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Maryland Air National Guard
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**Re: Proposed Modifications to the Duke Military Operating Area (“Duke MOA”)
- Public Comments from the Eastern States Trail-Endurance Alliance
(“ESTE A”)**

The ESTEA submits the following comments on the proposal by the United States Air Force, the National Guard Bureau and the Maryland Air National Guard to modify the Duke MOA by reducing the floor of the MOA to 100ft above ground level (“AGL”), thereby establishing the Duke Low MOA. Please consider these comments in making final decisions concerning the proposed modifications.

ESTE A

The ESTEA is a non-profit 501(C)(3) organization that promotes trail running and the responsible use of public land in Pennsylvania. The organization’s flagship event is the Eastern States 100, which is a 103-mile single-loop trail foot race held in mid-August. This event takes place in the heart of the Pennsylvania Wilds (“PA Wilds”), winding through communities and densely forested land in Lycoming, Clinton, Potter and Tioga Counties. Participants from not only the United States, but from countries around the world, including Japan, Canada, Peru, Great Britain, Spain and Mexico have traveled to this beautiful part of Pennsylvania to participate in this event, which has a reputation as being one of the most challenging ultramarathons in the world.

The Eastern States 100, along with other similar trail events that take place throughout the PA Wilds, depends on the serenity, rural character and natural beauty of this region. ESTEA and

other trail organizations that sponsor these events work hard to preserve this area and give back to host communities by supporting local businesses, donating to emergency services, building and maintaining trails for public use, and supporting partner trail organizations. It is a symbiotic relationship that critically depends on the unique environment of this special part of Pennsylvania.

The Pennsylvania Wilds

The PA Wilds region consists of just over two million acres of public land and includes approximately 29 state parks, 8 state forests, 50 state game lands, close to 2,000 miles of hiking trails, and abundant wildlife, including the largest elk herd in the Northeast. This region is not only a treasure for Pennsylvania residents, but for all those who visit.

Its preservation is partially dependent upon the unique protection afforded under Article 1, Section 27 the Pennsylvania Constitution, which provides:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come.

This constitutional provision is intended to protect and preserve the natural, scenic and esthetic values of the environment in Pennsylvania and establishes that Pennsylvania's public natural resources, including the PA Wilds, are the common property of all the people, including future generations. The significance of this language cannot be discounted or understated in assessing the proposed modifications to the Duke MOA and its potential impacts on this unique area.

Duke Low MOA

The Maryland Air National Guard states that the United States Air Force and the National Guard Bureau are proposing to lower the floor of the existing military operating area from 8,000ft Mean Sea Level (MSL) to 100ft Above Ground Level (AGL) in support of the 175th Wing of the Maryland Air National Guard.¹ The primary purpose of lowering the floor of the operating area is to provide year round realistic training opportunities in low altitude airspace. Specifically, the Duke Low MOA is being proposed to provide pilots from the Maryland Air National Guard with training space for the protection of ground troops and search and rescue missions.² The ESTEA notes that while the Duke Low MOA focuses primarily on the 175th Wing, other Air National Guard wings are mentioned as having a need to use the modified airspace for training exercises.³

¹ Duke MOA website at: <https://www.175wg.ang.af.mil/Duke-MOA-Low/> and Duke Low MOA FAQs, Public Statement.

² *Id.*

³ Duke Low MOA FAQs, A7 and A11; Volume 1 Draft Environmental Assessment (EA), p. 2-8.

ESTEAs Comments

The ESTEA makes the following comments based on information provided through the Duke Low MOA website at <https://www.175wg.ang.af.mil/Duke-MOA-Low/>, including the Duke Low MOA FAQs, the draft Finding of No Significant Impact (“FONSI”) and the draft Environmental Assessment (“EA”).

Air Quality

The EA indicates that modeling was performed to estimate the total direct and indirect emissions from air operations on the emission of criteria pollutants, as identified in the federal Clean Air Act, 42 U.S.C. § 7401 et seq. Those emissions are predicted to be below the insignificance indicator of 250 tons per year, according to the draft EA; however, there are still projected emissions from flight operations. The draft EA estimated emissions from all air operations in the proposed Duke Low MOA from 100 ft AGL to 8,000 ft above mean sea level (“MSL”) and predicted actual emissions below 6.0 tons per year (“tpy”) of CO, 4.2 tpy of NO₂, 1.1 tpy of VOCs, 0.5 tpy of SO₂, 1.7 tpy of PM₁₀ and 0.7 tpy of PM_{2.5}.⁴ While predicted to be relatively small, flight operations in the Duke Low MOA are expected to result in emission of these pollutants in this area. This area has also likely experienced emissions impacts attributable to natural gas exploration, drilling and transportation and the predicted emissions from the Duke Low MOA will add to those emissions. Consideration should be given to limiting flight operations to the extent possible in order to limit or reduce actual emissions in the area.

Fuel Venting/Dumping

The EA makes it clear that fuel dumping is “not a component of any routine flight training...” and that fuel venting “is highly unlikely to occur.”⁵ Although the risk of this activity appears to be minimal, it is identified as a consideration in the EA. Such events could negatively impact residential areas or pristine forests and waters in the region if they were to occur, which should be considered in identifying the boundaries and fly over areas in the Duke Low MOA.

Visual Effects

The visual effects analysis indicates that there would be limited or no impacts from construction, infrastructure developments, condensation trails from aircraft or light emissions that would detract from visual resources.⁶ The presence of military aircraft flying at low altitudes in this rural and natural part of Pennsylvania should not be discounted and will certainly have a visual impact. To the extent those impacts can be minimized through the identification of flight paths, and a reduction in the frequency and number of flights, the ESTEA recommends that the Air

⁴ Volume 1 Draft Environmental Assessment (EA). p. 1-10.

⁵ *Id.* p. 1-11 - 1-12.

⁶ *Id.* p. 1-12.

National Guard continually evaluate and implement such mitigation measures and perform a more detailed analysis in a final EA.

Reasonable Limitations on Operations

The EA under “Proposed Action” describes the general parameters of operations.⁷ The ESTEA has the following questions and comments regarding these proposed actions:

- The ESTEA suggests clarification in any final EA concerning concurrent activation of the Duke MOA and the Duke Low MOA. Would this result in a cumulative increase in air traffic above what is being proposed solely in the Duke Low MOA, which states that expected usage is no more than six total aircraft on the days of activation?
- Limiting the number of days of activation below what is identified in the EA as approximately 170 days per year should be considered in order to minimize impacts from the Duke Low MOA.
- Consideration should be given to making Saturday operations non-typical, similar to Sundays.
- Consideration should be given to raising the AGL floor to 1,000 feet over state parks, the Sinnemahoning Creek and the historical Austin Dam ruins, similar to the AGL floor being implemented over Hammersley Wild Area, the Forrest H. Dutlinger Natural Area and Kettle Creek State Park.

Other Expected Users and Annual Usage

Documents related to the Duke Low MOA focus on use by the 175th Wing of the Maryland Air National Guard (A-10Cs) and discuss use by other expected users, including the 177th Fighter Wing of the New Jersey Air National Guard (F-16Cs), the 193rd Special Operations Wing of the Pennsylvania National Guard (C-130Js), and the 113th Wing of the District of Columbia Air National Guard (F-16Cs).⁸ Based on information provided in the EA, while usage of the Duke Low MOA by those other expected users in terms of time in airspace does not appear to increase substantially from usage in the existing Duke MOA, usage by the 175th Wing of A-10C aircraft appears to jump from 65 airspace hours to 300 airspace hours in the combined existing Duke MOA and proposed Duke Low MOA.⁹ This is a significant increase in the amount of time in airspace. Consideration should be given to limiting this amount of time in airspace to the extent possible to mitigate the effects from aircraft operations.

⁷ *Id.* p. 2-1 - 2-2

⁸ Volume 1 Draft Environmental Assessment. p. 2-8 - 2-9

⁹ *Id.* p. 2-8

Noise

In addition to the other concerns outlined in these comments, one of the ESTA's primary concerns is the potential for noise impacts on communities, recreational activities and wildlife from low level flight operations. The EA contains information concerning the Day Night Average Sound Level in decibels over a 24-hour period, which helps identify the total cumulative exposure to sound. Much of the area below the proposed Duke Low MOA is rural, and according to the EA has background noise levels below 50 dBA DNL.¹⁰ While information in the EA suggests that the Duke Low MOA will not significantly increase background noise levels above 50 dBA DNL in both population centers and wildlife/recreation areas, the sound level associated with individual flights appears to increase substantially.

The EA states, in part, "[a]reas beneath the proposed MOA would intermittently experience aircraft overflights that would range from loud to very loud, exceeding 75 dBA Lmax at any given point on the ground."¹¹ In fact, Lmax estimated sound levels from A-10C aircraft at altitudes of 100 and 500ft AGL are estimated to be between 114 and 102 dBA respectively, and at 1,000ft AGL are estimated to be 95 dBA.¹² For F-16 aircraft, Lmax sound levels at 500 and 1,000ft are estimated to be 108 and 100 dBA, respectively. Lmax, according to the EA, is the maximum sound level of an acoustic event (e.g., when an aircraft is directly overhead).¹³ It is not clear from this information whether this estimated sound level information is attributable to a single aircraft or multiple aircraft flying over at one time.

Predicted noise impacts associated with individual flights in the Duke Low MOA are undeniable. This area has not experienced any similar activity on such a regular basis and ESTEA believes it is important to consider these impacts on individuals who live and work in this area, individuals who visit this area to enjoy the serenity of the PA Wilds, and the wildlife that lives in this area, including but not limited to Pennsylvania's unique elk herd. People visit and live in this area because of its rural character. Similarly, wildlife thrives in this area because it is remote and natural. Those qualities should not be compromised as a result of the Duke Low MOA and mitigations measures related to reducing noise impacts should be thoroughly evaluated and implemented.

Cumulative Effects

The National Environmental Policy Act, 42 U.S.C. § 4321 et seq., ("NEPA") requires the government to consider the impacts of a proposed project that will impact the environment. The draft EA states, in part, "[e]ffects on environmental resources can result from individually minor, but collectively substantial, actions taken over time."¹⁴ While the draft EA points out that the

¹⁰ *Id.* p. 3-18

¹¹ Volume 1 Draft Environmental Assessment., p. 3-23

¹² *Id.* p. 3-21

¹³ *Id.* p. 3-19 and 3-23 fn. a

¹⁴ *Id.* p. 4-1.

definition of “cumulative impact” as a category of “effects or impacts” has been repealed from the National Environmental Policy Act Implementing Regulations,¹⁵ the regulations do define the term “effects,” in 40 C.F.R. § 1508.1(g), and provide that an analysis of a proposed action, such as the Duke Low MOA, should consider and be consistent with the definition of “effects.”¹⁶

The definition of “effects” also provides, in part:

Effects should generally not be considered if they are remote in time, geographically remote, or the product of a lengthy causal chain. Effects do not include those effects that the agency has no ability to prevent due to its limited statutory authority or would occur regardless of the proposed action.¹⁷

Based on the parameters established by the definition, the draft EA states, in part:

Consequently, as no other projects have been identified as either in close proximity to the Duke Low MOA or as having a cumulative impact on shared resources, implementation of the Proposed Action would not contribute to any significant adverse cumulative impacts.¹⁸

Recognizing the limitations associated with the cumulative effects analysis, the ESTEA notes that this area has seen impacts from natural gas drilling and related development since approximately 2008. There are a wide range of positions on the positive and negative effects from this activity; however, from ESTEA’s perspective, we note that forested areas have experienced impacts from the installation of natural gas infrastructure, including visual impacts and noise. The Duke Low MOA will likely add to impacts from this activity and detract from the character of the PA Wilds. This area should not be subject to use and development that compromises what makes it special and unique. Accordingly, ESTEA suggests consideration be given to adding or expanding mitigation areas and measures to address this concern.

Environmental Justice

It appears that portions of the Duke Low MOA touch on an environmental justice area in Clinton County. Communities that are classified as environmental justice areas should not disproportionately bear environmental risks or harms from a proposed project. Consideration should be given to providing enhanced engagement and public participation in this area and increasing collaboration with community members and leaders to keep them informed about possible impacts from the proposed Duke Low MOA.

¹⁵ See 40 C.F.R. § 1508.1(g)(3) (“Cumulative impact, defined in [40 CFR 1508.7](#) (1978), is repealed.”)

¹⁶ 40 C.F.R. § 1508(g)(3)

¹⁷ 40 C.F.R. § 1508.1(g)(2)

¹⁸ Volume 1 Draft Environmental Assessment, p. 4-2

Alternatives Dismissed

The EA identifies several alternatives that were dismissed from further analysis and includes reasons for their dismissal. The ESTEA suggests that the use of these areas be revisited in the future to determine whether they provide a reasonable and better fit for the proposed training operations.

Conclusion

The EA points out the following information concerning the area below the proposed Duke Low MOA:

There are approximately 55,000 individuals and 35,000 households beneath the existing Duke MOA, approximately two-thirds of which reside beneath the proposed Duke Low MOA. In addition to individuals, there are 29,053 acres of state parks and 406,250 acres of state forests beneath the proposed Duke Low MOA.¹⁹

This suggests that low level flight operations within the Duke Low MOA have the potential to impact a significant number of people and a significant amount of acreage and wildlife in the heart of the PA Wilds. The ESTEA greatly values the PA Wilds and its communities. Simply put, this organization would not exist if it were not for this area. With this in mind, we feel a responsibility to offer the foregoing comments and respectfully request that mitigation measures focused on reducing the effects of proposed operations be evaluated and implemented to the greatest extent possible in order to preserve this unique and unmatched area of Pennsylvania.

Thank you for your time and attention.

Respectfully, on behalf of the ESTEA,



Jeffrey A. Calvert

President

Eastern States Trail-Endurance Alliance

¹⁹ *Id.* p. 3-16