

has no authority to require that parties acquiring the former MCAS El Toro property impose the mitigation measures identified in the FEIS or this ROD.

#### Comments Received on the Final EIS

Several organizations submitted comments on the FEIS. Most of those comments reiterated issues addressed in the response to comments included in the FEIS. A few comments identified substantive environmental issues not raised earlier in the NEPA process. Those comments are addressed below.

One comment alleged that the analysis was inadequate because it did not contain a conformity determination for non-aviation mixed land use. The DON disagrees with that allegation. No conformity analysis for mixed land use redevelopment is required. Conveyance of federal property outside federal control is expressly exempted from the conformity provisions of the Clean Air Act and there is no DON involvement in post conveyance redevelopment that would require conformity analysis.

Several comments alleged that the analysis was inadequate because it failed to address hazardous waste remediation in terms of the mixed land use directed by Measure W. The DON disagrees with those allegations. The analysis in the EIS addressed impacts associated with phased, mixed land use redevelopment such as that directed by measure W. CERCLA remedial actions are addressed through an independent process that examines alternative remedies based upon reasonably foreseeable land uses. State and local governments exercising planning and zoning authority have a prominent role in the development of CERCLA remedies. DON will impose land use controls where necessary to ensure protection of human health and the environment.

#### Conclusions

In deciding to dispose of the MCAS El Toro property in a manner consistent with state and local land use plans and policies, the statutory goals and objectives of the DBCRA in relation to the redevelopment of MCAS El Toro, as discussed in the FEIS, were carefully considered. The DON reviewed the purpose and need that this proposed disposal and reuse action would serve; the alternative means of achieving the purpose and need; the environmental impacts of these alternatives; the mitigation potentially necessary to preserve and enhance the human, cultural, and natural environment; the general costs and benefits; and the

recent amendments to the Orange County General Plan.

The DON also determined that the mixed non-aviation land uses analyzed in the FEIS are similar to those set forth in Measure W. The Business Park and Village Park alternatives are conceptual redevelopment plans. They addressed general categories of use but, because they involved redevelopment over a 20-year period, did not contain specific plans or projects. Projecting which specific plans or projects could be implemented over the period of such mixed-use redevelopment is speculative at best, so analysis of the mixed land use alternatives could be done only at the conceptual level. Measure W is also a conceptual mixed land use plan. It expressly recognized that redevelopment must be accomplished over an extended period of time; that specific uses could change during a phased implementation; and that phased implementation requires flexibility. Consequently, the DON found that the conceptual approach to analysis of phased mixed land use alternatives used in the FEIS adequately addresses the phased mixed land use now required under the Orange County General Plan as a result of the passage of Measure W.

Finally, the DON considered the effect that Measure W has on the aviation reuse plan adopted by Orange County and determined that it was not necessary, under the provisions of the DBCRA and the DoD Base Reuse Implementation Manual, to delay a decision. The FEIS examined a range of disposal/reuse alternatives based upon reasonable assumptions and foreseeable reuses as required by NEPA and the BRIM.

Therefore, on behalf of the DON, we have decided to dispose of the former Marine Corps Air Station (MCAS) El Toro in a manner consistent with state and local land use plans, using the lawful authorities available to the DON for property disposal.

Dated: April 23, 2002.

#### Duncan Holaday,

*Deputy Assistant Secretary of the Navy  
(Installations and Facilities).*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER02-1551-000]

#### Ameren Energy, Inc. on Behalf of Union Electric Company d/b/a AmerenUE and Ameren Energy Generating Company; Notice of Filing

April 19, 2002.

Take notice that on April 16, 2002, Ameren Energy, Inc. (Ameren Energy), on behalf of Union Electric Company d/b/a AmerenUE and Ameren Energy Generating Company (collectively, the "Ameren Parties"), pursuant to section 205 of the Federal Power Act, 16 U.S.C. and the market rate authority granted to the Ameren Parties, submitted for filing umbrella power sales service agreements under the Ameren Parties' market rate authorizations entered into with *Conoco, Inc.* Ameren Energy seeks Commission acceptance of these service agreements effective April 5, 2002.

Copies of this filing were served on the public utilities commissions of Illinois and Missouri and the counterparty.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at <http://www.ferc.gov> using the "RIMS" link, select "Docket #" and follow the instructions (call 202-208-2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

*Comment Date:* May 7, 2002.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

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