

operate safely in "uncontrolled airspace" in other areas, including equally congested airspace, without incident. For example, over 90% of the USMC rotary-wing operations in the vicinity of MCAS Tustin in 1995 were VFR operations (95,525 of 104,171), and of those, nearly 20% were in uncontrolled VFR airspace. This demonstrates the ability of the Marine Corps to operate rotary-wing aircraft in congested uncontrolled airspace safely.

Compared with the airspace around NAS Miramar, the airspace around MCAS Tustin and John Wayne/Orange County Airport is far more congested with approximately 21,971 operations per square mile (three mile radius) in 1994, compared to nearly 4,927 operations per square mile (five mile radius) in 1994 between NAS Miramar and Montgomery Field. If the area under consideration at Orange County is expanded to include the operations of MCAS El Toro (a radius of seven miles), the congestion (approximately 4,675 operations per square mile) is nearly equal to that experienced near Miramar in 1994. The SC TRACON, as well as the Marine Corps, is equipped to handle the air traffic volume in these areas. Thus, the history of operating rotary-wing aircraft at MCAS Tustin and fixed-wing aircraft at MCAS El Toro in congested airspace, both controlled and uncontrolled, demonstrates that the impacts of these operations on general aviation can be managed safely.

Coordination with the Federal Aviation Administration and local groups. Some comments also raised an issue regarding the operation of fixed-wing and rotary-wing aircraft in the same airspace. The realignment of NAS Miramar to MCAS Miramar necessarily involves a change in the aviation operations at Miramar. The change in aviation operations was fully considered in studies associated with the EIS. The Marine Corps and the Department of the Navy have worked closely throughout the planning process with the FAA, SC TRACON, and the SAUG to deal with the change in aviation operations. Of note, the FAA is charged with overall responsibility for the safe and expeditious handling of all aircraft in the National Airspace System. As such, the FAA is responsible for determining whether airspace should be uncontrolled or controlled (unregulated or regulated). The Department of the Navy has worked with these agencies to plan for the realignment, and none of these agencies has submitted an objection to the proposed action.

Interface with Class B airspace. An issue was raised regarding the impacts of flight operations for the proposed

realignment on Class B airspace. A comment also argued that the proposed mitigation measures are insufficient. The point was made that San Diego TRACON is the second busiest facility in the United States and is predicted to grow in complexity and congestion. For clarification, the San Diego TRACON was consolidated into SC TRACON in September, and is now referred to as the San Diego Sector of the SC TRACON. As described above, the San Diego Sector of SC TRACON is appropriately equipped for the workload. The Marine Corps has been working with SC TRACON to ensure compatibility. The introduction of rotary-wing aircraft will not have a significant impact on Class B airspace because most helicopter operations will not be required to operate in Class B airspace. The SIR explains that 60% of the rotary-wing operations will take place within the confines of MCAS Miramar, thus these operations will have no impact except at MCAS Miramar. Further, the impact on Class B airspace will be reduced as the USMC will conduct fewer total operations in Class B airspace than the Navy because it will have fewer fixed-wing aircraft at Miramar than the historic Navy levels. The Marine Corps will continue to work with the FAA and the Miramar Technical Advisory Committee, providing an ongoing dialogue to promote regional airspace safety.

vii. Hazardous Material and Wastes

As discussed in the FEIS, the proposed action will not have any significant impacts related to hazardous materials or wastes (FEIS, § 4.9).

viii. Aircraft Operations

As discussed above and in the FEIS, the proposed action will not have any significant impacts on commercial or private aircraft operations within the San Diego region. The Airfield and Airspace Operational Study for MCAS Miramar was prepared by ATAC Corporation in 1995, and is incorporated in the FEIS by reference. The study encompassed current and projected future operations and considered impacts upon both military and civilian users of the airspace in the greater San Diego area. This study, through the use of the Naval Aviation Simulation Model (NASMOD), demonstrated that the proposed quantity of fixed-wing and rotary-wing aircraft can be safely collocated while operating effectively and efficiently at Miramar.

ix. Socio-Economics

As discussed in the FEIS, the proposed action will not have any

significant local or regional socio-economics impacts (FEIS, § 4.13). In compliance with Executive Order 12898, an analysis was conducted to determine if minority or low-income populations would suffer disproportionately high and adverse environmental impacts as a result of the proposed action (FEIS, p. 4.13-3). It was determined that these populations would not suffer disproportional impacts. Two community planning groups raised questions regarding compliance with Environmental Justice guidelines with respect to Mira Mesa. The impacts on Mira Mesa were reexamined and it was confirmed that residents of Mira Mesa are not being disproportionately affected.

8. Conclusion

On behalf of the Department of the Navy, I have decided to realign NAS Miramar into MCAS Miramar. I have carefully considered all of the comments, including those urging further analysis. After reviewing the administrative record and information received during the environmental review process, I have determined that no new significant environmental information or circumstances exist. Consequently, I have determined that a supplemental EIS is not warranted. I have decided to implement this action using the West-Ramp configuration (Alternative B), which was both the Preferred Alternative and also the Environmentally Preferred Alternative.

9. Where To Obtain Further Information

For further information, contact Lieutenant Colonel George Martin at (619) 537-6679.

Duncan Holaday,

Deputy Assistant Secretary, Installations and Facilities.

Dated: December 2, 1996.

M.A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96-31024 Filed 12-5-96; 8:45 am]

BILLING CODE 3810-FF-P

Record of Decision for the Disposal and Reuse of Naval Training Center, Orlando, Florida

Summary

The Department of the Navy (Navy), pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C), and the regulations of the Council on Environmental Quality that implement NEPA procedures, 40 CFR Parts 1500-1508, hereby announces its decision to

dispose of Naval Training Center (NTC) Orlando, Florida.

Navy intends to dispose of the property in a manner that is consistent with the Naval Training Center Orlando Reuse Plan that was submitted by the City of Orlando, the Local Redevelopment Authority (LRA) for the Naval Training Center, described in the Final Environmental Impact Statement as the preferred alternatives. The Reuse Plan proposed a mixed use approach of business, educational, governmental, residential, recreational, retail, warehouse, multimodal transportation, and open space land uses.

In deciding to dispose of the Naval Training Center in a manner consistent with the Reuse Plan, Navy has determined that mixed land use will meet the goals of local economic redevelopment and creation of new jobs, while also maintaining the City of Orlando's character, limiting adverse environmental impacts, and ensuring land uses that are compatible with surrounding properties. This Record Of Decision does not mandate a specific mix of land uses. Rather, it leaves selection of the particular means to achieve the mixed use redevelopment to the acquiring entity and the local zoning authority.

Background

The 1993 Defense Base Closure and Realignment Commission recommended closure of Naval Training Center Orlando. This recommendation was then approved by President Clinton and accepted by the One Hundred Third Congress in 1993. With the exception of the Naval Nuclear Power Training School, operations at the Naval Training Center ceased on August 30, 1996, and the property has been in caretaker status since that date. The Naval Nuclear Power Training School will realign to the Naval Weapons Station at Charleston, South Carolina, by September 30, 1999.

The Naval Training Center is located in Orange County, Florida, within the corporate limits of the City of Orlando. The Naval Training Center properties consist of the Main Base and facilities at three other sites in Orlando, that are known as the McCoy Annex, Area C, and the Herndon Annex. The Naval Hospital, which is situated on the Main Base, was associated with the Naval Training Center.

The Main Base is located 3.5 miles from Orlando's central business district and has an area of about 1,093 acres. This property includes about 254 acres in three lakes situated on the property.

The McCoy Annex occupies about 842 acres of land located seven miles

south of the Main Base and adjacent to the Orlando International Airport. The Annex served as a family housing and community support area for those serving at the Naval Training Center.

Area C is located one mile southwest of the Main Base and occupies about 46 acres, including 4.6 acres of Lake Druid. This property served as a supply complex with warehouses and also provided space for the Defense Reutilization and Marketing Office and the Naval Training Center's laundry and dry cleaning plant.

The Herndon Annex is located one mile south of the Main Base and occupies about 54 acres adjacent to the Orlando Executive Airport. This Annex provided space for facilities that supported the nearby Naval Air Warfare Center's Training Systems Division, *i.e.*, the technical services laboratory and the research laboratory.

Navy has approved the requests of several Federal agencies for interagency transfers of base closure property at NTC Orlando. Navy will transfer the Navy Hospital and 44 acres of property at the Main Base to the Department of Veterans Affairs for use as a medical facility. Navy will transfer Building 325 and 4 acres of property at the Main Base to the Department of the Treasury for use by the United States Customs Service as the National Law Enforcement Communications Center. Navy will transfer 1.89 acres at the Main Base and 18.1 acres at the McCoy Annex to the Department of the Army for use by Army Reserve; and Navy will transfer 16 acres of property and two buildings at the McCoy Annex to the Departments of the Army and Air Force for use by the Florida National Guard. The remaining property is surplus to the needs of the Federal Government and can be conveyed.

Navy published a Notice of Intent in the Federal Register on August 5, 1994, announcing that Navy would prepare an Environmental Impact Statement (EIS) that would analyze the impacts of disposal and reuse of the land, buildings, and infrastructure at the Navy Training Center. A 30-day public scoping period was established, and Navy held a scoping meeting on August 25, 1994, in the City of Orlando.

On May 12, 1995, Navy distributed a Draft Environmental Impact Statement (DEIS) to Federal, State, and local agencies, elected officials, special interest groups, and interested persons. Navy held a public hearing on June 15, 1995, in the City of Orlando. The forty-five day public comment period on the DEIS concluded on June 26, 1995. Federal agencies, Florida State agencies, local governments, and the general

public commented on the DEIS. These comments and Navy's responses were incorporated in the Final Environmental Impact Statement (FEIS), which was distributed to the public on August 30, 1996, for a review period that concluded on September 30, 1996. Navy received two letters commenting on the FEIS.

Alternatives

NEPA requires Navy to evaluate a reasonable range of alternatives for disposal and reuse of this Federal property. In the NEPA process, Navy analyzed the environmental impacts of various proposed land uses that could result from disposal of the Naval Training Center properties. Navy also evaluated a "No Action" alternative that would leave the property in caretaker status with Navy maintaining the physical condition of the property, providing a security force, and making repairs essential to safety.

As the basis for its analysis, Navy relied upon the reuse and redevelopment alternatives identified by the Naval Training Center Reuse Commission which was established by the City of Orlando to plan future uses of the closing facilities. The Commission analyzed various redevelopment scenarios and land uses, prepared the Reuse Plan, and presented it to the Department of the Navy on January 5, 1995.

The Preferred Alternative identified in the FEIS is the City's proposed Naval Training Center Orlando Reuse Plan. On the Main Base, this plan would provide pedestrian-oriented and residential uses surrounded by offices and educational institutions, a business park, governmental activities, and recreational areas. Additionally, there would be an extensive lakefront park and open space system that would connect other parts of the Orlando community with the Naval Training Center property. The existing nine-hole gold course at Lake Baldwin would be redeveloped as single family housing.

The McCoy Annex property would be used for housing and, in the area adjacent to Orlando International Airport, as a multimodal transportation port with related services. The area along the Bee Line Expressway at the northern edge of the McCoy Annex would provide space for retail stores and offices. The Reuse Plan would preserve the existing nine-hole golf course in the southern section of the property as well as recreational areas located throughout the Annex.

The property known as Area C would continue to be used for warehouse facilities and open space. The Herndon Annex property would be used for

warehouse facilities serving the adjacent Orlando Executive Airport.

In the NEPA process, Navy considered a second alternative, designated Alternative 2, which was characterized by high intensity redevelopment of the Naval Training Center properties. This alternative would concentrate residential, retail, and office uses near the center of the Main Base and establish higher density residential use in the northwestern and eastern sections of the Main Base. In contrast with the Reuse Plan, the nine-hole golf course adjacent to Lake Baldwin would be preserved.

Under this second alternative, the northern part of the McCoy Annex property would be used for retail stores, hotels and offices. The central and southern parts of the property would be converted for use as warehouses and industrial facilities. The existing recreational facilities would be removed, but the nine-hole golf course would be preserved. The property at Area C would be converted for use as family residences, and the Herndon Annex property would be used for warehouses.

Navy also considered a third alternative in the NEPA process, designated Alternative 3, which proposed low intensity redevelopment of the Naval Training Center properties. This alternative would provide low density single family residences in the northwestern and eastern sections of the Main Base and retail stores, governmental activities, educational facilities, and a business park in the central and southern areas. Alternative 3 would preserve the nine-hole golf course adjacent to Lake Baldwin.

Under this third proposal, the McCoy Annex property would continue to be used primarily as a residential area. The northern part of the property would be converted for use as hotels, offices, and retail stores. Some sections in the center of the Annex would be redeveloped for use as warehouses and industrial facilities. The existing recreational areas would be used as open space, and the golf course in the southern section would also be preserved.

The Area C property would be redeveloped in Alternative 3 for use as single family residences. At Herndon Annex, the warehouse located in the southern section of the property would be used as a commercial warehouse, but the other buildings would be demolished to permit construction of recreational facilities including athletic fields and courts.

Environmental Impacts

Navy analyzed the potential impacts of the three redevelopment alternatives for their effects on earth resources, air resources, noise, water resources, hazardous materials and wastes, biological systems (including terrestrial systems), aquatic systems, threatened and endangered species, socioeconomic resources (including economic activity), transportation, community facilities and services, and historical and archaeological resources. This Record Of Decision focuses on the impacts that would likely result from implementing the Naval Training Center Orlando Reuse Plan proposed by the City of Orlando.

No significant impacts to earth resources would result from implementation of the Reuse Plan. Most of the topography and soils at the Naval Training Center properties have been altered as a result of previous construction activities.

The potential impacts on air quality were analyzed by applying Federal Ambient Air Quality Standards (40 CFR Part 50) and Florida Ambient Air Quality Standards (Fla. Admin. Code R. 62-272.100). The Reuse Plan would not adversely affect regional air quality, because the kinds of activities that would be conducted after implementation of the Reuse Plan would be similar to those that had occurred on the military properties.

Construction activities associated with the Reuse Plan, however, would generate intermittent localized air quality impacts on all of the Navy properties, and the Reuse Plan's proposed redevelopment would also cause impacts from both stationary and mobile sources. The long term impact on air quality that would arise out of stationary sources depends upon the nature and extent of activities conducted on the property. Florida's Department of Environmental Protection (Florida DEP) has jurisdiction over these emission sources, and it will be necessary for each source to comply with Florida DEP's regulations government stationary source emissions. See Fla. Admin. Code Ch. 17-292 and 62-213.

The impact on air quality arising out of mobile source emissions would result from activities associated with people commuting to and from facilities and traffic associated with the warehouse facilities. The redevelopment proposed in the City's Reuse Plan would increase traffic in the vicinity of the Main Base, with a resultant slight increase in carbon monoxide levels at some congested intersections and roadway

links. It is not likely, however, that these small increases in concentrations of carbon monoxide would result in any violation of applicable standards.

In a recent ambient air quality study of heavily traveled intersections in Orlando, including that of Colonial Drive and Interstate Highway 4 near the Main Base, the University of Central Florida found that ambient air concentrations of carbon monoxide were well below applicable standards. Similarly, data collected from air quality monitoring stations in downtown Orlando revealed that the concentrations of carbon monoxide do not even approach these standards. Additionally, the geometry of intersections and turning movements as well as the timing of traffic lights could be applied in a way that would mitigate emissions that may exceed Federal or State Ambient Air Quality Standards at particular locations.

Section 176(c) of the Clear Air Act, 42 U.S.C. 7506(C), as amended, requires that before major Federal actions may be undertaken in nonattainment or maintenance areas, the Federal agency must demonstrate conformity with air pollutant emissions policies and controls in the relevant State Implementation Plan. The General Conformity Rule (40 CFR Part 93), however, has been interpreted by the United States Environmental Protection Agency. (EPA) to exclude maintenance areas that were so designated before enactment of the Clean Air Act Amendments of 1990, Public Law 101-549. See 85 FR 63238, November 30, 1993. Since Orange County was designated as a maintenance area in 1987, the requirements of the General Conformity Rule do not apply to Federal actions within the county.

It is not likely that the land uses proposed for the Main Base, Area C, and the Herndon Annex would result in significant new sources of noise. Construction noise during redevelopment, however, would affect communities adjacent to all of the Naval Training Center properties. This potential impact would be limited to areas near the active construction projects during working hours.

At the McCoy Annex property, however, implementation of the Reuse Plan would result in an increase in environmental noise. As the point of convergence for air, rail and truck traffic, redevelopment there would generate localized noise. It is likely, however, that noise from aircraft at the adjacent Orlando International Airport would diminish the perception of noise from rail and truck activity at the multimodal facility.

Implementation of the Reuse Plan would not result in any significant impacts on surface waters. All new construction and any alteration of land must conform to the treatment and runoff control requirements of the local stormwater management districts and the Orlando Urban Storm Water Management Manual (OUSWMM). Additionally, under the Federal Water Pollution Control Act (FWPCA), 33 U.S.C. 1251, *et seq.*, any source of new discharges of wastewater would be required to comply with the National Pollutant Discharge Elimination System's (NPDES) program as well as state and local wastewater discharge regulations. See Fla. Admin. Code Ch. 62-4, 62-320, 62-312, and 62-600. As a result, the acquiring entity would be required to introduce stormwater controls during the construction phase of any redevelopment.

The type and amount of hazardous waste that would result from implementation of the Reuse Plan depends upon the nature and extent of future activities at the Naval Training Center properties. Industrial or commercial facilities that may produce regular quantities of hazardous waste must, of course, register with Florida's Department of Environmental Protection in accordance with the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901, *et seq.*, and Florida DEP regulations governing identification of hazardous waste. Fla. Admin. Code Ch. 62-730. Additionally, these industries and commercial activities would be responsible for obtaining the necessary permits and establishing the required hazardous waste management facilities and procedures.

The terrestrial systems found on the Navy properties include both undeveloped areas and urban lands. The undeveloped areas contain native vegetation in the form of trees and groundcover. The urban lands are areas dominated by buildings and ornamental landscaping. Under the Reuse Plan, an isolated 3.6 acre pine forest located in an undeveloped area at the Main Base would be eliminated. This action would not, however, have a significant impact on regional natural habitats, because the area is so small.

The City's proposed redevelopment of the McCoy Annex property may disturb up to 76.9 acres of undeveloped land but the plan would preserve 13.6 acres of land that has not been developed. While the City's Reuse Plan would not have a significant impact on the terrestrial systems of the Area C property, it may disturb 10.5 acres of undeveloped land at Herndon Annex.

The aquatic systems on the Navy properties include both wetlands and open water systems. Wetlands are areas that are saturated frequently enough to support certain types of vegetation that thrive in saturated soil, *e.g.*, swamps and wet prairies. Open water systems are lakes and reservoirs. Under the Reuse Plan for the Main Base, up to 3.0 acres of wetlands and open water may be eliminated or disturbed by the redevelopment of office, educational, and residential structures, leaving 17.1 acres of wetlands undisturbed. These wetlands and 254 acres of open water in the three lakes on the Main Base would be designated as a lakefront park and preserved.

At the McCoy Annex property, the City's proposed redevelopment may alter up to 48.7 acres of the total 80.2 acres of wetlands located there, but 31.5 acres of cypress wetlands would be preserved. At area C, the wetlands and open water systems would be preserved. At Herndon Annex, the construction of warehouse facilities could eliminate up to 4.4 acres of wetlands.

The City will have an opportunity to reduce the impact of redevelopment on wetlands when it engages in final site planning, which will include conformance with the conservation element of the City of Orlando's Growth Management Plan (GMP). Furthermore, the acquiring entity will be required to obtain permits from the U.S. Army Corps of Engineers under Section 404 of FWPCA, 33 U.S.C. 1344, and must comply with Florida DEP's wetlands regulations, Fla. Admin. Code Ch. 17-301, 17-302 and 17-312, as well as regulations of the St. Johns River Water Management District and the South Florida Water Management District. The stringent requirements of these laws should provide adequate mitigation for the loss of wetlands.

There are no threatened or endangered species listed under the Endangered Species Act of 1973, 16 U.S.C. 1531, *et seq.*, that have been observed on or are likely to occur on the Naval Training Center properties. One State-designated threatened plant species, the threadroot orchid, and one State-designated endangered plant species, the yellow fringeless orchid, may be found in wetland areas on the Main Base, McCoy Annex, and Herndon Annex. Thus, the dredging or filling of wetlands could have impacts on these species.

Southeastern American kestrels, a State-designated threatened species, were observed during a visit to Area C. Accordingly, before clearing potential nesting trees on the Area C property, the acquiring entity would be required to

conduct a survey for the kestrels and implement mitigation mandated by the Orlando Growth Management Plan, Title XI, Fla. Stat. Chapter 163, Part II, and the Florida Game and Freshwater Fish Commission's regulations. Because it forages in urban land and open space areas, it is likely that the southeastern American kestrel will benefit from the proposed redevelopment. Other State-listed species of special concern such as the gopher tortoise may also be affected by redevelopment.

The City's Reuse Plan would have a long term positive impact on economic activity, income, and employment in the Orlando region. The number of persons residing at the Main Base would decrease, but the number residing at the McCoy Annex property would remain essentially unchanged compared with the number of residents there before the Base was closed. The City's Reuse Plan would not cause any significant adverse impacts on utilities or community facilities and services.

If the employment goals set forth in the Reuse Plan were realized, both the Main Base and the McCoy Annex property would become employment centers for the Orlando region. By the year 2015, direct employment there would amount to more than 15,500, and total employment, including direct and indirect, would reach 30,040 persons.

The traffic associated with redevelopment of the Main Base under the Reuse Plan would increase from 49,800 trips per day to 85,400 trips per day by the year 2010. These trips would be distributed to the local roadway network and would increase daily traffic volumes from the northern and southern approaches by about 7 percent and from the eastern approach by 16 percent, resulting in an average traffic increase of 9 percent.

At the McCoy Annex property, traffic would decrease from 55,000 trips per day to 26,200 trips per day under the Reuse Plan. The City's plan would not significantly change traffic levels at the Area C and Herndon Annex properties, because the proposed reuses are similar to the historical Navy uses of those properties. It is not likely that the Reuse Plan would have an adverse impact on other modes of transportation in the Orlando region.

Through its Trip Allocation Program, the City of Orlando could mitigate the impacts of increased traffic by limiting the allowable number of average daily trip ends for particular traffic performance districts. Such limitations could achieve and maintain acceptable levels of service on local roadways by linking future development to road capacity. For example, if the allocation

of trip ends for a traffic performance district became encumbered, development in that district could be deferred until adequate road capacity was available.

To address the potential for increased traffic on neighborhood streets, the City's Reuse Plan also provides a Neighborhood Traffic Mitigation Policy. This policy requires the imposition of traffic mitigation measures that would reduce speeds and volumes on neighborhood streets if the average daily traffic on Merritt Park Drive, Ibis Drive, Falcon Drive, Chelsea Street, or Plaza Terrace were to exceed by 10 percent the volume of traffic projected for the year 2010.

The residential housing proposed for the Main Base would introduce about 1,301 new students to the Orange County public school system by the year 2015. This increase would create the need for an additional 47 teachers in the Orange County public schools. The Reuse Plan also sets aside 4 acres to permit an expansion of Winter Park High School, which is located adjacent to the Main Base Property, and 8 acres for construction of an elementary school at the Main Base.

At the McCoy Annex property, Navy families contributed 759 students to the Orange County public school system. Reuse of this housing by private sector families would contribute about 630 children to local public schools, or 129 less than when the Naval Training Center was active. The Area C and Herndon Annex properties would not contain residential units under the Reuse Plan and, therefore, would not have an impact on Orange County's educational resources.

The redevelopment associated with the Reuse Plan would not have a significant impact on the provision of police and fire protection, emergency medical services, or health care in the Orlando region.

It is likely that the Reuse Plan would have a beneficial impact on parks and recreational open space resources in the vicinity of the Naval Training Center properties. The total recreational space provided under the Reuse Plan for active recreation and open space is about 500 acres of approximately 19 times the amount of recreational area recommended by the City's Growth Management Plan. The Orlando Community and Youth Services Department would manage these properties for both active and passive recreational activities.

Building 2078 is the only building or site on the Naval Training Center properties that is eligible for listing on the National Register of Historic Places.

Under the City's Reuse Plan, this building would be demolished to permit residential development on the property. On July 9, 1996, Navy, the Advisory Council on Historic Preservation, and the Florida State Historic Preservation Officer entered into a Memorandum Of Agreement (MOA) that provided mitigation for the disposal and demolition of Building 2078. This mitigation, which has been completed, consisted of recordation that included preparation of sketches, a brief history, and photographs of the building.

Navy also analyzed the impacts on low-income and minority populations pursuant to Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, reprinted in 42 U.S.C. 4321 note. There would be no disproportionately high and adverse human health or environmental effects on minority and low-income populations. All groups would experience equally any impact related to reuse of the Naval Training Center properties within the regional population.

Mitigation

Implementation of Navy's decision to dispose of the Naval Training Center properties does not require Navy to perform any mitigation measures. Absent statutory authority, Navy cannot impose restrictions on the future use of this surplus Federal property. Navy will, however, include appropriate notifications in the deeds for any parcels that are inhabited by endangered or threatened species protected under State law, any parcels that contain wetlands, or any parcels that lie within floodplains protected under Federal and State laws.

Navy's FEIS identified and discussed the actions that would be necessary to mitigate the impacts associated with reuse and redevelopment of the Naval Training Center properties. The acquiring entity, under the direction of Federal, State, and local agencies with regulatory authority over protected resources, will be responsible for implementing necessary mitigation measures.

The fact that the Reuse Plan conforms with the City of Orlando's Growth Management Plan provides additional assurance that sensitive areas will be protected from development. The GMP amendment process and the City of Orlando's land development regulations require extensive review of any proposed development of the Naval Training Center properties. These

procedures ensure that protection will be afforded during all phases of the land development process, including post-development monitoring.

Local governments in Florida are also required to adopt comprehensive plans pursuant to the State Growth Management Act, Title XI, Fla. Stat. Chapter 163, Part II. After adopting such plans, each local government must also adopt land development regulations that implement the comprehensive plan. In addition, all decisions that have the effect of permitting development must be consistent with the comprehensive plan. Title XI, Fla. Stat. § 163.316, *et seq.*

The comprehensive plan must contain eleven elements, each of which has goals, objectives, and policies that the acquiring entity would be required to follow when redeveloping the Naval Training Center properties. The required elements of the comprehensive plan include future land use, conservation (wetlands and wildlife habitat), traffic circulation, housing, sanitary sewer, solid waste, potable water, natural groundwater aquifer recharge, and capital improvements. The implementing land development regulations would govern subdivisions, land use, wellfield protection, flooding and drainage, environmentally sensitive land, signs, traffic flow, public facilities, and other infrastructure.

Additionally, the County and Municipal Planning and Land Development Standards, Title XI, Fla. Stat. § 163.316, *et seq.*, introduce the land use concept of concurrency. This requirement ensures that public facilities are adequate and available concurrent with the impacts of development by requiring local governments to control the timing of development. Similarly, Rule 9J-5 of the Florida Administrative Code requires local governments to adopt Level Of Service (LOS) standards for roads, potable water, sanitary sewers, solid waste disposal, drainage, parks and recreation, and mass transit. These public facilities and services must meet concurrency requirements before development orders may be issued. Finally, the capital improvements element of the comprehensive plan must set forth a financially feasible plan (on a five-year schedule) that demonstrates the local government's ability to achieve and maintain adopted LOS standards.

Comments Received on the FEIS

Navy received comments from the United States Environmental Protection Agency and one State agency. These comments did not raise new issues

concerning potential problems with implementation of the Reuse Plan or purpose mitigation measures other than those addressed in the FEIS.

Although acknowledging that the potential for undetected radiological materials on the Navy properties is unlikely, EPA suggested the Navy coordinate the closure process with Florida's Office of Radiation Control. Navy is coordinating the closure of NTC Orlando with this State agency.

Florida's Department of Transportation (DOT) expressed interest in participating in the formulation and adoption of transportation components of the City's Reuse Plan. The existing concurrency requirements of the State Growth Management Act, Title XI, Fla. Stat. Chapter 163, Part II, and the City of Orlando's Concurrency Management Ordinance (Chapter 59, Part 3, Section 59.308) will ensure the Florida DOT is involved in future phases of redevelopment of the Naval Training Center properties.

Regulations Governing the Disposal Decision

Since the proposed action contemplates a disposal action under the Defense Base Closure and Realignment Act of 1990 (DBCRA), Public Law 101-510, 10 U.S.C. 2687 note, selection of the City of Orlando's Reuse Plan as the preferred alternative was based upon the environmental analysis in the FEIS and application of the standards set forth in DBCRA, the Federal Property Management Regulations (FPMR), 41 CFR Part 101-47, and the Department of Defense Rule on Revitalizing Base Closure Communities and Community Assistance (DoD Rule), 32 CFR Parts 90 and 91.

Section 101-47.303-1 of the FPMR requires that the disposal of Federal property benefit the Federal government and constitute the highest and best use of the property. Section 101-47.4909 of the FPMR defines the "highest and best use" as that use to which a property can be put that produces the highest monetary return from the property, promotes its maximum value, or serves a public or institutional purpose. The "highest and best use" determination must be based upon the property's economic potential, qualitative values inherent in the property, and utilization factors affecting land use such as zoning, physical characteristics, other private and public uses in the vicinity, neighboring improvements, utility services, access, roads, location, and environmental and historical considerations.

After Federal property has been conveyed to non-Federal entities, the property is subject to local land use regulations, including zoning and subdivision regulations and building codes. Unless expressly authorized by statute, the disposing Federal agency cannot restrict the future use of surplus Government property. As a result, the local community exercises substantial control over future use of the property. For this reason, local land use plans and zoning affect determination of the highest and best use of surplus Government property.

The DBCRA directed the Administrator of the General Services Administration (GSA) to delegate to the Secretary of Defense authority to transfer and dispose of base closure property. Section 2905(b) of DBCRA directs the Secretary of Defense to exercise this authority in accordance with GSA's property disposal regulations, set forth at Sections 101-47.1 through 101-47.8 of the FPMR. By letter dated December 20, 1991, the Secretary of Defense delegated the authority to transfer and dispose of base closure property closed under DBCRA to the Secretaries of the Military Departments. Under this delegation of authority, the Secretary of the Navy must follow FPMR procedures for screening and disposing of real property when implementing base closures. Only where Congress has expressly provided additional authority for disposing of base closure property, *e.g.*, the economic development conveyance authority established in 1993 by Section 2905(b)(4) of DBCRA, may Navy apply disposal procedures other than the FPMR's prescriptions.

In Section 2901 of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103-160, Congress recognized the economic hardship occasioned by base closures, the Federal interest in facilitating economic recovery of base closure communities, and the need to identify and implement reuse and redevelopment of property at closing installations. In Section 2903(c) of Public Law 103-160, Congress directed the Military Departments to consider each base closure community's economic needs and priorities in the property disposal process. Under Section 2905(b)(2)(E) of DBCRA, Navy must consult with local communities before it disposes of base closure property and must consider local plans developed for reuse and redevelopment of the surplus Federal property.

The Department of Defense's goal, as set forth in § 90.4 of the DoD Rule, is to help base closure communities achieve

rapid economic recovery through expeditious reuse and redevelopment of the assets at closing bases, taking into consideration local market conditions and locally developed reuse plans. Thus, the Department has adopted a consultative approach with each community to ensure that property disposal decisions consider the Local Redevelopment Authority's reuse plan and encourage job creation. As a part of this cooperative approach, the base closure community's interests, *e.g.*, reflected in its zoning for the area, play a significant role in determining the range of alternatives considered in the environmental analysis for property disposal. Furthermore, § 91.7(d)(3) of the DoD Rule provides that the Local Redevelopment Authority's plan generally will be used as the basis for the proposed disposal action. The Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484, as implemented by the FPMR, identifies several mechanisms for disposing of surplus base closure property: by public benefit conveyance (FPMR Sec. 101-47.303-2); by negotiated sale (FPMR Sec. 101-47.304-8); and by competitive sale (FPMR Sec. 101-47.304-7). Additionally, in Section 2905(b)(4), the DBCRA established economic development conveyances as a means of disposing of surplus base closure property. The selection of any particular method of conveyance merely implements the Federal agency's decision to dispose of the property. Decisions concerning whether to undertake a public benefit conveyance or an economic development conveyance, or to sell property by negotiation or by competitive bid are committed by law to agency discretion. Selecting a method of disposal implicates a broad range of factors and rests solely within the Secretary of the Navy's discretion.

Conclusion

The Reuse Plan proposed by the City of Orlando presents the highest and best use of the Naval Training Center properties. The City of Orlando, as the LRA, has determined in its Reuse Plan that the properties should be used for several purposes, including commercial, educational, governmental, residential, recreational, retail, warehousing, multimodal transportation, and open space land uses. The properties' physical characteristics and past use and the current uses of adjacent lands make them appropriate for this mixed use redevelopment.

The Reuse Plan responds to local economic conditions, promotes rapid economic recovery from the impact of

the Naval Training Center's closure, and is consistent with President Clinton's Five-Part Plan for revitalizing base closure communities, which emphasizes local economic redevelopment of the closing military facility and creation of new jobs as the means to revitalize these communities. 32 CFR Parts 90 and 91, 59 FR 16,123 (1994). Under the direction of Federal, State and local regulatory authorities, the acquiring entity can mitigate the resultant environmental impacts.

The City's proposed Reuse Plan strikes a reasonable balance between the redevelopment proposals advanced in Alternatives 2 and 3, in its impact on the environment, its compatibility with the current uses of adjacent property, and its use of the existing physical characteristics of the Naval Training Center properties. Although the "No Action" alternative has less potential for causing adverse environmental impacts, this alternative would not constitute the highest and best use of the Naval Training Center properties. It would not take advantage of the properties' physical characteristics and the current uses of adjacent properties. It is not compatible with the LRA's Reuse Plan. It would not foster local economic redevelopment of the Naval Training Center properties and would not create new jobs.

Accordingly, Navy will dispose of Naval Training Center Orlando in a manner that is consistent with the City of Orlando's Reuse Plan for the properties.

Dated: November 15, 1996.

William J. Cassidy, Jr.,

*Deputy Assistant Secretary of the Navy
(Conversion and Redevelopment).*

[FR Doc. 96-31030 Filed 12-5-96; 8:45 am]

BILLING CODE 3810-FF-M

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Building Energy Standards Program: Determination Regarding Energy Efficiency Improvements in the 1995 CABO Model Energy Code for Low- Rise Residential Buildings

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice.

SUMMARY: The Department of Energy (DOE or Department) today determines that the 1995 version of the Council of American Building Officials (CABO) Model Energy Code (Model Energy Code

or MEC) would achieve greater energy efficiency in low-rise residential buildings than the 1993 version of the MEC. This Notice also provides guidance and procedures covering State Certifications, Statements of Reasons and Requests for Extensions of Deadlines.

DATES: Certifications, Statements of Reasons, or Requests for Extensions with regard to the 1995 Model Energy Code are due on or before December 6, 1998.

ADDRESSES: Certifications, Statements of Reasons, or Requests for Extensions of Deadlines for Certification Statements by States should be directed to the Assistant Secretary for Energy Efficiency and Renewable Energy, Office of Codes and Standards, Mail Station EE-43, 1000 Independence Avenue, SW, Washington, D.C. 20585-0121. Envelopes or packages should be labeled, "State Certification of Residential Building Codes Regarding Energy Efficiency".

FOR FURTHER INFORMATION CONTACT: Stephen Turchen, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE-43, 1000 Independence Avenue, S.W., Washington, D.C. 20585-0121, Phone: 202-586-6262, FAX: 202-586-4617.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Requirements

Title III of the Energy Conservation and Production Act, as amended (ECPA), establishes requirements for the Building Energy Standards Program. 42 U.S.C. 6831-6837.

ECPA requires each State, not later than October 24, 1994, to certify to the Secretary of Energy (Secretary) that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise its residential building code provisions to meet or exceed the 1992 Model Energy Code. The determination is to be: (1) made after public notice and hearing; (2) in writing; (3) based upon findings included in such determination and upon evidence presented at the hearing; and (4) available to the public. 42 U.S.C. 6833(a)(1) and (a)(2). In addition, if a State makes a determination that it is not appropriate to revise its residential building code, the State is required to submit to the Secretary, in writing, the reasons for that determination, which is to be made available to the public. 42 U.S.C. 6833(a)(4).

ECPA also provides that whenever the 1992 Model Energy Code, or any successor to that code, is revised, the Secretary must make a determination, not later than 12 months after such revision, whether the revised code would improve the energy efficiency of residential buildings and to publish notice of such determination in the Federal Register. 42 U.S.C. 6833(a)(5)(A). If the Secretary determines that the revision of the 1992 Model Energy Code, or any successor thereof, improves the energy efficiency in residential buildings, then not later than two years after the date of the publication of such determination, each State is required to certify that it has reviewed the provisions of its residential building code regarding energy efficiency with respect to the revised or successor code, and has made a determination as to whether it is appropriate for the State to revise its residential building code to meet or exceed the provisions of the revised or successor code. 42 U.S.C. 6833(a)(5)(B). A previous Federal Register notice (59 FR 36173, July 15, 1994) provided notice of the Secretary's determination that the 1993 Model Energy Code was an improvement over the 1992 version.

ECPA authorizes the Secretary to permit extensions of the deadlines for filing the certification described above if the State can demonstrate that it has made a good faith effort to comply with the requirements and that it has made significant progress in doing so. 42 U.S.C. 6833(c).

II. Discussion.

A. Improvements in Energy Efficiency for Low-Rise Residential Buildings as Reflected in the 1995 CABO Model Energy Code

DOE Determination of Improved Energy Efficiency From a Revised Model Energy Code

DOE believes, the significant differences between the 1995 version and the 1993 version are as follows: (1) the 1995 MEC incorporates revised U_o ¹ values for metal-framed walls; (2) the 1995 MEC includes revised air infiltration control requirements; (3) the 1995 MEC provides additional instructions for performing whole building energy analyses in accordance with Chapter 4 of the MEC; and (4) the 1995 MEC provides improved guidance for dealing with thermal performance of

¹ U_o =the area-weighted average thermal transmittance of the gross area of the building envelope; i.e., the exterior wall assembly including fenestration and doors, the roof and ceiling assembly, and the floor assembly, British thermal unit/(hour×square feet×degrees Fahrenheit).