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Appendix D Memoranda, Agreements, and Plans

D.1 Draft National Historic Preservation Act Section 106 Proposed Amendment to Existing 2011 Programmatic Agreement for Fallon Range Training Complex Modernization (September 2019)

AMENDMENT TO PROGRAMMATIC AGREEMENT

AMONG NAVAL AIR STATION, FALLON, NEVADA, THE NEVADA STATE HISTORIC PRESERVATION OFFICER AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION REGARDING THE IDENTIFICATION, EVALUATION AND TREATMENT OF HISTORIC PROPERTIES ON LANDS MANAGED BY NAVAL AIR STATION, FALLON (AGREEMENT)

WHEREAS, the Agreement was executed in August 2011; and

WHEREAS, NAS Fallon proposes to modernize the Fallon Range Training Complex (FRTC) and reconfigure operations to meet mission requirements; and

WHEREAS, NAS Fallon proposes to amend the Agreement to address undertakings associated with the proposed modernization that may have the potential to affect historic properties; and

WHEREAS, NAS Fallon has consulted with the Fallon Paiute Shoshone Tribe, the Walker River Paiute Tribe, the Lovelock Paiute Tribe, the Pyramid Lake Paiute Tribe, the Yerington Paiute Tribe, the Yomba Shoshone Tribe, the Winnemucca Indian Colony of Nevada, the Te-Moak Tribe of Western Shoshone, the Battle Mountain Shoshone Tribe, the Duckwater Shoshone Tribe, the Fort McDermitt Paiute and Shoshone Tribes, the Reno-Sparks Indian Colony, the South Fork Band Council, the Washoe Tribe of Nevada and California, the Wells Band Council, the Summit Lake Paiute Tribe, the Inter-Tribal Council of Nevada, Churchill County, Lander County, the City of Fallon, the Executive Board the Bureau of Land Management, the Oregon California Trails Association, the Lincoln Highway Association, the Churchill County Museum, and the public.

NOW THEREFORE, in accordance with Stipulation X of the Agreement, NAS Fallon, the Nevada State Historic Preservation Officer, and the Advisory Council on Historic Preservation agree to amend the Agreement as follows:

1. Amend the first WHEREAS clause so it reads as follows:

WHEREAS, Naval Air Station Fallon, Nevada (NAS Fallon), provides for the air operations and training programs and related support activities, for the fleet, within the FRTC in the State of Nevada; and

AND

2. Amend the NOW THEREFORE clause so it reads as follows:

NOW THEREFORE, NAS Fallon, the Council, and SHPO agree that NAS Fallon undertakings within the FRTC shall be administered in accordance with the stipulations and definitions (Appendix 1) of this Agreement to satisfy NAS Fallon's responsibilities for individual undertakings, as defined at 36 CFR Part 800.16(y).

AND

3. Amend the statement under STIPULATIONS so it reads as follows:

NAS Fallon undertakings within the FRTC will be carried out in accordance with NAS Fallon's ICRMP, the 2009 State Protocol Agreement and the stipulations of this Agreement. When a conflict exists between the ICRMP or the 2009 State Protocol Agreement and the terms of this Agreement, this Agreement shall prevail.

AND

4. Amend Stipulation II.E to read as follows:

For all NAS Fallon undertakings that have the potential to affect historic properties on tribal lands in the State of Nevada, NAS Fallon will carry out its responsibilities pursuant to Section 106 of the NHPA in accordance with 36 CFR 800.

AND

5. Amend Stipulation XII.B to read as follows:

This PA shall expire on December 31, 2024. At least one year prior to the expiration date, NAS Fallon shall initiate consultation with the signatories to review the PA for renewal and/or possible amendment and extension.

AND

6. Amend Stipulation XIII to read as follows:

Execution and implementation of this Agreement evidences that NAS Fallon has satisfied its Section 106 responsibilities with respect to its undertakings within the FRTC.

AND

7. Amend Appendix 1 to include the following definition:

Fallon Range Training Complex: For the purpose of this Agreement, all lands under the control and jurisdiction of the Department of the Navy and the associated Special Use Airspace in the State of Nevada.

NAVAL AIR STATION, FALLON, NEVADA

By: _____ Date: _____
CAPT Evan Morrison, United States Navy
Commanding Officer

NEVADA STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____
Rebecca L. Palmer
State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____
John M. Fowler
Executive Director

D.2 Draft Memorandum of Agreement Between the United States Department of the Navy Naval Aviation Warfighting Development Center and Naval Air Station Fallon and the State of Nevada, Nevada Division of Wildlife

(Note: This Draft Memorandum of Agreement is included as a model of a potential management agreement between the Navy and the State of Nevada concerning the proposed hunting program discussed in the Final Environmental Impact Statement for the proposed Modernization of the Fallon Range Training Complex. Implementation of any such agreement is subject to congressional authorization of a land withdrawal associated with the proposed Modernization. Language reflecting the conditional nature of this potential agreement is highlighted in bold below.)

- I. Subject: Cooperative Management for wildlife and habitat management activities on the Fallon Range Training Complex (FRTC) and joint implementation of a hunting program for those portions of hunt unit 181 within the confines of FRTC bombing range 17 (B-17).

Background: For over forty years, the Nevada Department of Wildlife (NDOW) and the Navy have had an excellent collaborative working relationship that has successfully facilitated management of habitat and game species on the FRTC. We are committed to continuing that relationship.

Purpose: This agreement is entered into for the purpose of wildlife management on the FRTC and implementation of a hunting program on FRTC range B-17. Specifically, this agreement will facilitate the joint implementation of a bighorn sheep hunting program located within the B-17 boundary. Additionally, this agreement will provide a process to facilitate NDOW access, via air and/or ground on the FRTC, for managing wildlife and habitat resources. It is the mutual intent of both parties that this agreement be implemented for the duration of **(any period of withdrawal of public lands in established as a result of or otherwise in conjunction with the proposed modernization of the FRTC)**.

This agreement pertains to specific lands **(proposed to be administered)** by the Department of the Navy's Naval Air Station Fallon (NASF) and which are herein referred to collectively as the Area. The following two agencies from the Federal Government and State of Nevada are parties to this agreement:

- a. United States Department of the Navy, functioning through the Naval Air Station Fallon, and the Naval Aviation Warfighting Development Center (NASF / NAWDC), under the authority contained in the Military Lands Withdrawal Act, PL XXX-XX, herein referred to as Navy.
 - b. The State of Nevada Department of Wildlife, herein referred to as NDOW, functioning through the Director and Nevada State Board of Wildlife Commissioners.
- II. Authority:
 - a. Applicable Federal Laws:
 - i. PL 85-337, Hunting on Military Installations, as amended (10 USC 2671)
 - ii. PL 105-85, the Sikes Act Improvement Act of 1997 (16 USC 670 (a) et seq.)
 - iii. PL 96-336, The Fish and Wildlife Conservation Act of 1980 (16 USC 2901 et seq.)
 - iv. Refuge Recreation Act of 1962 (16 USC 460 et seq.)
 - v. PL 94-579, Federal Land Policy and Management Act of 1968 (Title IV Range Management)

- vi. PL XXX-XX (Modernization Withdrawal)
 - vii. Internal Security Act of 1950, Section 21 (50 USC 797)
 - b. Applicable Executive Orders:
 - i. EO 11644, 42 USC 4321, Use of Off-Road Vehicles on Public Lands
 - c. State Laws Applicable to Hunting:
 - i. NRS 501.100 (Wildlife Belongs to the People of the State of Nevada)
 - ii. NRS 501.105 (Hunting Wildlife in Nevada is permitted)
 - iii. NRS 501.181 (Duties of the State Board of Wildlife Commissioners)
 - iv. NRS 501.331 (Department of Wildlife Administers State Wildlife Laws)
 - v. NRS 501.351 (Applicable to Cooperative and Reciprocal Agreements)
 - vi. NRS 503.090 (Unlawful to Hunt Except during Open Season)
 - d. Other Documents:
 - i. Slate Mountain Nelson Bighorn Sheep Reestablishment Plan (1995)
 - ii. NAS Fallon Integrated Natural Resources Management Plan (2014)
- III. Land Description: Lands (**proposed to be included within the Area**) include Navy owned land and federal lands withdrawn for military use through P.L. XXX-XX, and are collectively called the Fallon Range Training Complex. The entire Area is included in this agreement for the purpose of wildlife and habitat management access by NDOW. Lands identified for the purpose of the bighorn hunting program are described in the following text. The attached map (figure 1) is a depiction of the proposed baseline hunt areas, access routes, and campsites. Please note that the attached map serves as a baseline for an annual evaluation and designation of access routes, hunt areas, and campsites, based on current safety and mission constraints. Not all roads, campsites or hunt areas may be accessible every year; however, it is the Navy's intent to provide as much access as possible, within the constraints of safety and mission requirements.
 - a. Bravo-17 Bombing Range: Legal description: is included as an appendix to this MOA. B-17 is located approximately 35 miles southeast of NAS Fallon, and is situated south of Highway 50 and east of State Route 839. B-17 spans across Fairview Valley, Little Bell Flat, and extends south into the Gabbs Valley. Bighorn Sheep have the potential to occupy the mountainous terrain inside of and adjacent to B-17, including the Fairview Peak and Slate Mountain areas as well as the Monte Cristo Mountains (see map). Please note that approved Bighorn Sheep Hunt Areas will be determined on an annual basis during the annual hunt program review with NDOW coordination. Hunt areas will be determined based on safety and range management considerations. Much of this described area was withdrawn from the former jurisdiction of the Bureau of Land Management.
 - b. Shoal Site: Legal description: Portions of Townships 15 &16 North and Ranges 31 ½ & 32 East. The 7405-acre shoal site consists of public lands in the Sand Springs Range, approximately 30 miles southeast of Fallon and two miles west of State Route 839. The Navy is responsible for surface management of this site.

IV. Recitals:

Whereas NAWDC has use of Navy Administered Lands for military training purposes, the NASF Public Works Department and BLM, in cooperation with NDOW, manage wildlife habitat on behalf of the Navy; and

Whereas NDOW, under the laws of the State of Nevada, provides a system of control, propagation, protection and regulation of all fish and wildlife in Nevada; and

Whereas Public Law XXX-XX (**proposes to modify the B-17 Boundaries and increase the total acres by 212,662 acres**) to the south and east of the previously existing B-17 boundary. New lands include bighorn sheep habitat on Slate Mountain and Monte Cristo Mountains that were previously managed by BLM and open to the public for hunting ; and

Whereas the Navy (**would control access**) to these lands under PL XXX-XX, Title X; and

Whereas the Navy (**would operate and manage**) the ground and airspace in the Fairview Peak, Slate Mountain Area, Monte Cristo Mountains, and the Shoal Site on Sand Springs Range, for military purposes, under authority from the Federal Aviation Administration and PL XXX-XX Title X; and

Whereas the Navy under PL XXX-XX, Title X (**would close**) these lands to public access due to safety and military training requirements as necessitated by the Navy mission. The Navy (**would**) allow limited hunting access for portions of B-17 and unrestricted access to the Shoal Site when such activity does not interfere with Navy mission and is conducted under the regulatory authority of NDOW; and

Whereas, the mutual desire of NDOW and the Navy to collaborate for the common purpose of protecting, enhancing and managing bighorn sheep, mule deer, pronghorn, and other wildlife species on the FRTC species for the best interest of the people of Nevada and the United States. It is also their mutual desire is to coordinate and hold an annual hunting program on the B-17 range of the FRTC for the best interest of the people of Nevada and the United States.

Therefore, it is mutually agreed that:

V. Responsibilities:

a. Joint Responsibilities of the Navy and NDOW:

- i. Consistent with the Navy's objective in providing national defense, in support of national security interests abroad, and in the interest of ensuring public safety, both parties shall cooperate in the administration of the B-17 hunting program and the conducting of wildlife surveys, wildlife habitat improvements, enhancements, restoration activities, and installation and maintenance of water developments within the Area.
- ii. Both parties will meet jointly, as needed but at a minimum twice per year, to discuss matters relating to the hunting program and wildlife or habitat management. NDOW will be responsible for calling and coordinating one meeting prior to the start of the hunting season and one meeting after the conclusion of the hunting season. This MOA and the hunting program work plan will be reviewed annually, and updated as necessary using adaptive management techniques. All changes will be coordinated and mutually approved by the Navy and NDOW.
- iii. All hunting on the Navy administered lands will be conducted with the concurrence of the Navy and will be conducted in accordance with federal law (10 USC Section 2671) and applicable state game laws and regulations. NDOW will enforce applicable hunting laws and facilitate required briefings with the tag holders, their hunt parties and/or guides prior to the mutually agreed upon B-17 hunt start date.

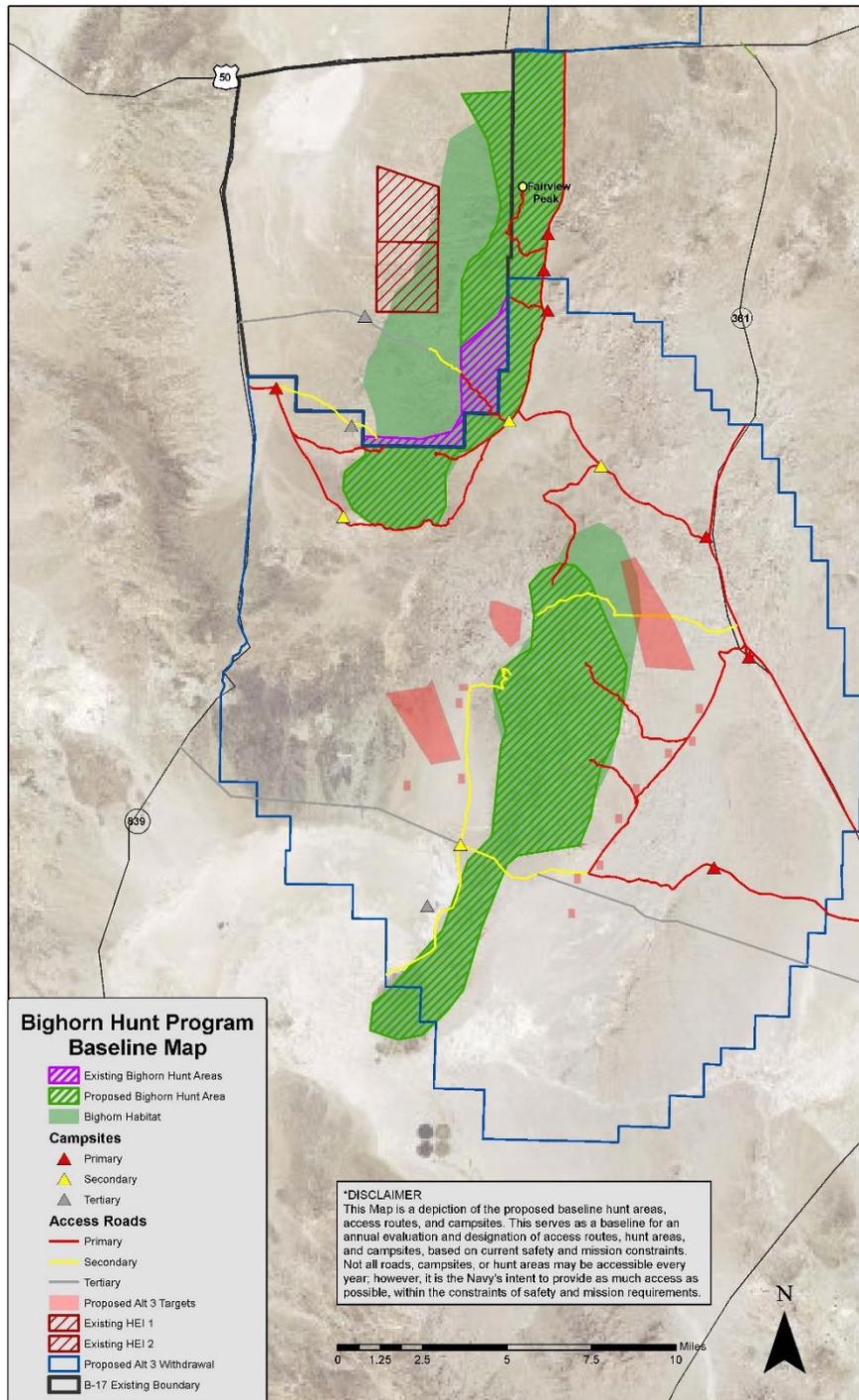
- iv. The hunt shall be scheduled annually in accordance with Commission Regulation season dates and hunting quotas, for a period of 15 consecutive days within the established hunt season, to the extent compatible with mission requirements. The hunt will be scheduled around/between major training evolutions. When determined feasible and compatible with mission training, the Navy may allow more than 15 days for the hunt. The Navy may require a halt to all hunting activities on the Area at any time due to training schedule or readiness requirements changes. While every effort will be made not to interfere with the hunt, the essential mission and safety will assume priority.
- v. The Navy and NDOW will work together to identify and define any and all hunt areas during hunt program reviews. Changes to hunting areas should be based on safety requirements and mission compatibility.
- vi. B-17 is a restricted area. In consideration of safety factors, ground and flying activity restrictions in the Hunt Areas will be determined by the Navy and communicated to NDOW. These restrictions will be published in the Annual Hunting Program work plan.
- vii. The Navy will notify tag holders of the tentative open hunt period by August 1 each year and will confirm with tag holders by September 1. After September 1, if any change is required with respect to the pending hunt season, the Navy will make every effort to provide the new information in a timely manner to the hunters and will strive to provide this information at least two weeks prior to the hunt season.
- viii. The Navy will provide Range Safety Training to explain access requirements, hunt boundaries and safety protocols for the Area to those individuals who will be accessing the range during the hunt. To accommodate all tag holders, training materials will be available online, and a face-to-face Range Safety Briefing will be provided at least one day prior to the opening day of the managed access hunt. Each year, the Navy and NDOW will coordinate the date, time and site locations and jointly conduct these briefings.
- ix. Upon completion of three (3) years of full implementation of the managed access bighorn hunting program, NDOW and the Navy will meet to re-assess the hunting program. This re-assessment will be conducted in part to determine if additional big game hunts on the FRTC may be logistically feasible and compatible with mission activities.
- x. Trapping or transplanting of bighorn sheep shall be conducted only with the joint concurrence of, and in coordination with, the Navy and NDOW staff.
- xi. NDOW may request access to the Area to monitor, maintain, or construct water developments as necessary. The Navy will review and assess the proposed locations of new water developments for mission compatibility. The Navy will grant such access, so long as actions are compatible with current operations as scheduled.

- xii. Off-road vehicle use in the Shoal Site and B-17 is controlled by the Navy. Vehicles may only be used on designated access roads and trails. Within the B-17, hunt areas, access routes, and campsites will be designated and provided to hunters and their hunt parties. No off-road vehicle access is authorized. Violators of Navy access policies or NDOW hunt regulations will be removed from the Area, and may be subject to loss of hunting privileges. Violations of applicable policies and regulations may also lead to modification or termination of the overall hunt program.
 - xiii. Nothing contained in this MOA is intended to modify, in any manner, other agreements with public agencies, or to modify rights granted by treaty, or otherwise, to any Native American Tribe(s) or member(s) thereof.
 - xiv. Nothing in this MOA may be construed to obligate the United States or the Department of the Navy to any current or future expenditure of money in advance of the availability of appropriations for such purposes from the U.S. Congress.
 - xv. Supplemental agreements may be developed as required by both parties to address other program requirements. This agreement does not supersede any agreements involving the parties that are now in force.
 - xvi. All media activities attendant to wildlife management activities on the Area will be coordinated through NDOW and the NASF Public Affairs Office.
 - xvii. Point of Contact for Navy briefings to NDOW and tag holders and all associated coordination and scheduling will be NAWDC Range Operations at 426-2102.
 - xviii. This agreement may be modified or amended by mutual agreement of the authorized representatives of the two Parties. This MOA may be terminated by either Party by giving at least 30 days written notice to the other Party. However, the parties agree that termination should be viewed as a last option, and that they will seek to meet and/or confer as needed and to the extent practicable to try to avoid termination of this agreement. When disputes or unique situations create stalemates at the working group level, the issue will be elevated to the signatories of this MOA for resolution. The MOA may also be terminated at any time upon the mutual written consent of the Parties.
- b. *Navy Responsibilities – Within the limitations of the assigned military mission and the availability of funds and manpower, the NASF/NAWDC agrees to:*
- i. Collaborate with NDOW to designate and establish hunt areas, access routes, camp areas and range access requirements for participants on an annual basis, which will be published in the annual hunting program work plan. Note: The attached map (figure 1) is a depiction of the proposed baseline hunt areas, access routes, and campsites. Please note that the attached map serves as a baseline for an annual evaluation and designation of access routes, hunt areas, and campsites, based on current safety and mission constraints. Not all roads, campsites or hunt areas may be accessible every year; however, it is the Navy's

- intent to provide as much access as possible, within the constraints of safety and mission requirements.
- ii. Develop and implement range access requirements for participants during the hunting season, which will be published in the annual hunting program work plan.
 - iii. Ensure the Range Operations Support / Maintenance (ROS) Contract conducts “a sweep” of the intended access roads and identified areas to facilitate safe ingress in and egress out of the respective Weapons Danger Zone(s) on an annual basis.
 - iv. Provide access to authorized agents and employees of NDOW, and to authorized tag holders and their parties, subject to compliance with NASFINST 5560.1D.
 - v. Administer mission parameters to allow for minimal interference with the hunt program, with the understanding that the operational mission will take priority in a conflict situation. In that event, the Navy will notify NDOW and follow-up in writing or via electronic mail.
 - vi. Administer criminal background checks for all members of hunt parties and enforce applicable firearm policy specific to the hunt program.
 - vii. Provide conservation law enforcement officers or federal officials to enforce Federal regulations and Navy policy during the hunt period. Conservation law enforcement officers will work in coordination with state game wardens who will enforce state game laws.
 - viii. Schedule range time for NDOW to operate approved aircraft for the purposes of aerial wildlife surveys, habitat management actions, or during emergency events related to wildlife, within Navy special use airspace in accordance with Navy Range Operations doctrine and policy.
 - ix. Restrict flying activities as practicable and consistent with operational requirements, over the Hunt Areas during the designated hunting period. Restrictions will follow Navy Range Operations doctrine and flying restrictions will be published in the applicable FRTC Range Schedule.
 - x. Limit access by Department of Defense (DoD) ground training parties within the designated hunt areas during the hunt period to prevent interference and promote safety. The Navy will have access to Range B-17 and the hunt areas for range management, emergency, or law enforcement purposes as required.
 - xi. Notify NDOW and all hunters on range in the event of an emergency during the hunt. Depending on the emergency, NDOW/hunter access may be restricted.
 - xii. Notify NDOW of problems with water developments located within the Area for the benefit of bighorns and other wildlife, and repair to proper functioning condition any water developments that are confirmed to be damaged by military activities.

- c. NDOW Responsibilities – Consistent with its primary objectives and responsibilities and within the availability of funds and personnel, NDOW agrees to:
 - i. Periodically survey wildlife to estimate population trends and distribution in order to set harvest quotas and evaluate management needs. During a disease event or other wildlife emergency within the Area, NDOW may request access to respond to the situation. NDOW shall coordinate field activities with the NAWDC Range scheduling office.
 - ii. Coordinate each year with the Navy those NDOW-produced documents that reference hunting season dates and quotas. NDOW shall coordinate these activities with the NAWDC Range scheduling office.
 - iii. Share hunt information, survey reports, and spatial data with the Navy for hunts and wildlife surveys conducted within the Area. Specifically, NDOW will annually share bighorn sheep hunt tag numbers for unit 181, hunt results, and population estimates and general location data for big game herds found within the Area.
 - iv. Make available game wardens to carry out a random patrol in the designated Hunt Area during the B-17 hunting period. Game wardens will enforce state game laws and monitor hunting activities in cooperation with federal conservation law enforcement or Federal officials.
 - v. In conjunction with the normal season-setting process, NDOW will assist the Board of Wildlife Commissioners to establish hunting seasons, tag quotas and consistently therewith, issue state hunting licenses and tags for wildlife species within the designated hunt area and approved for hunting by NDOW and Navy within B-17.
 - vi. In coordination with the Navy, NDOW will help administer the Range Safety Briefing for B-17 bighorn hunts. NDOW will inform the public through their website of the restrictions and requirements to access Navy administered lands for the unit 181 bighorn sheep hunt. NDOW will also contact applicable tag holders, including Statewide tag holders, to inform them of the restrictions and requirements for access on Navy lands. NDOW will provide information that directs the hunters to contact the Navy in order to initiate access approval. NDOW will coordinate with the Navy to ensure hunter notification is complete and successful while meeting personal information protection policy.

Figure 1: B-17 Bighorn Hunt Program Baseline*



*This Map is a depiction of the proposed baseline hunt areas, access routes, and campsites. This serves as a baseline for an annual evaluation and designation of access routes, hunt areas, and campsites, based on current safety and mission constraints. Not all roads, campsites or hunt areas may be accessible every year; however, it is the Navy's intent to provide as much access as possible, within the constraints of safety and mission requirements.

D.3 Draft Wildland Fire Management Plan Outline

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Appendix B. Delegations of Authority for Wildland Fire Management

Appendix C. FRTC Wildland Fire Directory

Appendix D. NEPA