov

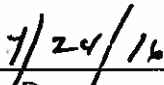
Ms. Terri Knutson, Field Manager
BLM Stillwater Field Office
(775) 885-6156
tknutson@blm.gov

X. SIGNATORIES TO THE AGREEMENT


For the Department of the Navy-



MR. NICK MALLARI
Comptroller, Navy Region Southwest



Date

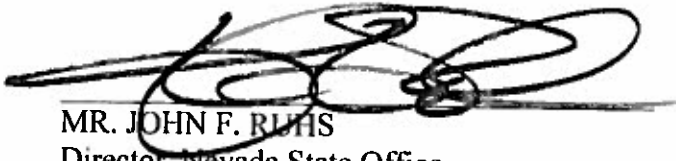


RDML M. K. RICH, USN
Commander, Navy Region Southwest



Date

For the Bureau of Land Management-

A handwritten signature in black ink, appearing to read 'John F. Rihs', written over a horizontal line.

MR. JOHN F. RIHS
Director, Nevada State Office
Bureau of Land Management

12 April 2016
Date