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October 10, 2007

Via Certified Mail and Fax (562) 795-1499

Mr. Wayne Alves
63D Regional Readiness Command
U.S. Army Reserve
ATTN: ARRC-CCA-ENV
4235 Yorktown Avenue
Los Alamitos, California 90720-5002

**Re: Comments on the Scope of the EIS Being Prepared for the
Army Reserve's Proposed Exchange of 10 Acres of Real
Property in West Los Angeles**

Dear Mr. Alves:

This letter addresses the scope of environmental and socioeconomic impacts that must be evaluated in the Environmental Impact Statement ("EIS") being prepared for the proposed exchange of 10 acres of U.S. Army Reserve ("Army") real property in West Los Angeles. The Army's proposal to convey the property at the southeast corner of Wilshire Boulevard and Federal Avenue to private developer JSM Construction, Inc., for development requires a far more realistic assessment of future use of the 10-acre parcel than what has been presented to the County of Los Angeles ("County") and the public thus far. The Army should not move forward with preparation of the EIS until it remedies and restarts the scoping process, which, up to this point, can only be described as utterly inadequate.

Severe traffic jams, potential exposure to hazardous materials, decreased air quality, increased noise, and destruction of potentially valuable cultural assets are only some of the serious ramifications of developing the property. The EIS must also analyze a range of *reasonable* alternatives to the Proposed Action that could feasibly be carried out in light of the County's restrictive land use regulations.

As the Army's regulations for implementing the National Environmental Policy Act ("NEPA") explain, "Proper scoping identifies reasonable alternatives and the information needed for their evaluation, thereby increasing public confidence in the Army decisionmaking process." 32 C.F.R. section 651.48(b)(2). At this juncture, and in light of the ineffective September 11 and 12, 2007 scoping meetings, the Army must be acutely aware that such confidence is lacking. We are hopeful that careful attention to the comments below will help restore confidence in the Army decisionmaking process and result in a complete and thorough evaluation of the impacts associated with the Proposed Action.

The Description of the Proposed Action Must be Accurate and Inclusive

A complete and accurate description of the Proposed Action is essential to an adequate analysis of potential impacts. The Notice of Intent ("NOI") failed to describe the type and intensity of development that would actually occur at the 10-acre parcel.¹ Similarly, the "conceptual redevelopment scenarios" presented at the September 11 and 12, 2007, scoping meetings are insufficient "to enable evaluation of the range of impacts that may be caused by the proposed action and alternatives," as required by the Army's NEPA regulations. See 32 C.F.R. section 651.51(c)(2). Interested parties must be presented with detailed information about the Proposed Action if they are to provide intelligent and meaningful feedback.

The Proposed Action also includes construction and facility improvements at the three USAR facilities for which the 10-acre parcel in West Los Angeles would be exchanged. These activities are "connected actions" as defined by NEPA and the Army's own NEPA guidelines and cannot be "covered by separate NEPA documentation" as the NOI suggests.

¹ The NOI failed to include a number of other items required by the Army's NEPA regulations. Specifically, the NOI did not identify "a tentative list of the affected parties to be notified," did not identify "the proposed method for accomplishing the scoping procedure," and did not indicate "the relationship between the timing of the preparation of the environmental analysis and the tentative planning and decisionmaking schedule." 32 C.F.R. section 651.49.

"Actions are connected if they automatically trigger other actions that may require EISs, cannot or will not proceed unless other actions are previously or simultaneously taken, are interdependent parts of a larger action, and depend on the larger action for their justification." 32 C.F.R. section 651.51(a)(1)(i); see 40 C.F.R. section 1508.25. New construction and facility improvements at the "exchange facilities" located in Bell, Riverside, and Miramar, California: (1) are triggered by the land-exchange; (2) cannot proceed without the land-exchange; (3) are an interdependent part of the land-exchange; and (4) depend on the land-exchange for their justification. The impacts of these actions, in conjunction with development of the 10-acre West Los Angeles parcel, must be considered in a single EIS. A piecemeal approach to analysis of these actions will conceal potentially significant environmental impacts in violation of NEPA.

The EIS Must Evaluate a Range of Reasonable Alternatives

None of the alternatives presented at the September 11 and 12, 2007, scoping meetings were reasonable. Reasonable alternatives must be "practical and feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant." Council on Environmental Quality ("CEQ") 40 Questions, No. 2a. In this case, reasonable alternatives are limited to those that could feasibly be carried out, taking into consideration County land use regulations.

The Army must consider the alternative of returning the 10-acre parcel to the control of the Department of Veterans Affairs ("VA"), formerly the National Home for Disabled Volunteer Soldiers, to whom it was originally deeded in 1888 to "establish, construct and permanently maintain" a home for veterans. Director for the VA Greater Los Angeles Healthcare System Charles M. Dorman expressly requested that this property be returned to the VA in a recent letter to Brigadier General William D. Frink, Jr.

As part of the "No Action Alternative," the EIS should evaluate the possibility of continued use and operation at the site by the Army Reserve with a possible remodel of existing facilities. The EIS must also consider alternatives to the three "exchange facilities," including alternative locations for these facilities. As discussed above, these are part of a single connected action and must be analyzed as such.

**The EIS Must Evaluate the Significant Impacts of the
Proposed Action on the Surrounding Area**

Existing traffic conditions in the area surrounding the 10-acre parcel are unbearable. Intersections operate at a level of service "F," the worst possible level of service ("LOS") attributable to roadways.² The U.S. General Services Administration ("GSA") concedes that "[t]his is an intensely urbanized, highly developed region that continuously suffers from traffic congestion." FBI Draft EIS p. ES-4. The GSA further acknowledges that these deplorable conditions will only worsen with the proposed development in the surrounding area. In fact, by 2017, 15 additional intersections will decline to LOS E or F. Ibid. p. 4-52. This estimate does not even include the inevitable increase in traffic that would result from development of the 10-acre parcel.³ The EIS must fully evaluate the massive traffic impacts that any development in this area would have, along with the associated air quality and noise impacts.

Development of the 10-acre parcel would destroy a vital and limited open-space resource in the middle of the dense urban area of West Los Angeles. Development would also deprive veterans on the neighboring VA property and local residents of the aesthetic, recreational and buffer benefits that this open-space provides. These impacts must be evaluated.

Furthermore, the 10-acre parcel is fraught with environmental hazards. It is potentially contaminated with asbestos and lead paint and has a leaking oil/water separator. There is an underground storage tank onsite that has documented releases of diesel fuel and has caused diesel contamination in

² The 2006 Draft Environmental Impact Statement for the Los Angeles Federal Bureau of Investigation ("FBI") Federal Building ("FBI Draft EIS") rated the LOS at the intersections of San Vicente/Federal and Wilshire Boulevard and Sepulveda and Wilshire during peak AM and PM hours at "F." Other nearby intersections similarly received either "D," "E," or "F." FBI Draft EIS p. 3.27, Table 3-9.

³ The GSA does estimate that an unspecified "Veterans Affairs" project will contribute another 790 daily trips to the area. Ibid., Appendix C, p. 34, Table 3.

groundwater under the site. The parcel also contains potentially radioactive materials, potential PCB contamination, and other environmental problems. The EIS must evaluate the potential for hazardous impacts to human health as a result of developing this land.

The 10-acre parcel is potentially eligible for listing on the National Register of Historic Places due to its inclusion as part of the 300 acres conveyed by the 1888 deed. It is located directly adjacent to land owned by the VA that has already been deemed eligible for listing on the National Register of Historic Places and has been designated as part of the Los Angeles National Home Branch Historic District. Similarly, Holderman Hall and Munemori Hall are potentially eligible for listing on the National Register of Historic Places. Section 106 of the National Historic Preservation Act ("NHPA") requires that the federal government consider the effects of its undertakings on historic properties, including districts, sites, buildings, structures and objects included in or eligible for inclusion in the National Register of Historic Places. The Army must conduct a thorough cultural historical survey and initiate consultation with the State Historic Preservation Officers ("SHPO") to determine the potential for buildings and/or property of historic significance. This process should be initiated "no later than the scoping phase of the process and should run parallel to the NEPA process, not sequential to it." See 32 C.F.R. section 651.14(a)(2).

The EIS must evaluate the Proposed Action's potential contribution to climate change. Failure to do so is "counter to NEPA." See *Border Power Plant Working Group v. Dep't of Energy*, 467 F.Supp.2d 1040 (S.D. Cal. 2006); see also *Massachusetts v. Environmental Protection Agency* (2007) 127 S.Ct. 1438. Analysis of greenhouse gas ("GHG") emissions is already required under the California Environmental Quality Act ("CEQA") (see SB 97), and there is a growing national trend to require a GHG analysis as part of an EIS. The Council on Environmental Quality ("CEQ") has recommended analysis of climate change in NEPA documents for more than a decade,⁴ and the U.S. Environmental Protection Agency has recently moved toward requiring GHG analysis in NEPA documents. The impacts of the Proposed Action on climate change, both individually and cumulatively, must be examined.

⁴ Memorandum from CEQ to all Federal Agency NEPA liaisons, October 8, 1997.

The probability and risk of a terrorist attack may be influenced by the land exchange and by construction and improvements at the three USAR exchange facilities located throughout southern California. The EIS should consider whether the Proposed Action would increase terrorism-related risks locally and nationally and analyze what effect such an attack would have on the environment. See *San Luis Obispo Mothers for Peace v. Nuclear Regulatory Commission*, 449 F.3d 1016 (9th Cir. 2006).

The indirect effects of the proposed action must also be evaluated. For example, the "fact sheet" provided at the September 11 and 12 scoping meetings indicates that units presently assigned to the property "will be reassigned elsewhere in southern California." The EIS should define "elsewhere" and analyze what impacts this reassignment will have on traffic and other resource areas in southern California and beyond.

The EIS should also include a range of feasible mitigation measures that would reduce the significant impacts that would occur as a result of any development at the property.

Cumulative Impacts Must be Satisfactorily Addressed

The EIS must evaluate the direct and indirect effects of the Proposed Action in combination with the cumulative effects of all other past, present and future projects in the area. This includes future development and construction at the neighboring VA property, the 405 widening and carpool lane additions, the Belmont Retirement Home project, the Palazzo Westwood project, the Wilshire Club-View project, the Wilshire Carlyle project, the Wilshire Hannover project, 10777 Wilshire project, the Sepulveda-Brownwood project, the Wilshire-Barrington project, the 72 proposed projects identified in the 2006 FBI Draft EIS, and all other reasonably foreseeable projects.

The Army Must Fully Involve the County and the Public in the NEPA Process

The Army's NEPA regulations recognize that local governments and agencies frequently have "special expertise with respect to reasonable alternatives or significant environmental, social, or economic impacts associated with a proposed action." 32 C.F.R. section 651.14(g)(2). The County has the sort of

Mr. Wayne Alves
October 10, 2007
Page 7

expertise valued by the Army's NEPA regulations and must be involved at all stages of the EIS process. At this time, the County expressly requests provision of a "Scope of Statement" pursuant to 32 C.F.R. section 651.51(d), describing all determinations reached by the Army during the scoping process.

The County further requests that a website be created to provide public access to scoping comments, the various due diligence documents from the on-line auction, all NEPA documents related to the three "exchange facilities" in Bell, Riverside, and Miramar, and all other relevant documents. In addition, the County requests written notice of any action or proposal by the Army with respect to any and all of the three "exchange facilities" and anything related thereto. Please provide all such notices related to this project and the exchange facilities to:

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and to:

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Transparency, coordination, and cooperation must be at the heart of this EIS process. In this spirit, the County requests that the Army hold additional public scoping meetings to present the Proposed Action and all reasonable

Mr. Wayne Alves
October 10, 2007
Page 8

alternatives and to give the public an opportunity for meaningful comment. All oral and written comments given at these meetings, as well as all other comments received during the scoping period, should be included in the Draft EIS.

Should you have any questions, please contact the undersigned.

Very truly yours,

RAYMOND G. FORTNER, JR.
County Counsel

By 
SCOTT KUHN
Senior Deputy County Counsel
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SK/

c: Senator Dianne Feinstein
Congressman Henry Waxman
Supervisor Zev Yaroslavsky