

### **Introduction:**

Between 1926 and 1966, the Department of the Army used Castner Range for the live firing of small arms, assault weapons and field and air-defense artillery. By 1966 the City of El Paso had grown around the southern and eastern boundaries of the Range, which was then closed off to further military use except for the small “Vietnam Village” close-combat training area (1966-1971). In 1969, the state completed Transmountain Road (TX Loop 375), which runs east and west through the Franklin Mountains and Castner Range connecting I-10 to the US 54 Patriot Freeway. Seventeen acres of Castner Range land were transferred in 1971 to the Department of the Interior and then to the City of El Paso and are the site, today, of the City’s Museum of Archaeology and the privately-owned and -operated Border Patrol Museum. The far southeastern corner of Castner Range is home to a Texas Department of Transportation maintenance yard, a 45-acre Homeland Security Border Patrol station and the Northgate Retention Dam. Since the 1970s local environmentalists have turned back all attempts to build an arena, a stadium, a high-tech park and other commercial developments on the Range. In 1971 the Department of the Army sold 1,247 acres east of the freeway to the City of El Paso, which retained some land for parks and schools and sold the rest to the County, the Community College district and to developers for subdivisions and commercial zones.)

### **Local Initiatives:**

- **The El Paso community has been trying since 1971 to permanently protect this land and allow people to safely access it.** El Pasoans understand that a national monument designation for Castner Range would not necessarily be precluded merely because of the presence of UXO, although public access may be restricted to address potential safety hazards.
- **More than \$1 million has been promised by the El Paso community** to finance needs related to Castner Range. Following the public release of the Department of Army’s feasibility study, certain areas of Castner Range may be considered for future public access.
- **Castner Range is the gateway to the highest points in the Franklin Mountains, including the only access to North Franklin peak at 7,192 feet above sea level.** In fact, Castner Range occupies 11-square miles on the eastern side of the Franklin Mountains and includes a quarter of all high land.
- **Former Castner Range land has trails on which people frequently hike.** This land is part of the 17 acres purchased by the City of El Paso in the early 1970s and surrounding the City’s Museum of Archaeology. The rest of Castner Range was viewed for years by many people as “open,” but its “closed” status was reinforced in the early 2000s by Fort Bliss authorities. (The Castner Range National Monument campaign does not advocate that people trespass on land that Fort Bliss has declared to be off-limits.)

### **UXO Requirement:**

Since the 1980s, the DOD has been required to conduct research, restore and make safe land that the DOD has damaged. The DOD and corporations under contract with the DOD have been conducting studies and cleanups at Castner Range since the 1970s.

- Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA; P.L. 96-510) in response to a growing desire for the federal government to ensure the cleanup of the nation's most contaminated sites to protect the public from potential harm.<sup>1</sup>
- Title II of the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499) authorized the Defense Environmental Restoration Program and had included the remediation of UXO within its scope, but did not specifically require the DOD to prioritize sites with UXO for remediation.<sup>2</sup>
- The National Defense Authorization Act for FY2002 (P.L. 107-107) authorized the Military Munitions Response Program (MMRP) as a sub-element of the DOD Defense Environmental Restoration Program and directed DOD to prioritize non-operational (i.e., decommissioned) U.S. military training ranges and former munitions disposal sites for investigation to determine whether remediation is warranted.
- The U.S. Army has been conducting a Remedial Investigation (RI) of Castner Range under the MMRP to identify the potential hazards and determine the feasibility of remediation and potential land. As indicated in paragraph one of this memo, the RI has now been completed, though some uncertainty remains regarding the level of remediation and the use to which the land will be put.
- While we are not aware of all DOD lands where UXO is present as well as those that have been transferred to other federal departments and agencies, we do know where the DOD has spent federal funds to clean up lands.<sup>3</sup>
- From 1918 – 2003, there were 126 documented UXO incidents across the United States where civilians were injured or killed by contact with UXO found on both former and active bombing/artillery ranges, proving grounds and other military activities in the United States.<sup>4</sup>
- The following section will provide information regarding previous extensive UXO investigations that have taken place on Castner Range since it ceased to be used as a firing range in 1966.

### **Castner Range: Previous Ordnance and Explosive Investigation:**

Several organized ordnance investigations have been conducted at Castner Range since 1971.<sup>5</sup>

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<sup>1</sup> Bearden, David M., CRS, *Comprehensive Environmental Response, Compensation, and Liability Act: A Summary of Superfund Cleanup Authorities and Related Provisions of the Act*, June 14, 2012 (hereinafter: Bearden June 14, 2012).

<sup>2</sup> Bearden June 14, 2012 *citing* 10 U.S.C. §2701 et. seq.

<sup>3</sup> Department of Defense, Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, *Defense Environmental Programs Annual Report to Congress*, June 2014, at pages 7-8 (last visited: April 17, 2016: <http://www.denix.osd.mil/arc/upload/FY13-DEP-ARC.pdf>).

<sup>4</sup> United States General Accounting Office, *Military Munitions: DOD Needs to Develop a Comprehensive Approach for cleaning Up contaminated Sites*, December 2003, (last visited: April 23, 2016: <http://www.gao.gov/assets/250/240856.pdf>).

<sup>5</sup> Parsons Report

- In September 1971, personnel from Fort Bliss conducted a surface investigation of approximately 200 acres.<sup>6</sup>
- In May 1974, Fort Bliss personnel conducted a surface sweep of 1,230 acres of closed Castner Range land located east of the North-South freeway (Highway 54).<sup>7</sup>
- In January 1975, the Engineer Studies Group of the Department of Army, Chief of Engineers' Office prepared a report concerning the unexploded ordnance contamination of Castner Range.<sup>8</sup>
- During December 1979, a surface sweep was conducted 200 meters on either side of Transmountain Road (aka "Loop 375") and along a two-mile portion of the U.S. 54 freeway's right-of-way.<sup>9</sup>
- In 1989, the Army conducted a surface sweep for ordnance along Transmountain Road's right-of-way and along a portion of the North-South freeway's right-of-way.<sup>10</sup>
- In 1994, Environmental Hazards Specialists International, Inc. (EHSI) investigated roughly 6,700 acres.<sup>11</sup>
- In 1995, a surface removal action was performed on areas that were determined to pose an immediate risk to the public where the potential for encountering Ordnance and Explosive Waste (OEW) was suspected at Castner Range. 569 acres were cleared.<sup>12</sup>
- A 1998 report released a calculation of the probability of accidental detonation for all of Castner Range. It was estimated that the total number of deaths and/or injuries over twenty years was expected to be less than one accidental detonation in a 20-year period.<sup>13</sup>
- In 2001, the Transmountain Buried Drum Site investigation covered approximately six-acres of Castner Range adjacent to the east side of the Franklin Mountains.<sup>14</sup>
- In 2004, UXO removal was performed. The subsurface was cleared on 167-acres excavating approximately 41,000 subsurface anomalies and 975-acres were surface cleared for a total of 1,142-acres cleared.<sup>15</sup>
- In 2012, helicopter-borne magnetometry data were collected over those parts of the closed Castner Range MRS with an average slope of less than 5% or about 1742 acres, representing approximately 25% of the total range area.<sup>16</sup>
- In 2012, two contractors each surveyed approximately half of the safely accessible acreage, areas with an average slope of less than 18%, which totaled approximately

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<sup>6</sup> *Id* at 2-23.

<sup>7</sup> *Id*.

<sup>8</sup> *Id* at page 2-29.

<sup>9</sup> *Id* at 2-29, 2.21.4.

<sup>10</sup> *Id*.

<sup>11</sup> *Id*.

<sup>12</sup> *Id* at page 2-38, 2.2.3.

<sup>13</sup> *Id* at 2-60.

<sup>14</sup> U.S. Army Environmental Command, *Wide Area Assessment Field Demonstration for the Closed Castner Range Fort Bliss, Texas*, Prepared for: Army Corps of Engineers, Omaha District, U.S. Army Environmental Command, March 2012, at 1-10, section 1.4. (hereinafter: Wide Area Castner Assessment)

<sup>15</sup> *Id* at 1-10, Section 1.4.

<sup>16</sup> U.S. Army Environmental Command, *Wide Area Assessment Field Demonstration for the Closed Castner Range Fort Bliss, Texas*, Prepared for: Army Corps of Engineers, Omaha District, U.S. Army Environmental Command, July 2012, at page iv.

3,521 acres, or 50% of the MRS. They also did additional testing on trails that were illegally frequented by the public.<sup>17</sup>

- A Feasibility Study (FS) is part of the MMRP; the U.S. Army and contractors have been conducting a Remedial Investigation (RI) of Castner Range that leads to the undertaking of a Feasibility Study of the Range and of ways to deal with its OE.\* (See footnotes, bottom of page.)
- December 10, 2019. Technical Project Planning (TPP) meeting reviewed the new protocol for MEC (Munitions and Explosives of Concern) Hazard Assessment. The RMM realizes that some places on Castner have a greater possibility of hazards than others. Sarah Alder-Schaller of ARCADIS spoke about MRS subdivisions based on the concentration of possible MECs. They define 10 different MRS's on Castner and place them in three categories: High, Moderate or Low Complexity (density of MEC). Areas (most of Castner) that have the lowest MEC density are designated thus: "Area most likely to be suitable for some public use after remedial action implementation."
- RAB December 9, 2020. Map follows from RAB meeting.
- The Department of the Army has finished up the Remedial Investigation (RI) stage of Castner Range's required Military Munitions Response Program (MMRP) site inspection. They previously thoroughly investigated more than half of Castner Range's 7,081 acres through a Wide Area Assessment (WAA) Field Report, including trails that are currently being used by residents.<sup>18</sup>
- The Army's next step is to write a Feasibility Study (FS) on their findings. Similarly, they have done this at Fort Ord and Fort Monroe, with most of those studies (but not all) having been finished prior to the issuance of a Presidential Proclamation. As noted above, Castner Range's Remedial Investigation was completed July 2018.

Milestone	Projected Date
Technical Project Planning Meeting #1	January 2019 (completed)
Technical Project Planning Meeting #2 and Public Meeting	December 10, 2019 (completed)
Draft Feasibility Studies	FS No. 1 Submitted November 2020
Technical Project Planning Meeting #3 and Public Meeting	~ March 2021
Draft Proposed Plans*	~ March 2022
Draft Decision Documents	~ September 2022

<sup>17</sup> *Id.*

<sup>18</sup> U.S. Army Environmental Command, *Wide Area Assessment Field Demonstration for the Closed Castner Range Fort Bliss, Texas*, Prepared For: Army Corps of Engineers, Omaha District, U.S. Army Environmental Command, July 2012, at page iv.

### **Public Lands with UXOs:**

- **Fort Monroe National Monument:**

- **Designated under a 2011 Presidential Proclamation**<sup>19</sup>: After issuance of this proclamation, the Secretary of the Army, in consultation with the Secretary of the Interior, acting through the National Park Service, will continue to manage the lands and interests in lands within the monument boundaries, to the extent they remain in the ownership or control of the Government of the United States, until the transfer to the Secretary of the Interior is completed in accordance with the memorandum of agreement. Cleanup continues.

- **Fort Ord National Monument:**

- **Designated under a 2012 Presidential Proclamation**<sup>20</sup>: The Secretary of the Army, in consultation with the Secretary of the Interior, through the BLM, shall continue to manage the lands and interests in lands under the Secretary's jurisdiction within the monument boundaries until the Army transfers those lands and interests in lands to the BLM in accordance with the 1995 Memorandum of Understanding (MOU) between the Department of the Army and the BLM, as amended, that describes the responsibilities of each agency related to such lands and interests in lands, the implementing actions required of each agency, the process for transferring administrative jurisdiction over such lands and interests in lands to the Secretary of the Interior, and the processes for resolving interagency disputes.
- **Other Information:** The 1991 Base Realignment and Closure (BRAC) round subsequently approved the closure of the U.S. Army's Fort Ord base and post. In 1995 a Memorandum of Understanding (MOU) between the U.S. Army and the Bureau of Land Management (BLM) was written to explicate the transfer of administrative jurisdiction of approximately 15,000 acres at Fort Ord. The MOU made no reference to the suitability of these lands for a National Monument designation.<sup>21</sup> The BLM Fort Ord National Monument was created in large part in response to the vision of past BLM employee and Vietnam veteran Steve Addington, who passed away in 2004. Steve was a Marine Corps photo-journalist who eventually came to work for the BLM in the 1970s.<sup>22</sup>

### **Other Information:**

Cleanup continues on those parts of the Fort Ord National Monument where the concentration of MECs and UXOs is the heaviest. That land is surrounded by high and heavy fences and is off-limits to the public. The rest of the Monument is fully open to public use.

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<sup>19</sup> Whitehouse.gov, *Presidential Proclamation – Establishment of the Fort Monroe National Monument, Nov, 1, 2011* (last visited 1-11-2016: <https://www.whitehouse.gov/the-press-office/2011/11/01/presidential-proclamation-establishment-fort-monroe-national-monument>)

<sup>20</sup> Whitehouse.gov, *Presidential Proclamation – Establishment of the Fort Ord National Monument, April 20, 2012* (last visited 1-11-2016: <https://www.whitehouse.gov/the-press-office/2012/04/20/presidential-proclamation-establishment-fort-ord-national-monument>)

<sup>21</sup> Congressional Record, Fort Ord Sand Dunes Legislation, April 25, 1991.

<sup>22</sup> U.S. Department of the Interior, Bureau of Land Management, *Fort Ord History – Fort Ord National Monument*, (last visited: 1-11-2016: <http://www.blm.gov/ca/st/en/fo/hollister/cultural/lightfighters.html>).

- **Vieques National Wildlife Refuge:**
  - **Background:** Through annual defense authorization legislation, Congress directed the closure and transfer of the Navy facilities in western Vieques<sup>23</sup> in 2001, and those in eastern Vieques in 2003. As directed in this legislation, the U.S. Navy transferred the training ranges on eastern Vieques and a portion of the lands on western Vieques to the U.S. Department of the Interior, and transferred the remaining portions of the western lands to the Municipality of Vieques and the Puerto Rico Conservation Trust.
  - **Navy Responsibility:** The U.S. Navy still retains responsibility for the remediation of UXO and other environmental contamination on its former lands on both eastern and western Vieques Island.<sup>24</sup> Typically, the federal agency that caused the contamination prior to the transfer accepts responsibility for funding and administering the cleanup on behalf of the United States. Consistent with this practice, the Navy accepted responsibility for the cleanup of the western lands on Vieques in a Memorandum of Agreement with the Department of the Interior in 2002, and of the eastern lands in a subsequent agreement in 2003.<sup>25</sup> In 2007, the Navy entered into an interagency agreement with EPA, the Department of the Interior, and the Puerto Rico Environmental Quality Board, that is intended to govern the cleanup of the Navy's facilities on Vieques.<sup>26</sup>
- **Fort Bliss:** BLM currently has a relationship with Fort Bliss. A 1990 Memorandum of Understanding between the U.S. Army and BLM governs the BLM management of natural resources on public lands at Fort Bliss on land that continues to be used for military and military-training purposes. BLM typically retains this responsibility on federal public lands withdrawn for U.S. military use, in its capacity of managing natural resources on federal public lands. Once a public land withdrawal expires, BLM (or the appropriate federal land management agency) typically resumes administrative jurisdiction of those lands. This differs from Castner Range, all of which was originally private land, but it does show that there is an existing relationship on Castner Range between the two departments.<sup>27</sup>

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<sup>23</sup> Island of off Vieques the coast of Puerto Rico

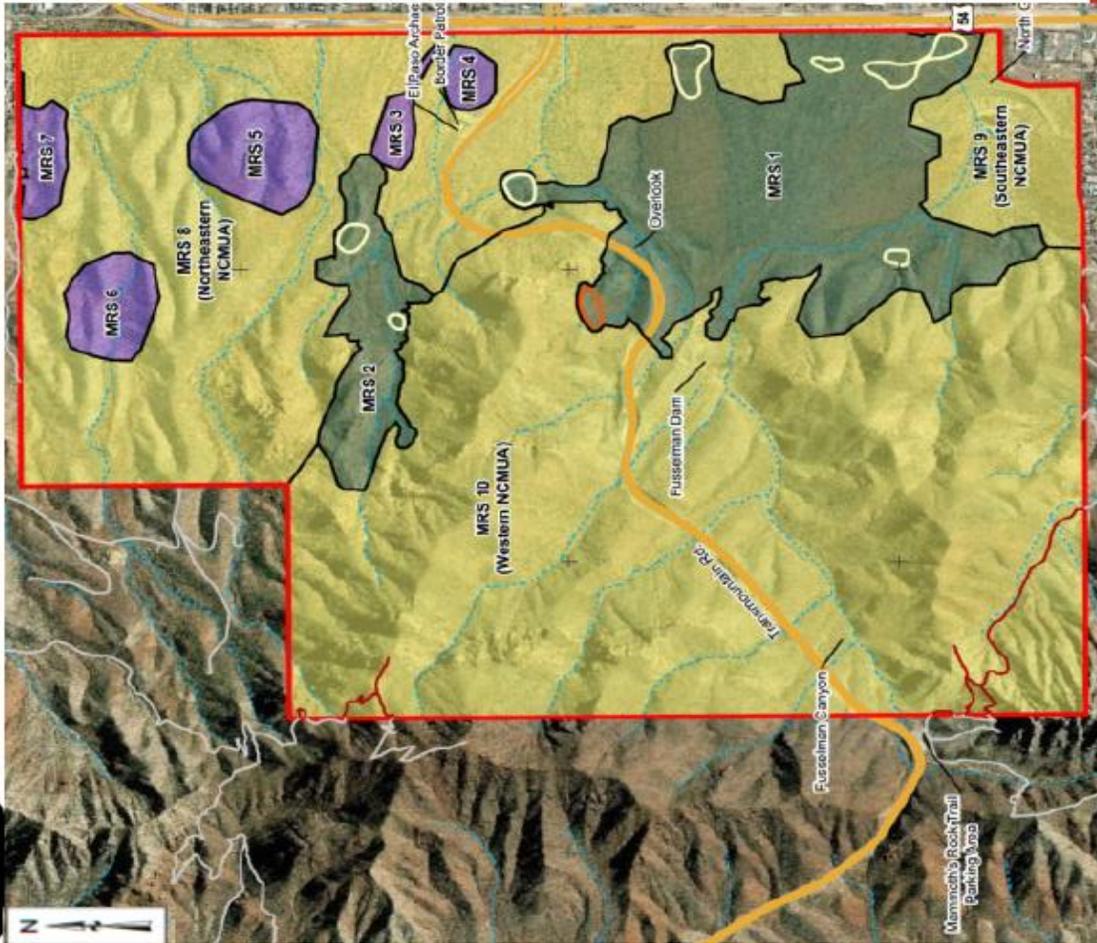
<sup>24</sup> NAVFAC Environmental, Naval Facilities Engineering Command, *Technical Memo and Related Documents for Laguana Anones*, (last visited: 1-11-2015: [http://www.navfac.navy.mil/products\\_and\\_services/ev/products\\_and\\_services/env\\_restoration/installation\\_map/navfac\\_atlantic/vieques.html](http://www.navfac.navy.mil/products_and_services/ev/products_and_services/env_restoration/installation_map/navfac_atlantic/vieques.html)).

<sup>25</sup> Bearden, David, Congressional Research Service, *Cleanup of Former U.S. Navy Facilities on Vieques Island, Puerto Rico*, Sept. 17, 2009) (last visited: 1-11-2016). (hereinafter: *Cleanup of Former U.S. Navy Facilities on Vieques Island, Puerto Rico*).

<sup>26</sup> *Cleanup of Former U.S. Navy Facilities on Vieques Island, Puerto Rico* citing Environmental Protection Agency Region II, Department of the Navy, Department of the Interior, and the Commonwealth of Puerto Rico, in the Matter of U.S. Departments of Interior and Navy, Island of Vieques, Puerto Rico, Federal Facility Agreement Under CERCLA Section 120, Administrative Docket Number FFA-CERCLA-02-2007-2001.

<sup>27</sup> Memorandum of Understanding Between U.S. Department of Interior – Bureau of Land Management New Mexico and U.S. Department of the Army Headquarters, US Army Air Defense Artillery Center and Fort Bliss, 1990.

# Feasibility Study Development



## 3 Feasibility Studies

1. MRS 8, 9, & 10
2. MRS 3, 4, 5, 6, & 7
3. MRS 1 & 2

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