

## Appendix C

# Coastal Consistency Determination

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**UNITED STATES MARINE CORPS**  
MARINE CORPS AIR STATION  
BEAUFORT, SOUTH CAROLINA 29904-5001

IN REPLY REFER TO  
5090  
NREAO/074  
25 JUN 2072

Mr. Brad Gane  
Ecological Services Section Chief  
Coastal Resources Division  
Georgia Department of Natural Resources  
One Conservation Way  
Brunswick, GA 31520

**Subject: Federal Coastal Consistency Determination for the  
Proposed Modernization and Expansion of Townsend  
Bombing Range, Georgia**

Dear Mr. Gane:

The United States Marine Corps (USMC) is submitting this consistency determination in accordance with the Coastal Zone Management Act of 1972 (16 United States Code [U.S.C.], Section 1451 et seq.) and 15 Code of Federal Regulations (CFR), Part 930. This consistency determination was prepared to determine if the proposed modernization and expansion of Townsend Bombing Range (TBR), Georgia, is consistent with the Georgia Coastal Management Plan (GCMP), administered by the Coastal Resources Division of the Georgia Department of Natural Resources.

The USMC proposes to modernize and expand the existing TBR (enclosure 1) to accommodate the use of inert (with spotting charges) precision-guided munitions (PGMs) and the larger Weapon Danger Zones (WDZs; also referred to as safety zones) that their use requires. To accomplish this, the USMC proposes to acquire lands in the vicinity of TBR on which to create new target areas to allow for a greater variety of training activities.

The Proposed Action includes the following interrelated components:

- Acquisition of land;
  - Acquisition of a timber easement;
  - Modification of existing airspace;
  - Construction of infrastructure to support PGM training;
- and
- Improvement of training capabilities.

Under the Preferred Alternative (Alternative 4), the USMC proposes to acquire Area 1B along the south side of State Hwy 57 as well as Area 3 on the north side of State Hwy 57

(enclosure 2). Land acquisition under this alternative would total approximately 28,436 acres in McIntosh and Long Counties, Georgia. Under Alternative 4, the USMC would construct Target Areas 1, 2, 3, 4, 5, and 8 (enclosure 2). The target area acreage represents 4.6% of the total land proposed under the alternative. In general, the acreage outside the target areas would have little disturbance and would remain as forestland to support containment of WDZs during air-to-ground training. Construction of six additional target areas would significantly expand TBR's training capabilities and would allow Marine Air Group 31 pilots stationed at Marine Corps Air Station Beaufort to accomplish up to 85% of current F/A-18 air-to-ground ordnance training syllabus requirements.

Target areas proposed as part of Alternative 4 range in size from 200 acres to 300 acres and would be constructed in locations that were determined to accommodate the larger WDZs. Each target area would be surrounded by a 50-foot firebreak. The firebreak would not be constructed to handle everyday vehicle use, but could be used by emergency vehicles. Each target area may have a boundary fence 8 feet in height. Existing roads would be used to the greatest extent possible, but all target areas would require some degree of road construction or improvement. Each target area would include the construction of static or fixed targets, referred to as hard targets, designed to represent a specific real-world threat. These hard targets include, but are not limited to, an airfield, a terrorist training camp, or a fuel farm. Along with the hard targets, each target area would include simulated, non-working tactical targets. These tactical targets are also designed to simulate real-world threats and include, but are not limited to, combat vehicles, mobile surface-to-air missile sites, anti-aircraft artillery sites, and tanks. The tactical targets would be relocated periodically throughout the target areas to allow for variation in the training scenarios. The placement and locations of the tactical targets would be designed to closely resemble real-world conditions with hidden or partially concealed threats. This design for target placement would minimize the amount of forest clearing within the target areas.

Additional construction activities outside of the proposed target areas would include a new observation tower and support facilities, as well as additional utilities, roads, and fencing. Construction activities associated with the Proposed Action may disturb up to 2,000 acres.

In addition to the proposed land acquisition, the USMC proposes to purchase a timber easement from McIntosh County, Georgia, on

approximately 3,007 acres of land within the current TBR boundary. Further, the USMC proposes to modify Restricted Area R-3007A by extending the current restricted area laterally to the proposed acquisition area boundary. The purpose of this additional airspace is to exclude non-participating aircraft from intruding into hazardous operations, as required by Federal Aviation Administration regulations. The proposed modification would eliminate the current gap from 100 feet above ground level down to the surface of the ground over the areas proposed for acquisition. Although changes in airspace have no impact on land-based resources, we include this information so that you have a complete description of the Proposed Action.

The USMC is obligated to ensure that any of its activities which affect land, water, or natural resources of the coastal zone be consistent with the enforceable policies of the GCMP.

The USMC has determined that implementation of the Proposed Action would be consistent with the CZMA, 16 U.S.C. § 1456(c), as amended. Additionally, it has been determined that the proposed modernization and expansion of TBR would be carried out in a manner that is fully consistent with the enforceable policies of the GCMP (enclosure 3). This determination applies to the Proposed Action and the effects of the Proposed Action on the land, water, or natural resources of the coastal zone, as directed by 15 CFR § 930.39. We request your concurrence with this determination within 45 days from receipt of this package. Enclosure 3 includes more detailed information on the Proposed Action, and a copy of the Draft Environmental Impact Statement that was prepared for the project can be provided to you, if necessary, to facilitate this request.

If you have any questions regarding this determination or require additional information, please contact Laurel Rhoten, (843) 228-7372 or laurel.rhoten@usmc.mil

Sincerely,

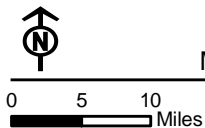


William A. Drawdy  
Natural Resources and  
Environmental Affairs Officer  
By the Direction of the  
Commanding Officer

- Enclosures: (1) Figure 1 - Regional Location Map  
(2) Figure 2 - Land Acquisition Alternatives Map  
(3) Coastal Consistency Determination

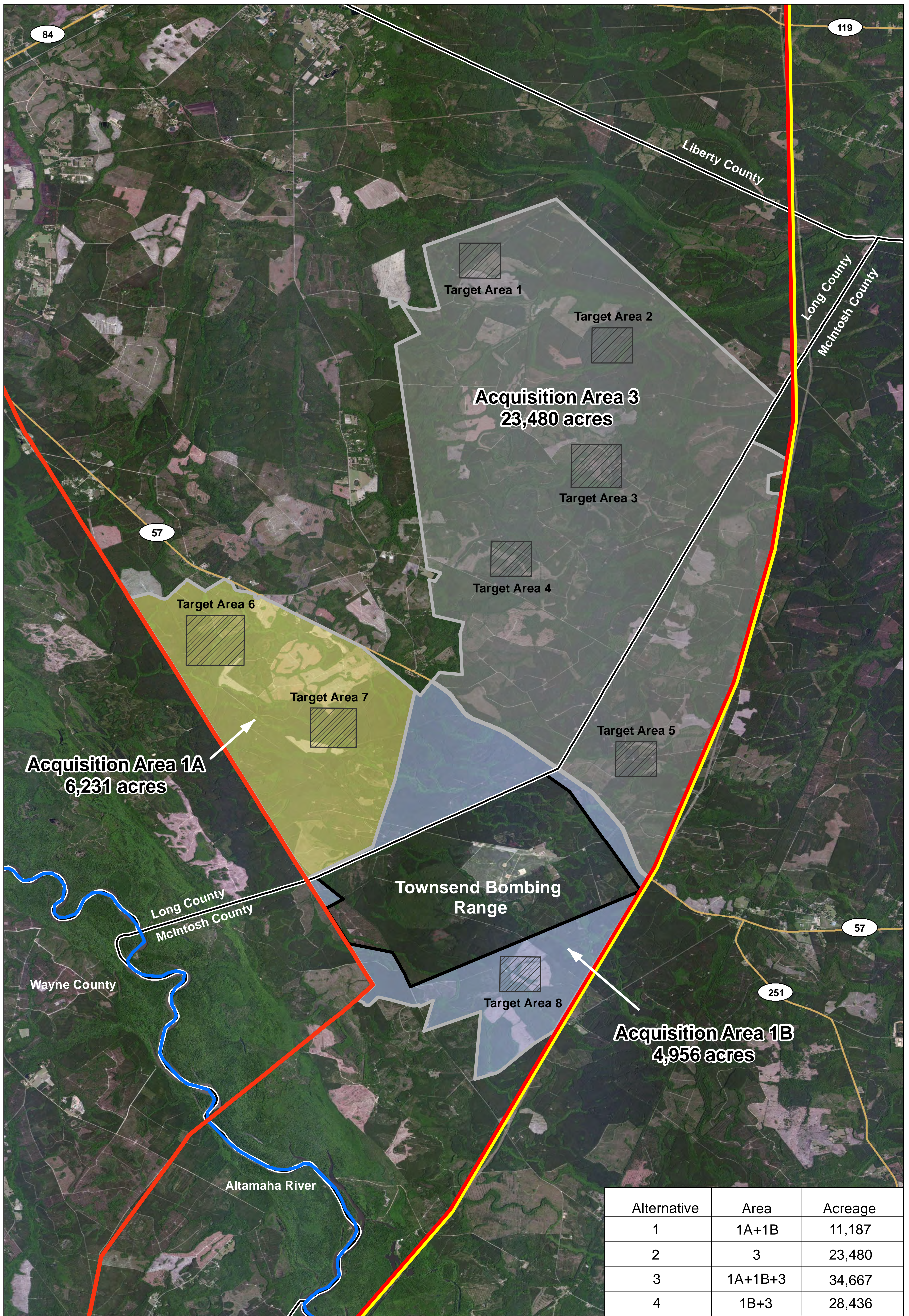


- Townsend Bombing Range
- Urban Area
- State Boundary
- Counties
- Highways



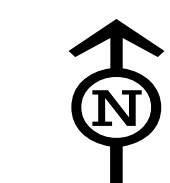
**Figure 1**  
**Regional Location**  
Townsend Bombing Range  
McIntosh and Long Counties, Georgia

Sources: Based on Lusk 2009, Esri 2008



Alternative	Area	Acreage
1	1A+1B	11,187
2	3	23,480
3	1A+1B+3	34,667
4	1B+3	28,436

- Acquisition Area 1A
- Acquisition Area 1B
- Acquisition Area 3
- Existing Range
- Target Area
- Counties
- Major Roads
- Power Line
- Shared Power Line and Natural Gas Pipeline Right-of-Way
- Altamaha River



0 1 2 Miles

Sources: Bing Maps 2009, Based on Lusk 2009, McFadden 2011

**Figure 2**  
**Land Acquisition Alternatives**  
 Townsend Bombing Range  
 McIntosh and Long Counties, Georgia



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# Coastal Consistency Determination

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## Environmental Impact Statement for the Proposed Modernization and Expansion of Townsend Bombing Range, Georgia

**FINAL**  
June 2012



United States Marine Corps  
Marine Corps Air Station Beaufort  
Beaufort, South Carolina

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## Acronyms and Abbreviations

BMP	Best Management Practice
C&D	construction and demolition
CAA	Clean Air Act
CAC SEA	<i>Final Supplemental Environmental Assessment for Proposed Coastal Airspace Complex</i>
CAC	Coastal Airspace Complex
CCD	Coastal Consistency Determination
CFR	Code of Federal Regulations
CWA	Clean Water Act
CZMA	Coastal Zone Management Act
FEMA	Federal Emergency Management Agency
GA DNR	Georgia Department of Natural Resources
GA DOT	Georgia Department of Transportation
GA EPD	Georgia Environmental Protection Division
Ga. L.	Georgia Law
GCMP	Georgia Coastal Management Plan
ICRMP	Integrated Cultural Resources Management Plan
NAAQS	National Ambient Air Quality Standards
NHPA	National Historic Preservation Act
NOAA	(U.S. Department of Commerce) National Oceanic and Atmospheric Administration
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
PGMs	precision-guided munitions
PM <sub>10</sub>	particulate matter 10 microns or less in diameter
PM <sub>2.5</sub>	particulate matter less than 2.5 microns in diameter
ROD	Record of Decision
SEA	Supplemental Environmental Assessment
SHPO	Georgia State Historic Preservation Officer
TBR	Townsend Bombing Range

**Acronyms and Abbreviations (*continued*)**

U.S.C.	United States Code
UFC	Unified Facilities Criteria
USMC	United States Marine Corps
UST	underground storage tank
WDZ	Weapon Danger Zone
WMA	wildlife management area



# 1 Summary Determination

The federal Coastal Zone Management Act (CZMA), 16 United States Code (U.S.C.) 1454, as amended, requires federal agencies to ensure that activities performed within or adjacent to the coastal zone are implemented to the maximum extent possible with the enforceable policies of approved state-managed programs. To implement the CZMA and establish procedures for compliance with its federal consistency provisions, the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), has promulgated regulations which are contained in 15 Code of Federal Regulations (CFR) Part 930.

This evaluation was prepared to determine if proposed modernization and expansion of Townsend Bombing Range (TBR), Georgia, is consistent with the Georgia Coastal Management Plan (GCMP), administered by the Coastal Resources Division of the Georgia Department of Natural Resources (GA DNR). The information presented in this determination is in accordance with the *Environmental Impact Statement for the Proposed Modernization and Expansion of Townsend Bombing Range, Georgia* (referred to herein as the EIS and the TBR EIS) prepared for the Proposed Action. Should further information concerning the Proposed Action be required, please refer to the EIS, of which this determination is a component.

In accordance with the CZMA, the Proposed Action would be carried out in a manner consistent with the policies of the GCMP. Support for this determination is presented in Section 6 of this document and in the EIS.

## 2 Background

### 2.1 Purpose

This Coastal Consistency Determination (CCD) addresses the consistency of the proposed modernization and expansion of TBR with respect to the GCMP, as required by the CZMA. For the purposes of the CZMA, the enforceable policies of the Georgia Coastal Management Program constitute the approved state program.

### 2.2 Existing EIS for Proposed Modernization and Expansion of TBR

This CCD document is an appendix to the TBR EIS. See Sections 1 and 2 of the EIS for a full project description.

### 2.3 GCMP Jurisdiction

The GCMP encompasses all tidally influenced waterbodies and all areas economically tied to coastal resources. As defined by the GCMP, this area includes the following 11 counties: Brantley, Bryan, Camden, Charlton, Chatham, Effingham, Glynn, Liberty, Long, McIntosh, and Wayne. Within these 11 counties, all waters of the state, including the coastal ocean to the territorial sea limit of state jurisdiction (3 nautical miles) and all submerged lands within this area, are part of the state's coastal zone.<sup>1</sup>

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<sup>1</sup> National Oceanic and Atmospheric Administration (NOAA) Office of Ocean and Coastal Resource Management and the Georgia Department of Natural Resources (GADNR) Coastal Resources Division. 2003. State of Georgia Coastal Management Program and Program Document. June 2003.

## 2.4 Authority

The federal CZMA, 16 U.S.C. § 1451 et seq., as amended, is the legislative authority regarding the consistency of federal actions with state coastal policies. Section 1456(c)(1)(A) of the CZMA states: “Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved state management programs.” A federal activity is defined as any function, including the planning and/or construction of facilities that is performed on behalf of a federal agency in the exercise of its statutory responsibilities.

## 3 Project Description

### 3.1 Proposed Action

The United States Marine Corps (USMC) proposes to modernize and expand TBR (Figure 1) to accommodate the use of inert (with spotting charges) precision-guided munitions (PGMs) and the larger safety zones their use requires. To accomplish this, the USMC proposes to acquire lands in the vicinity of the existing TBR on which to create new target areas to allow for a greater variety of training activities.

The Proposed Action includes the following interrelated components:

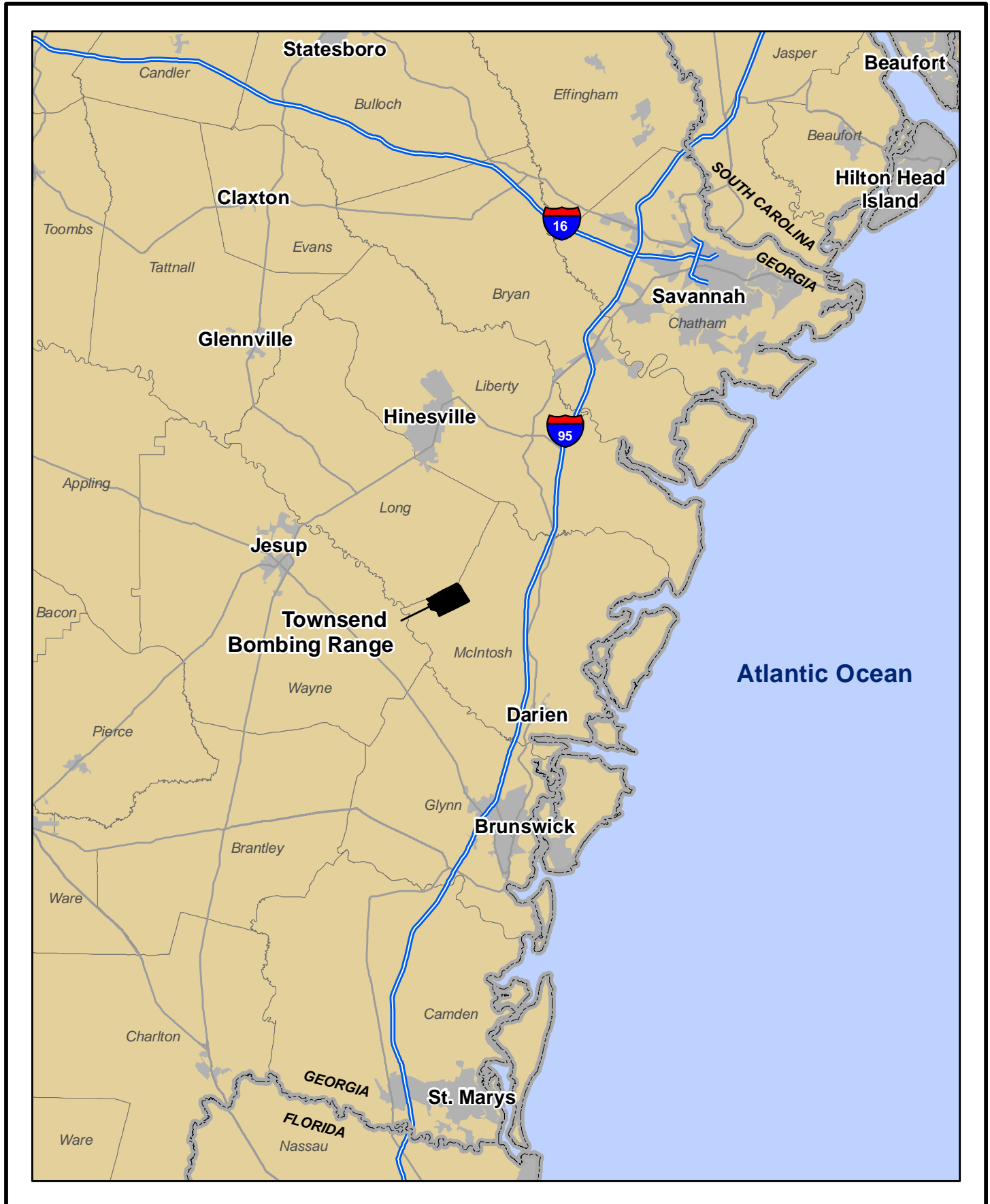
- Acquisition of land;
- Acquisition of a timber easement;
- Modification of existing airspace;
- Construction of infrastructure to support PGM training; and
- Improvement of training capabilities.

The USMC proposes to acquire land adjacent to the existing TBR, up to approximately 34,667 acres in McIntosh and Long Counties, Georgia, to accommodate the Weapon Danger Zones (WDZs), also known as safety zones, associated with the use of PGMs. To effectively deliver PGMs at TBR, the land area must be increased to ensure the containment of the WDZs, allow for their realistic combat employment, and ensure the safety of military personnel and civilians present at and around TBR. According to USMC Training and Education Command (TECOM) Safety of Use Memorandum 6-09 part d(2)(c), WDZs must be kept wholly within the range boundary and/or lands under exclusive military use and control.<sup>2</sup>

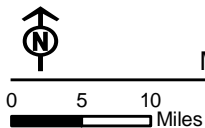
Depending on the action alternative selected, the USMC proposes to construct up to eight new target areas. The target area acreage represents between 4% and 7% of the total land proposed in the EIS for acquisition under the action alternatives. In general, the acreage outside the target areas would remain as forestland to support the air-to-ground training.

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<sup>2</sup> United States Marine Corps (USMC). 2009a. TECOM Safety of Use Memorandum 6-09. August 29, 2009. USMC, Training and Education Command, Quantico, Virginia. Online at: <http://www.quantico.usmc.mil/opm/rmb/pubs/TECOM%20Safety%20of%20Use%20Memorandum%206-09.pdf>. Accessed October 2011.



- Townsend Bombing Range
- Urban Area
- State Boundary
- Counties
- Highways



**Figure 1**  
**Regional Location**  
Townsend Bombing Range  
McIntosh and Long Counties, Georgia

Sources: Based on Lusk 2009, Esri 2008

Target areas, ranging in size from 200 acres to 400 acres, would be constructed in locations that were determined to accommodate the larger WDZs. Each target area would include an array of targets and would be surrounded by a 50-foot firebreak. The firebreak would not be constructed to handle everyday vehicle use, but could be used by emergency vehicles. Each target area may have a boundary fence 8 feet in height. Existing roads would be used to the greatest extent possible, but all target areas would require some degree of road construction or improvement. Each target area would include the construction of static or fixed targets, referred to as hard targets, designed to represent a specific real-world threat. These hard targets include, but are not limited to, an airfield, a terrorist training camp, or a fuel farm. Along with the hard targets, each target area would include simulated, non-working tactical targets. These tactical targets are designed to simulate real-world threats and include, but are not limited to, combat vehicles, mobile surface-to-air missile sites, anti-aircraft artillery sites, and tanks. The tactical targets would be relocated periodically throughout the target areas to allow for variation in the training scenarios. The placement and locations of the tactical targets would be designed to closely resemble real-world conditions with hidden or partially concealed threats. This design for target placement would minimize the amount of forest clearing within the target areas.

Each target area would accommodate a Weapon Impact Scoring System (WISS), which is used to score air-to-ground ranges and provide feedback to the pilots on the level of accuracy for training purposes. The system operates with tower-mounted video cameras that relay the image to a manned control station. The WISS records the munitions impact location and distance from the target center point, which is relayed to aircrews via radio. The WISS could be powered by onsite photovoltaic panels or the local electric utility, but would have a backup generator.

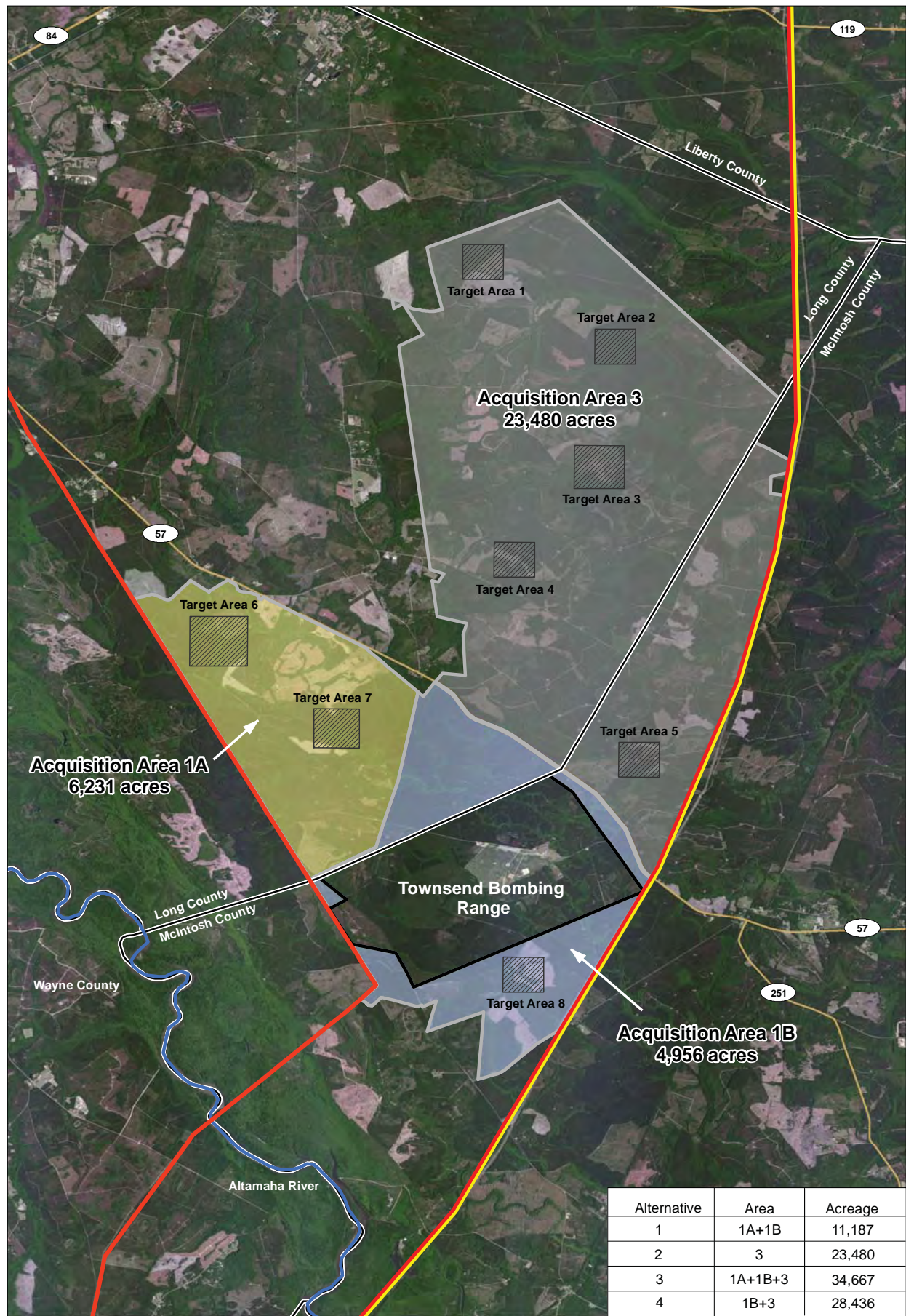
Additional construction activities, outside of the proposed target areas, would include a new observation tower and support facilities, as well as additional utilities, roads, and fencing. Construction activities may disturb up to 2,000 acres. Alternative 1 would involve the relocation of the existing range compound facilities and observation tower to the northern corner of Area 1B (Figure 2). The existing facilities would not be relocated under Alternatives 2, 3, or 4; however, a new observation tower would need to be constructed in the southwestern corner of Area 3 (Figure 2).

### 3.2 Alternatives

Four action alternatives were developed for the Proposed Action (Figure 2). All four action alternatives would involve the acquisition of land and a timber easement, the modification of existing airspace, and the construction of required infrastructure, and would result in varying levels of improvement of training capabilities. Although each action alternative would involve each of these items, the land acquired under each action alternative would be different and is discussed in further detail below.

Table 1 lists the acquisition areas and proposed target areas for each of the action alternatives. All action alternatives would involve the continued ownership and use of the existing range and target areas by the USMC and the continued operation of TBR by the Georgia Air National Guard.

Action Alternative	Acquisition Areas	Proposed Target Areas	Total Acres Acquired
1	1A + 1B	6, 7, and 8	11,187
2	3	1, 2, 3, 4, and 5	23,480
3	1A+1B+3	1, 2, 3, 4, 5, 6, 7, and 8	34,667
4	1B+3	1, 2, 3, 4, 5, and 8	28,436



Alternative	Area	Acreage
1	1A+1B	11,187
2	3	23,480
3	1A+1B+3	34,667
4	1B+3	28,436

Acquisition Area 1A
  Acquisition Area 1B
  Acquisition Area 3
  Existing Range
  Target Area

Counties
  Major Roads
  Power Line
  Shared Power Line and Natural Gas Pipeline Right-of-Way
  Altamaha River

0 1 2 Miles

**Figure 2**  
**Land Acquisition Alternatives**  
 Townsend Bombing Range  
 McIntosh and Long Counties, Georgia  
Sources: Bing Maps 2009, Based on Lusk 2009, McFadden 2011

Initially, the USMC considered and evaluated the acquisition of Area 2 to support the use of PGMs at TBR. Two acquisition alternatives involving Area 2 were identified by the USMC (Figure 3):

- The USMC would acquire a combination of the property proposed for acquisition under Alternative 1 (Areas 1A and 1B), with an additional 14,354 acres between TBR and the Altamaha River identified as Area 2, totaling approximately 25,541 acres.
- The USMC would acquire a combination of the property proposed for acquisition under Alternative 3 (Areas 1A, 1B, and 3), with an additional 14,354 acres between TBR and the Altamaha River identified as Area 2, totaling approximately 49,021 acres.

After development of the WDZs, the USMC determined that Area 2 would not meet the minimum threshold training requirement as identified in the purpose and need for the action. The presence of wetlands and the potential for flooding would make it difficult to access the area for target area construction, range maintenance, and explosive ordnance disposal range clearance activities. Therefore, the two alternatives involving Area 2 were not considered further.

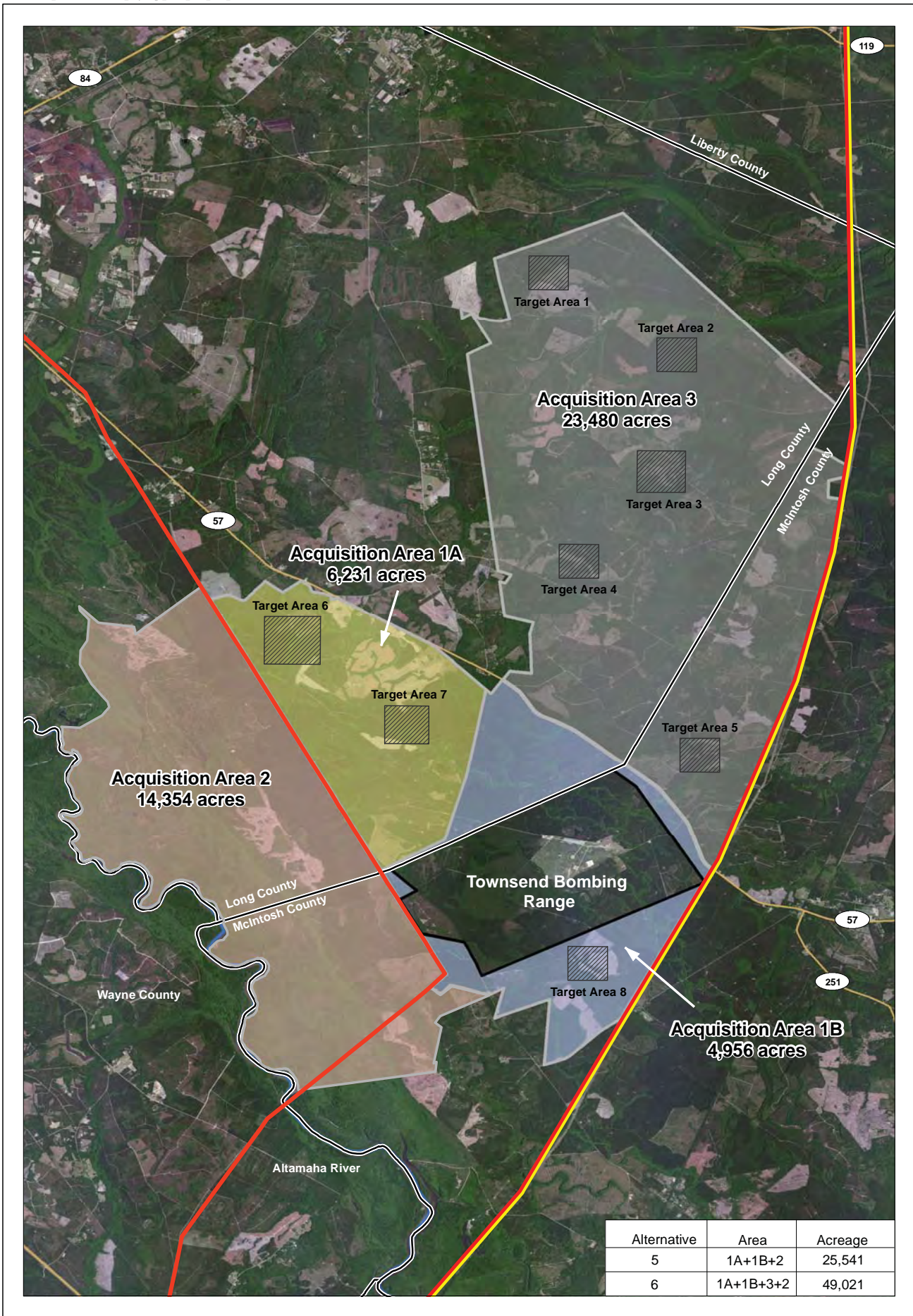
### **3.2.1 No Action Alternative**

Under the No Action Alternative, the Proposed Action would not take place and the status quo would continue, the USMC would not acquire any land for training purposes, and training operations at TBR would not change due to the Proposed Action. The No Action Alternative would not provide an East Coast range capable of supporting the use of PGMs. Aviation units stationed at MCAS Beaufort would continue to deploy to the southwestern United States to undergo PGM training and meet individual aircrew training requirements. TBR would continue to support current training operations, but would be unable to accommodate PGM training.

### **3.2.2 Preferred Alternative**

To arrive at the Preferred Alternative, the USMC selected: a) an operationally preferred alternative, and b) an environmentally preferred alternative. The operationally preferred alternative represents the action alternative that best meets the purpose of and need for the Proposed Action from an operational perspective and has the highest level of operational utility (i.e., it maximizes the training enhancement and value to the USMC). The environmentally preferred alternative, on the other hand, represents the action alternative that meets the purpose of and need for the Proposed Action while minimizing the impacts on the human environment, which includes the natural and physical environment and the relationship of people with that environment.

From an operational perspective, Alternative 3 is the best alternative, followed in decreasing order of operational utility by Alternative 4, Alternative 2, and Alternative 1. Alternative 3 is, therefore, the operationally preferred alternative. On the other hand, from an environmental perspective, Alternative 2 would have the least environmental impact because it would allow for a moderate acquisition of acreage without any impacts to non-commercial forestland property owners, thus it is the environmentally preferred alternative. The best balance between operational utility and acceptable environmental impacts is represented by Alternative 4; therefore, the USMC has selected Alternative 4 as the Preferred Alternative.



- Acquisition Area 1A
- Acquisition Area 1B
- Acquisition Area 2
- Acquisition Area 3
- Existing Range
- Target Area
- Counties
- Major Roads
- Power Line
- Shared Power Line and Natural Gas Pipeline Right-of-Way
- Altamaha River

**Figure 3**  
**Area 2 Land Acquisition Alternatives**  
 Townsend Bombing Range  
 McIntosh and Long Counties, Georgia

Sources: Bing Maps 2009, Based on Lusk 2009, McFadden 2011

## 4 Effects of the Proposed Project

Affected environment and environmental consequences as result of the Proposed Action were analyzed in detail in the EIS. The EIS examined land use, socioeconomics, recreation, wetlands, water resources, airspace, noise, biological resources, cultural resources, air quality, transportation, topography, geology, soils, utilities, infrastructure, and hazardous waste materials.

Avoidance, minimization, or mitigation of adverse effects to natural, cultural, socioeconomic, or other environmental resources were integrated into the Proposed Action (and consequently into the four action alternatives) to the greatest extent practicable; however, all impacts may not be completely avoided and/or mitigated. The action alternatives could result in unavoidable adverse impacts (depending on the action alternative selected) related to:

- land use (due to relocation of residences, and the conversion of forestland into grasslands);
- socioeconomics (due to the displacement of residences, loss of tax revenue, and loss of forest product revenue);
- wetlands (due to the loss of wetland communities);
- water resources (due to permanent conversion, relocation, or diversion of surface waters and floodplains, and increased use of groundwater);
- biological resources (due to conversion of natural ecological communities to herbaceous cover, loss of vegetation, habitat fragmentation);
- cultural resources (due to demolition and/or destruction of historic properties [National Register of Historic Places {NRHP}-eligible resources] within the proposed target areas or other direct impact areas and indirect impacts to built resources located outside the target areas);
- topography, geology, and soils (due to compaction of soils, increased potential for soil erosion, removal of prime farmland and farmland of statewide importance from agricultural uses); and
- utilities and infrastructure (due to increased water use and creation of wastewater, creation of solid waste, increased electrical/power use, new infrastructure).

Implementation of the Proposed Action would result in both short- and long-term environmental impacts. The only impacts determined to affect the long-term productivity of the proposed acquisition area are those to forestland. The proposed expansion of TBR would remove land from commercial timber production. Although timber would still be harvested, the rotation age would be increased and, therefore, the amount of timber harvested from the proposed acquisition area would decrease. This decrease in the current level of productivity would last the life of the range, plus the 30 years necessary to plant and grow the trees to harvest age. The other impacts, discussed in detail in the EIS, would not be expected to reduce environmental productivity, permanently narrow the range of future uses of the environment, or pose long-term risks to health, safety, or the general welfare of the public.



## 5 State-Enforceable Policies

The GCMP seeks to develop and implement a management program that balances sustainable economic development and natural resource conservation in coastal Georgia, by enforcement of the policies of the state as codified within the Official Code of Georgia Annotated (O.C.G.A.). These policies are outlined in the applicable statutes of the state of Georgia or under (O.C.G.A. 12-5-322).<sup>3</sup>

The state laws listed below, along with their associated regulations, are the legal authority for the State's regulation of its coastal natural resources (i.e., salt marshes, beaches and dune fields, and tidal water bottoms). For each of these coastal natural resources, a policy statement is provided with a direct citation to Georgia law. The laws are not cited in their entirety. Rather, the purpose of the statute, or a pertinent section of the statute, is cited. The statutes can be found in the O.C.G.A., copies of which are located in headquarters offices of state and local agencies, most public libraries, local courthouses, and numerous other public offices, and online at <http://www.lexisnexis.com/hottopics/gacode/Default.asp>.

The following state-enforceable policies are analyzed in this CCD:

- Georgia Aquaculture Development Act (O.C.G.A. 27-4-251, et seq.);
- Georgia Air Quality Act (O.C.G.A. 12-9-1, et seq.);
- Georgia Boat Safety Act (O.C.G.A. 52-7-1, et seq.);
- Georgia Coastal Management Act (O.C.G.A. 12-5-320, et seq.);
- Coastal Marshlands Protection Act (O.C.G.A. 12-5-280, et seq.);
- Georgia Safe Dams Act (O.C.G.A. 12-5-370, et seq.);
- Endangered Wildlife Act (O.C.G.A. 27-3-130, et seq.);
- Georgia Environmental Policy Act (O.C.G.A. 12-16-1, et seq.);
- Georgia Erosion and Sedimentation Act (O.C.G.A. 12-7-1, et seq.);
- Georgia Game and Fish Code (O.C.G.A. 27-1-1, et seq.);
- Georgia Game and Fish Code (O.C.G.A. 27-4-190, et seq.);
- Georgia Heritage Trust Act (O.C.G.A. 12-3-70, et seq.);
- Groundwater Use Act (O.C.G.A. 12-5-90, et seq.);
- Georgia Hazardous Waste Management Act (O.C.G.A. 12-8-60, et seq.);
- Historic Areas (O.C.G.A. 12-3-50, et seq.);
- Georgia Natural Areas Act (O.C.G.A. 12-3-90, et seq.);
- Georgia Oil and Gas and Deep Drilling Act (O.C.G.A. 12-4-40, et seq.);
- Licenses to Dig, Mine, and Remove Phosphate Deposits; Restrictions on License Holders. (O.C.G.A. 12-4-100, et seq.);
- Protection of Tidewaters Act (O.C.G.A. 52-1-1, et seq.);
- Revocable License Program (O.C.G.A. 50-16-61, et seq.);

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<sup>3</sup> NOAA and the GA DNR Coastal Resources Division. 2003. State of Georgia Coastal Management Program and Program Document. June 2003.

- Right of Passage Act (O.C.G.A. 52-1-30, et seq.);
- Mountain and River Corridor Protection Act (O.C.G.A. 12-2-1, et seq.);
- Georgia Safe Drinking Water Act (O.C.G.A. 12-5-170, et seq.);
- Georgia Scenic Rivers Act (O.C.G.A. 12-5-350, et seq.);
- Georgia Scenic Trails Act (O.C.G.A. 12-3-110, et seq.);
- Title 31 -- Health (O.C.G.A. Title 31 generally) (Septic Tank Law);
- Shore Protection Act (O.C.G.A. 2-5-230, et seq.);
- Georgia Comprehensive Solid Waste Management Act (O.C.G.A. 12-8-21, et seq.);
- Georgia Surface Mining Act (O.C.G.A. 12-4-70, et seq.);
- Georgia Underground Storage Tank Act (O.C.G.A. 12-13-1, et seq.);
- Georgia Water Quality Control Act (O.C.G.A. 12-5-20);
- Water Wells Standards Act (O.C.G.A. 12-5-120, et seq.); and
- The Wildflower Preservation Act (O.C.G.A. 12-6-170, et seq.).

## **5.1 Georgia Aquaculture Development Act (O.C.G.A. 27-4-251, et seq.)**

### **5.1.1 Policy Statement**

**27-4-254. Duty of commission to develop aquaculture development plan; contents of plan; meetings of commission; staff support.**

*The commission shall make a thorough study of aquaculture and the potential for development and enhancement of aquaculture in the state. It shall be the duty of the commission to develop, distribute, and, from time-to-time, amend an aquaculture development plan for the State of Georgia for the purpose of facilitating the establishment and growth of economically viable aquaculture enterprises in Georgia.*

(Code 1981. § 27-4-254, enacted by Georgia Law [Ga. L.] 1992, p. 1507, §8)

### **5.1.2 General Description**

The Georgia Aquaculture Development Act was enacted in 1992, and created a 14-member Aquaculture Development Commission composed of industry representatives, scientists, agency representatives, and others, whose purpose is to study aquaculture development in Georgia. The GA DNR, with assistance from the Georgia Department of Agriculture and the Georgia Department of Industry, Trade, and Tourism provides staff support for the Commission.

### **5.1.3 Consistency**

No portions of the Proposed Action involve aquaculture development. This policy is not applicable to the Proposed Action.

## **5.2 Georgia Air Quality Act (O.C.G.A. 12-9-1, et seq.)**

### **5.2.1 Policy Statement**

#### **12-9-2. Declaration of public policy.**

*It is declared to be the public policy of the State of Georgia to preserve, protect, and improve air quality and to control emissions to prevent the significant deterioration of air quality and to attain and maintain ambient air quality standards so as to safeguard the public health, safety, and welfare consistent with providing for maximum employment and full industrial development of the state.*

(Code 1933, 88-901, enacted by Ga. L. 1967, p. 581, § 1; Ga. L. 1978, p. 275, § 1; Ga. L. 1992, p. 918, § 2; Ga. L. 1992, p. 2886, § 1)

### **5.2.2 General Description**

The Georgia Air Quality Act provides authority to the Georgia Environmental Protection Division (GA EPD) to promulgate rules and regulations necessary to abate or to control air pollution for the state as a whole or from area to area, as appropriate. Establishment of ambient air quality standards, emission limitations, emission control standards, and other measures are necessary to provide standards that are no less stringent than the federal Clean Air Act (CAA) mandates. The GA EPD administers the Georgia Air Quality Act.

### **5.2.3 Consistency**

The Proposed Action would occur in McIntosh and Long Counties. When compared to the rest of Georgia, both McIntosh and Long Counties are considered sparsely populated and rural in nature, likely due in part to the counties' locations away from large metropolitan areas and the large tracts of conservation/refuge lands and undeveloped forested lands. In general, the ambient air quality in the counties can be considered good. McIntosh and Long Counties are currently designated as "in attainment" for all National Ambient Air Quality Standards (NAAQS). Under the CAA, ambient air pollutant measurements are compared to NAAQS to assess the status of air quality. A region is designated as attainment if monitoring shows ambient concentrations of a specific pollutant are less than or equal to NAAQS.

Proposed construction activities are not expected to be initiated until 2014 and would last approximately 12 months. Construction activities proposed under each action alternative would generate combustion emissions from the use of fossil fuel-powered equipment/vehicles and fugitive dust emissions from the operation of equipment on exposed soil. The short-term air quality impacts from construction activities would end at the completion of construction. Emissions generated from the use of mobile sources (i.e., vehicles and non-road equipment) during construction activities do not require air quality permits and are not subject to regulation under the Georgia Air Quality Act.

Air quality impacts associated with proposed operational activities under each action alternative would occur from combustion emissions from prescribed burning activities and additional use of fossil fuel-powered on-road and off-road equipment and fugitive dust emissions (PM<sub>10</sub>/PM<sub>2.5</sub>) due to the operation of vehicles and equipment on exposed soil. The operational activities associated with each action alternative were analyzed in order to estimate proposed combustion and fugitive dust emissions. Emissions generated from prescribed burning and the use of mobile sources (i.e., vehicles and non-road equipment) during operational activities do not require air quality permits and are not subject to regulation under the Georgia Air Quality Act. However, all prescribed burning at TBR would continue to be conducted in accordance with guidance established by the Georgia Forestry Commission, the state agency responsible for the protection and conservation of Georgia's forest resources.

As discussed in Section 3.10.3.3 in the EIS, aircraft emissions were previously examined in the “Final Supplemental Environmental Assessment for Proposed Coastal Airspace Complex, Georgia Air National Guard,” (CAC SEA [AMEC 2005])<sup>4</sup>. The air quality analysis in the CAC SEA included estimated emissions associated with projected flying operations in the proposed CAC. Therefore, these projected flying operational emissions serve as the existing condition because the airspace changes evaluated in the CAC SEA have already been implemented. Emissions from aircraft sorties at TBR are a subset of all aircraft emissions included in the CAC air quality analysis. Under all action alternatives, the maximum number of aircraft sorties (4,243) at TBR would not change appreciably from the aircraft sortie level (4,000) that was evaluated in the CAC SEA. Thus, it was concluded that aircraft sorties within the CAC would have a negligible effect on ambient air quality and would have no change to NAAQS attainment designations for the area. Furthermore, the analysis noted that many of the proposed aircraft operations would be at a sufficient altitude that the emissions would not affect ground-level air pollutant concentrations. Emissions generated from aircraft do not require air quality permits and are not subject to regulation under the Georgia Air Quality Act.

The Proposed Action is fully consistent with the NAAQs and the Georgia Air Quality Act.

### **5.3 Georgia Boat Safety Act (O.C.G.A. 52-7-1. et seq.)**

#### **5.3.1 Policy Statement**

##### **52-7-2. Declaration of policy.**

*It is the policy of this state to promote safety for persons and property in and connected with the use, operation, and equipment of vessels and to promote the uniformity of laws relating thereto.*

(Ga. L. 1973, p. 1427, §2)

#### **5.3.2 General Description**

The Georgia Boat Safety Act provides enforceable rules and regulations for safe boating practices on Georgia’s lakes, rivers, and coastal waters. This Act establishes boating safety zones for a distance of 1,000 feet from the high-water mark on Jekyll Island, Tybee Island, St. Simons Island, and Sea Island. All motorized craft, including commercial fishing vessels, jet skis, and power boats, are prohibited from these waters, except at certain pier and marina access points. This Act defines “abandoned vessels” as any left unattended for five days and provides for their removal. The Law Enforcement Section of the GA DNR, Wildlife Resources Division, and the Georgia Bureau of Investigation enforces these regulations.

#### **5.3.3 Consistency**

The Proposed Action is located beyond the extent of the boating safety zones established by this Act. This policy is not applicable to the Proposed Action.

### **5.4 Georgia Coastal Management Act (O.C.G.A. 12-5-320, et seq.)**

#### **5.4.1 Policy Statement**

##### **12-5-321. Legislative purpose.**

*The General Assembly finds and declares that the coastal area of Georgia comprises a vital natural resource system. The General Assembly recognizes that the coastal*

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<sup>4</sup> AMEC Earth and Environmental, Inc. (AMEC). 2005. Final Supplemental Environmental Assessment for Proposed Coastal Airspace Complex, Georgia Air National Guard. December 2005. Air National Guard, Environmental Division.

*area of Georgia is the habitat of many species of marine life and wildlife which must have clean waters and suitable habitat to survive. The General Assembly further finds that intensive research has revealed that activities affecting the coastal area may degrade water quality or damage coastal resources if not properly planned and managed. The General Assembly finds that the coastal area provides a natural recreation resource which has become vitally linked to the economy of Georgia's coast and to that of the entire state. The General Assembly further finds that resources within this coastal area are costly, if not impossible, to reconstruct or rehabilitate once adversely affected by human-related activities and it is important to conserve these resources for the present and future use and enjoyment of all citizens and visitors to this state. The General Assembly further finds that the coastal area is a vital area of the state and that it is essential to maintain the health, safety, and welfare of all the citizens of the state. Therefore, the General Assembly declares that the management of the coastal area has more than local significance, is of equal importance of all citizens of the state, is of state-wide concern, and consequently is properly a matter for coordinated regulation under the police power of the state. The General Assembly further finds and declares that activities and structures in the coastal area must be regulated to ensure that the values and functions of coastal waters and natural habitats are not impaired and to fulfill the responsibilities of each generation as public trustees of the coastal waters and habitats for succeeding generations.*

## **5.4.2 General Description**

The Coastal Management Act provides enabling authority for the State to prepare and administer a coastal management program. The Act does not establish new regulations or laws; it is designed to establish procedural requirements for the GA DNR to develop and implement a program for the sustainable development and protection of coastal resources. It establishes the GA DNR as the State agency to receive and disburse federal grant monies. It establishes the Governor as the approving authority of the program and as the person who must submit the program to the federal government for approval under the federal CZMA. It requires other state agencies to cooperate with the Coastal Resources Division when exercising their activities within the coastal area.

## **5.4.3 Consistency**

The USMC has prepared an EIS to examine impacts to land use, socioeconomics, recreation, wetlands, water resources, airspace, noise, biological resources, cultural resources, air quality, transportation, topography, geology, soils, utilities, infrastructure, and hazardous waste materials as result of the Proposed Action. In addition, the USMC is preparing this CCD document so that the Proposed Action adheres to the State's enforceable policies concerning development on the coast. The Proposed Action is fully consistent with this policy.

## **5.5 Coastal Marshlands Protection Act (O.C.G.A. 12-5-280, et seq.)**

### **5.5.1 Policy Statement**

#### **12-5-281. Legislative findings and declarations.**

*The General Assembly finds and declares that the coastal marshlands of Georgia comprise a vital natural resource system. It is recognized that the estuarine area of Georgia is the habitat of many species of marine life and wildlife and, without the food supplied by the marshlands, such marine life and wildlife cannot survive. The General Assembly further finds that intensive marine research has revealed that the*

*estuarine marshlands of coastal Georgia are among the richest providers of nutrients in the world. Such marshlands provide a nursery for commercially and recreationally important species of shellfish and other wildlife, provide a great buffer against flooding and erosion, and help control and disseminate pollutants. Also, it is found that the coastal marshlands provide a natural recreation resource which has become vitally linked to the economy of Georgia's coastal zone and to that of the entire state. The General Assembly further finds that this coastal marshlands resource system is costly, if not impossible, to reconstruct or rehabilitate once adversely affected by man related activities and is important to conserve for the present and future use and enjoyment of all citizens and visitors to this state. The General Assembly further finds that the coastal marshlands are a vital area of the state and are essential to maintain the health, safety, and welfare of all the citizens of the state. Therefore, the General Assembly declares that the management of the coastal marshlands has more than local significance, is of equal importance to all citizens of the state, is of state-wide concern, and consequently is properly a matter for regulation under the police power of the state. The General Assembly further finds and declares that activities and structures in the coastal marshlands must be regulated to ensure that the values and functions of the coastal marshlands are not impaired and to fulfill the responsibilities of each generation as public trustees of the coastal marshlands for succeeding generations.*

(Code 1981, § 12-5-281, enacted by Ga. L. 1992, p. 2294, § 1.)

## **5.5.2 General Description**

The Coastal Marshlands Protection Act provides the Coastal Resources Division with the authority to protect tidal wetlands. The Coastal Marshlands Protection Act limits certain activities and structures in marsh areas and requires permits for other activities and structures. Erecting structures, dredging, or filling marsh areas require a Marsh Permit administered through the Coastal Management Program. In cases where the proposed activity involves construction on State-owned tidal water bottoms, a Revocable License issued by the Coastal Resources Division may also be required. Marsh Permits and Revocable Licenses are not issued for activities that are inconsistent with the Georgia Coastal Management Program.

The jurisdiction of the Coastal Marshlands Protection Act extends to “coastal marshlands” or “marshlands,” which includes marshland, intertidal area, mudflats, tidal water bottoms, and salt marsh area within estuarine area of the state, whether or not the tidewaters reach the littoral areas through natural or artificial watercourses. The estuarine area is defined as all tidally influenced waters, marshes, and marshlands lying within a tide-elevation range from 5.6 feet above mean high-tide level and below. Exemptions from the jurisdiction of the Act include: Georgia Department of Transportation (GA DOT) activities, generally; agencies of the United States charged with maintaining navigation of rivers and harbors; railroad activities of public utilities companies; activities of companies regulated by the Public Service Commission; activities incident to water and sewer pipelines; and, construction of private docks that do not obstruct tidal flow.

Any agricultural or silvicultural activity that directly alters lands within the jurisdictional areas of the Coastal Marshlands Protection Act must meet the permit requirements of the Act and must obtain a permit issued by the Coastal Resources Division on behalf of the Coastal Marshlands Protection Committee. Permits for marinas, community docks, boat ramps, recreational docks, and piers within the jurisdiction of the Coastal Marshlands Protection Act are administered by the Coastal Resources Division. To construct a marina, a marina lease is required. Private-use recreational docks are exempt from the Coastal Marshlands Protection Act but must obtain a Revocable License and a State Programmatic General Permit.

### **5.5.3 Consistency**

No portions of the Proposed Action occur within the jurisdictional area of the Coastal Marshlands Protection Act. This policy is not applicable to the Proposed Action.

## **5.6 Georgia Safe Dams Act (O.C.G.A. 12-5-370, et seq.)**

### **5.6.1 Policy Statement**

#### **12-5-371. Declaration of purpose.**

*It is the purpose of this part to provide for the inspection and permitting of certain dams in order to protect the health, safety, and welfare of all the citizens of the state by reducing the risk of failure of such dams. The General Assembly finds and declares that the inspection and permitting of certain dams is properly a matter for regulation under the police powers of the state.*

(Ga. L. 1978, p. 795, § 2)

### **5.6.2 General Description**

The Georgia Safe Dams Act provides for the inspection and permitting of certain dams to protect the health, safety, and welfare of Georgia residents. The GA EPD is responsible for inspecting and certifying dams.

### **5.6.3 Consistency**

No dam construction or operation is included in the Proposed Action. This policy is not applicable to the Proposed Action.

## **5.7 Endangered Wildlife Act (O.C.G.A. 27-3-130, et seq.)**

### **5.7.1 Policy Statement**

#### **27-3-132. Powers and duties of department and board.**

*(a) The department shall identify and inventory any species of animal life within this state which it determines from time to time to be rare, unusual, or in danger of extinction; and, upon such determination, such species shall be designated protected species and shall become subject to the protection of this article.*

*(b) The board shall issue such rules and regulations as it may deem necessary for the protection of protected species and for the enforcement of this article. Such rules and regulations shall not affect rights in private property or in public or private streams, nor shall such rules and regulations impede construction of any nature. Such rules and regulations shall be limited to the regulation of the capture, killing, or selling of protected species and the protection of the habitat of the species on public lands.*

### **5.7.2 General Description**

The Endangered Wildlife Act provides for identification, inventory, and protection of animal species that are rare, unusual, or in danger of extinction. Additional species may be added by the Board of Natural Resources at any time. The protection offered to these species is limited to those that are found on public lands of the State. It is a misdemeanor to violate the rules prohibiting capture, killing, or selling of protected species, and protection of protected species habitat on public lands. The rules and regulations are established and administered by the GA DNR for implementation of this Act.

Projects permitted under the authority of the Coastal Marshlands Protection Act, the Shore Protection Act, and the Revocable License require full compliance with the protection of endangered and protected species. Outside the jurisdiction of these laws, for those areas that are not public lands of Georgia, protection of endangered species is provided by the federal Endangered Species Act, which has jurisdiction over both private and public lands.

### **5.7.3 Consistency**

Effects to federally and state-listed species were examined in the TBR EIS. A summary of effects determination was submitted and approved by the U.S. Fish and Wildlife Service for federally listed species. This determination found that the Proposed Action may affect, but is not likely to adversely affect, the Eastern indigo snake, gopher tortoise, and wood stork. In addition, a determination of effects was submitted and approved by the GA DNR for state-listed species. This determination found that the Proposed Action is not likely to adversely affect state-listed species.

The Proposed Action is not likely to adversely affect any state-listed plant or animal. The Proposed Action is fully consistent with this policy.

## **5.8 Georgia Environmental Policy Act (O.C.G.A. 12-16-1, et seq.)**

### **5.8.1 Policy Statement**

#### **12-16-2. Legislative findings.**

*The General Assembly finds that:*

*(1) The protection and preservation of Georgia's diverse environment is necessary for the maintenance of the public health and welfare and the continued viability of the economy of the state and is a matter of the highest public priority;*

*(2) State agencies should conduct their affairs with an awareness that they are stewards of the air, land, water, plants, animals, and environmental, historical, and cultural resources;*

*(3) Environmental evaluations should be a part of the decision-making processes of the state; and*

*(4) Environmental effects reports can facilitate the fullest practicable provision of timely public information, understanding, and participation in the decision-making processes of the state.*

(Code 1981, § 12-16-2, enacted by Ga. L. 1991, p. 1728, § 1.)

### **5.8.2 General Description**

The Georgia Environmental Policy Act requires that all state agencies and activities prepare an Environmental Impact Report as part of the decision-making process. This is required for all activities that may have an impact on the environment. Alternatives to the proposed project or activity must be considered as part of the report.

### **5.8.3 Consistency**

This CCD is a component of the TBR EIS, which evaluates the impacts of the Proposed Action. Consultation with the GA DNR occurred during preparation of the EIS. Preparation of the EIS is fully consistent with both this state law and the National Environmental Policy Act.



## **5.9 Georgia Erosion and Sedimentation Act (O.C.G.A. 12-7-1, et seq.)**

### **5.9.1 Policy Statement**

#### **12-7-2. Legislative findings; policy of state and intent of chapter.**

*It is found that soil erosion and sediment deposition onto lands and into waters within the watersheds of this state are occurring as a result of widespread failure to apply proper soil erosion and sedimentation control practices in land clearing, soil movement, and construction activities and that such erosion and sediment deposition result in pollution of state waters and damage to domestic, agricultural, recreational, fish and wildlife, and other resource uses. It is therefore declared to be the policy of this state and the intent of this chapter to strengthen and extend the present erosion and sediment control activities and programs of this state and to provide for the establishment and implementation of a state-wide comprehensive soil erosion and sediment control program to conserve and protect the land, water, air, and other resources of this state.*

(Ga. L. 1975, p. 994, § 2)

### **5.9.2 General Description**

The Georgia Erosion and Sedimentation Act requires that each county or municipality adopt a comprehensive ordinance establishing procedures governing land-disturbing activities based on the minimum requirements established by the Act. The Erosion and Sedimentation Act is administered by the GA EPD and by local governments. Permits are required for specified “land-disturbing activities,” including the construction or modification of manufacturing facilities, construction activities, certain activities associated with transportation facilities, activities on marsh hammocks, etc. Within certain constraints, permitting authority can be delegated to local governments.

One provision of the Erosion and Sedimentation Act requires that land-disturbing activities shall not be conducted within 25 feet of the banks of any state waters unless a variance is granted (O.C.G.A. 12-7-6-(15)). Construction of single-family residences under contract with the owner are exempt from the permit requirement but are still required to meet the standards of the Act (O.C.G.A. 12-7-17-(4)). Large development projects, both residential and commercial, must obtain a permit and meet the requirements of the Act. According to the Georgia Coastal Management Act, any permits or variances issued under the Erosion and Sedimentation Act must be consistent with the Georgia Coastal Management Program. Permits within the jurisdiction of the Coastal Marshlands Protection Act and the Shore Protection Act can include requirements that certain minimum water quality standards be met as a condition of the permit.

There are specific exemptions to the requirements of the Erosion and Sedimentation Act (O.C.G.A. 12-7-17, “Exemptions”). The exemptions include: surface mining, granite quarrying, minor land-disturbing activities such as home gardening, construction of single-family homes built or contracted by the homeowner for his own occupancy, agricultural practices, forestry land management practices, dairy operations, livestock and poultry management practices, construction of farm buildings, and any projects carried out under the supervision of the Natural Resource Conservation Service of the U.S. Department of Agriculture. Exemptions from the requirements of the Act also apply to any project involving 1.1 acres or less, provided that the exemption does not apply to any land-disturbing activities within 200 feet of the bank of any state waters. Construction or maintenance projects undertaken or financed by the GA DOT, the Georgia Highway Authority, or the Georgia Tollway Authority, or any road or maintenance project undertaken by any county or municipality, are also exempt from the permit requirements of the Act, provided that such projects conform to the specifications used by the GA DOT for control of soil erosion. Exemptions are also provided to land-disturbing activities by any airport

authority, and by any electric membership corporation or municipal electrical system, provided that such activities conform as far as practicable with the minimum standards set forth at Code Section 12-7-6 of the Erosion and Sedimentation Act. The GA DOT has developed “Standard Specifications - Construction of Roads and Bridges” which describes contractor requirements, including controls for sedimentation and erosion. The specifications describe the requirements for both temporary control measures for use during the construction phase, and permanent erosion and sedimentation control measures that need to be incorporated into the design of the project. Failure to comply with the provisions of the specification will result in cessation of all construction activities by the contractor and may result in the withholding of monies due to the contractor according to a schedule of non-performance of erosion control enforced by the GA DOT. Forestry and agricultural land-disturbing activities are subject to the Best Management Practices (BMPs) of the Georgia Forest Commission and the Georgia Soil and Water Conservation Commission, respectively.

### 5.9.3 Consistency

The primary land-disturbing activity for the Proposed Action would be associated with construction of target areas, target structures, roads, and firebreaks. The majority of construction activities would be located within upland areas. Development of the target areas, construction, land clearing, and similar activities would adhere to the use of BMPs and conform to the erosion control requirements of the responsible county.

The Georgia Erosion and Sedimentation Control Act requires that land-disturbing activities not be conducted within 25 feet of the banks of any state waters unless a variance is granted. Target areas and target structures have been carefully sited to reduce and minimize impacts to surface waters. However, buffer zone variances may be required for the development of some target areas. The USMC would coordinate plans and specifications, as they become available, with the GA DNR and GA EPD to determine if buffer variances would be required for the various features of the project. If appropriate, buffer variances would be obtained from the GA DNR and GA EPD, as required. The Proposed Action is therefore consistent with this policy.

## 5.10 Georgia Game and Fish Code (O.G.C.A 27-1-1, et seq.)

### 5.10.1 Policy Statement

#### **27-1-3. Ownership and custody of wildlife; privilege to hunt, trap, or fish; general offenses.**

*(a) The ownership of, jurisdiction over, and control of all wildlife, as defined in this title, are declared to be in the State of Georgia, in its sovereign capacity, to be controlled, regulated, and disposed of in accordance with this title. All wildlife of the State of Georgia are declared to be within the custody of the department for purposes of management and regulation in accordance with this title. However, the State of Georgia, the department, and the board shall be immune from suit and shall not be liable for any damage to life, person, or property caused directly or indirectly by any wildlife.*

*(b) To hunt, trap, or fish, as defined in this title, or to possess or transport wildlife is declared to be a privilege to be exercised only in accordance with the laws granting such privilege. Every person exercising this privilege does so subject to the right of the state to regulate hunting, trapping, and fishing; and it shall be unlawful for any person participating in the privileges of hunting, trapping, fishing, possessing, or transporting wildlife to refuse to permit authorized employees of the department to inspect and count such wildlife to ascertain whether the requirements of the wildlife laws and regulations are being faithfully complied with. Any person who hunts, traps,*

*fishes, possesses, or transports wildlife in violation of the wildlife laws and regulations violates the conditions under which this privilege is extended; and any wildlife then on his person or within his immediate possession are deemed to be wildlife possessed in violation of the law and are subject to seizure by the department pursuant to Code Section 27-1-21.*

*(c) It shall be unlawful to hunt, trap, or fish except during an open season for the taking of wildlife, as such open seasons may be established by law or by rules and regulations promulgated by the board or as otherwise provided by law.*

*(d) It shall be unlawful to hunt, trap, or fish except in compliance with the bag, creel, size, and possession limits and except in accordance with such legal methods and weapons and except at such times and places as may be established by law or by rules and regulations promulgated by the board.*

*(e) It shall be unlawful to hunt, trap, or fish for any game species after having obtained the daily or season bag or creel limit for that species.*

*(f) A person who takes any wildlife in violation of this title commits the offense of theft by taking. A person who hunts, traps, or fishes in violation of this title commits the offense of criminal attempt. Any person who violates any provision of this Code section shall be guilty of a misdemeanor.*

*(g) If any court finds that any criminal violation of the provisions of this title is so egregious as to display a willful and reckless disregard for the wildlife of this state, the court may, in its discretion, suspend the violator's privilege to hunt, fish, trap, possess, or transport wildlife in this state for a period not to exceed five years. Any person who hunts, fishes, traps, possesses, or transports wildlife in this state in violation of such suspension of privileges shall be guilty of a misdemeanor of a high and aggravated nature and upon conviction thereof shall be punished by a fine of not less than \$1,500.00 nor more than \$5,000.00 or imprisonment for a period not exceeding 12 months or both.*

*(Ga. L. 1968, p. 497, § 1; Code 1933, § 45-201, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, §§ 13, 14; Ga. L. 1992, p. 2391, § 1)*

**27-1-4. Powers and duties of board generally:**

*The board shall have the following powers and duties relative to this title:*

*(1) Establishment of the general policies to be followed by the department under this title;*

*(2) Promulgation of all rules and regulations necessary for the administration of this title including, but not limited to, rules and regulations to regulate the times, places, numbers, species, sizes, manner, methods, ways, means, and devices of killing, taking, capturing, transporting, storing, selling, using, and consuming wildlife and to carry out this title, and rules and regulations requiring daily, season, or annual use permits for the privilege of hunting and fishing in designated streams, lakes, or game management areas; and*

*(3) Promulgation of rules and regulations to protect wildlife, the public, and the natural resources of this state in the event of fire, flood, disease, pollution, or other emergency situation without complying with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Such rules and regulations shall have the force and effect of law upon promulgation by the board.*

(Ga. L.1911, p. 137, § 1; Ga. L. 1924, p. 101, §§ 1, 3, 4; Ga. L. 1931, p. 7, § 25; Ga. L. 1937, p. 264, §§ 1, 4, 9; Ga. L. 1943, p. 128, §§ 1, 2, 14; Ga. L. 1955, p. 483, § 3; Ga. L. 1972, p. 1015, § 1527; Ga. L. 1973, p. 344, § 1; Code 1933, § 45-103, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 7; Ga. L. 1979, p. 420, § 3; Ga. L. 1987, p. 179, § 1.)

## 5.10.2 General Description

O.C.G.A., Title 27, Chapter 1 (known as the Game and Fish Code) provides the ownership of, jurisdiction over, and control of all wildlife to be vested in the state of Georgia. The section declares that custody of all wildlife in the state is vested with the GA DNR for management and regulation. The Wildlife Resources Division is the principal state agency vested with statutory authority for the protection, management, and conservation of terrestrial wildlife and freshwater wildlife resources, including fish, game, non-game, and endangered species. All licensing of recreational and commercial fish and wildlife activities, excluding shellfish, is performed by the Wildlife Resources Division. The Coastal Resources Division issues shellfish permits, regulates marine fisheries activities including the opening and closing of the commercial shrimp harvesting season and areas of shrimp harvest, regulates marine species size and creel limits, and enforces the National Shellfish Sanitation Program. The Commissioner of the GA DNR has directed that there will be cooperation and coordination between the Divisions of the Department in the administration of their respective responsibilities.

## 5.10.3 Consistency

The Proposed Action does not include trapping, fishing, or the collection of shellfish. The existing TBR hunting program would be implemented on any acquired land and would continue to be conducted in accordance with all state hunting laws and regulations. Only licensed hunters would be allowed to participate in the program. Therefore, the Proposed Action is consistent with this policy.

## 5.11 Georgia Game and Fish Code (O.C.G.A. 27-4-190, et seq.)

### 5.11.1 Policy Statement

#### **27-4-190. Master collecting and picker's permits; hours for taking shellfish; recreational harvesting.**

*(a) It shall be unlawful to take or possess shellfish in commercial quantities or for commercial purposes without first having obtained a master collecting permit or without proof of purchase that such shellfish were purchased from a certified shellfish dealer. Master collecting permits shall specify whether the permittee is authorized to take oysters, clams, or other shellfish and shall only be issued to persons certified by the Department of Agriculture to handle shellfish unless permission to take and possess shellfish for mariculture purposes has been granted by the department as described in subsection (d) of Code Section 27-4-197. Such permits shall be provided annually at no cost by the department but shall only be issued to persons with the right to harvest shellfish pursuant to Code Sections 44-8-6 through 44-8-8 or to holders of leases from such persons. A permittee may request authorization from the department for employees or agents, who shall be referred to as pickers, of such permittee to take shellfish from permitted areas. Such request shall be in writing to the department and shall include the name, address, and personal commercial fishing license number of the picker. It shall be unlawful for pickers to take or possess shellfish as authorized under their employer's master collecting permit unless they carry on their person while taking or in possession of shellfish a picker's permit as provided by the department indicating the exact area*

*and circumstances allowed for taking. Such pickers' permits and charts shall be provided annually by the department at no cost and shall be in a form as prescribed by the department. Pickers must possess a valid personal commercial fishing license as provided for in Code Section 27-4-110 and, when a boat is used, a valid commercial fishing boat license as provided in Code Section 27-2-8. Master collecting permits and pickers' permits shall not be issued to persons who have been convicted three times in the two years immediately preceding the filing of an application for a permit of violations of this Code section, subsection (b) of Code Section 27-4-193, subsections (a) and (b) of Code Section 27-4-195, or Code Section 27-4-199. Master collecting permits and pickers' permits issued to master collecting permittees' agents shall be surrendered to the department upon termination of Department of Agriculture certification for handling shellfish, upon termination of right to harvest shellfish, or upon violation of any provision of this title. If a picker is removed from authorization to take shellfish by the master collecting permittee, that picker shall immediately surrender to the department his picker's permit. It shall be unlawful to possess unauthorized pickers' permits or pickers' permits issued to another person.*

*(b) It shall be unlawful for any person to take or possess shellfish from unauthorized locations and during unauthorized periods of taking. It shall be unlawful to take shellfish except between the hours of one-half hour before sunrise and one-half hour after sunset.*

(Code 1981, § 27-4-190, enacted by Ga. L. 1991, p. 693, § 6)

**27-4-193. Taking shellfish from unapproved growing areas; operating facility for controlled purification of shellfish.**

*(a) As used in this Code section, the term "approved growing area" means that area or areas approved by the department for shellfish harvesting and "unapproved growing area" means all other areas.*

*(b) It shall be unlawful to take or possess shellfish from unapproved growing areas except at such times and places as the department may establish. The department is authorized to close approved growing areas to allow transplanting at any time between January 1 and December 31. It shall be unlawful to engage in transplanting of shellfish from unapproved growing areas without written authorization from the department. Such authorization may condition the transplanting upon compliance with current, sound principles of wildlife research and management. In approving growing areas, the department shall consider such current guidelines as have been established by the National Shellfish Sanitation Program at the time of approval of the growing areas and current, sound principles of wildlife research and management.*

(Code 1981, § 27-4-193, enacted by Ga. L. 1991, p. 693, § 6; Ga. L. 1992, p. 6, § 27)

### **5.11.2 General Description**

The provisions of O.C.G.A. Title 27 (Game and Fish Code), Part 4, describe the regulation of shellfish in Georgia. The provisions describe the requirements for a commercial shellfish harvester to have a license, issued by the GA DNR pursuant to the requirements of the U.S. Department of Agriculture. The Department also is authorized to approve shellfish growing areas for commercial harvest and must consider the guidelines established by the National Shellfish Sanitation Program. The Department conducts water sampling in areas that are approved for shellfish in conjunction with the National Shellfish Sanitation Program.

### 5.11.3 Consistency

The Proposed Action would not result in the collection of shellfish. This policy is not applicable to the Proposed Action.

## 5.12 Georgia Heritage Trust Act (O.C.G.A. 12-3-70, et seq.)

### 5.12.1 Policy Statement

#### 12-3-71. Legislative purpose.

*The General Assembly finds that certain real property in Georgia, because it exhibits unique natural characteristics, special historical significance, or particular recreational value, constitutes a valuable heritage which should be available to all Georgians, now and in the future. The General Assembly further finds that much of this real property, because of Georgia's rapid progress over the past decade, has been altered, that its value as part of our heritage has been lost, and that such property which remains is in danger of being irreparably altered. The General Assembly declares, therefore, that there is an urgent public need to preserve important and endangered elements of Georgia's heritage, so as to allow present and future citizens to gain an understanding of their origins in nature and their roots in the culture of the past and to ensure a future sufficiency of recreational resources. The General Assembly asserts the public interest in the state's heritage by creating the Heritage Trust Program which shall be the responsibility of the Governor and the Department of Natural Resources and which shall seek to protect this heritage through the acquisition of fee simple title or lesser interests in valuable properties and by utilization of other available methods.*

(Ga. L. 1975, p. 962, § 2)

### 5.12.2 General Description

Georgia's Heritage Trust Act of 1975 seeks to preserve certain real property in Georgia that exhibits unique natural characteristics, special historical significance, or particular recreational value. This Act created the Heritage Trust Commission, comprised of 15 members appointed by the Governor who represent a variety of interests and expertise. The Commission served as an advisory body to the Governor and to the Board of the GA DNR, making recommendations concerning the identification, designation, and acquisition of heritage areas. Although this Act is still in Georgia law, the Commission's term expired and the implementation and administration of many of the goals of the Act has been superseded by the Heritage 2000 Program.

### 5.12.3 Consistency

Impacts to cultural resources as result of the Proposed Action were analyzed in detail in the EIS. Cultural resources were grouped to reflect the categories identified in the "U.S. Marine Corps Cultural Resources Program Guide,"<sup>5</sup> consisting of: archaeological resources (prehistoric and historic archaeological sites and districts); historic built resources (buildings, structures, objects, landscapes or districts, and other built features such as roads, railroads, canals, etc.); and traditional cultural properties,

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<sup>5</sup> United States Marine Corps (USMC). 2009b. Cultural Resources Program Guide. Online at: <http://www.marines.mil/unit/logistics/Documents/LFL/LFL-1/CulturalResources/Outreach/2009%20USMC%20Cultural%20Resources%20Program%20Guide.pdf>. Accessed September 26, 2011.

including archaeological sites and properties of traditional religious and cultural importance (USMC 2009b)

Implementation of any of the action alternatives for the Proposed Action would have no temporary or permanent, direct, indirect, or negative impacts on archaeological resources outside target areas. This is because no construction in, or use of, these areas is included in any of the action alternatives. However, the action alternatives would have the potential to result in permanent, indirect, negative impacts on built resources because these buildings would be vacated following acquisition. The USMC would not maintain or monitor their condition and eventually they would deteriorate over time. The action alternatives have the potential to result in direct, negative, permanent impacts on cultural resources located within target areas, including archaeological resources and built resources (structures and buildings).

In accordance with the Programmatic Agreement (USMC 2012) executed with the Georgia State Historic Preservation Officer (SHPO), the USMC would conduct any necessary additional investigations within target areas after acquisition occurs to identify cultural resources and determine if they are NRHP eligible. The Programmatic Agreement states that the effects of the acquisition of the proposed expansion area on historic properties could not be fully determined prior to the signing of the Record of Decision (ROD). Upon issuance of the ROD and completion of the land acquisition process, the USMC shall consult with the GA SHPO and interested Native American tribes to avoid or minimize adverse effects to historic properties. If effects to historic properties cannot be avoided or minimized, the USMC shall resolve adverse effects per 36 CFR 800.6. The USMC would manage remaining portions of acquired areas (outside target areas) in accordance with the updated ICRMP. The Proposed Action is therefore consistent with this policy.

## **5.13 Groundwater Use Act (O.C.G.A. 12-5-90, et seq.)**

### **5.13.1 Policy Statement**

#### **12-5-91. Declaration of policy.**

*The general welfare and public interest require that the water resources of the state be put to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation in order to conserve these resources and to provide and maintain conditions which are conducive to the development and use of water resources.*

(Ga. L. 1972, p. 976, § 2.)

### **5.13.2 General Description**

The Groundwater Use Act charges the Board of GA DNR with the responsibility to adopt rules and regulations relating to the conduct, content, and submission of water conservation plans, including water conservation practices, water drilling protocols, and specific rules for withdrawal and utilization of groundwater. The GA EPD administers these rules and regulations. Groundwater withdrawals of greater than 100,000 gallons per day require a permit from the GA EPD. Permit applications that request an increase in water usage must also submit a water conservation plan approved by the Director of the GA EPD (O.C.G.A. 12-5-96). The GA EPD has prepared a comprehensive groundwater management plan for coastal Georgia that addresses water conservation measures, protection from saltwater encroachment, reasonable uses, preservation for future development and economic development issues. The Memorandum of Agreement between the GA DNR and GA EPD ensures that permits issued under the Groundwater Use Act must be consistent with the Coastal Management Program.

### 5.13.3 Consistency

The action alternatives would be located within the Coastal Georgia Water and Wastewater Permitting Plan, Sub-Region 3, which allows for the continued use of the Upper Floridan aquifer based on real-time conditions. McIntosh and Long Counties are not part of any State-administered moratorium areas that place restrictions on the quantity of groundwater withdrawals.

Projected water use under each alternative would depend on its intended purpose; that is, for training and operations support (e.g., target/equipment maintenance, firefighting, and similar) or for day-to-day operations (e.g., potable, sewage, landscape maintenance, and similar). Water use associated with training and operations, to some extent, would be a function of the amount of land area acquired under each alternative. Domestic water use under each alternative, however, would be based on a minor increase in personnel and related facilities. Therefore, each action alternative would have a minimal impact on the estimated 0.70 million gallons per day available water capacity for McIntosh County. Long County does not currently have a permitted water capacity.

Each alternative would be consistent with state guidelines for water supply wells such as minimum distances from septic tanks (50 feet), septic tank absorption fields (100 feet), sewers (10 feet), and solid waste disposal sites (1,000 feet). Additionally, no wells would be located within any Federal Emergency Management Agency (FEMA)-defined floodplains. All site determinations, design criteria, and operation and maintenance associated with each alternative would be consistent with the applicable USMC Unified Facilities Criteria (UFC) for water supply systems. McIntosh and Long Counties do not currently have permitted wastewater capacity. Under each alternative, site locations and design criteria for wastewater storage and/or treatment infrastructure (i.e., septic systems) would be determined by local conditions. The Proposed Action is therefore consistent with this policy.

## 5.14 Georgia Hazardous Waste Management Act (O.C.G.A. 12-8-60, et seq.)

### 5.14.1 Policy Statement

#### 12-8-61. Legislative policy.

*It is declared to be the public policy of the State of Georgia, in furtherance of its responsibility to protect the public health, safety, and well-being of its citizens and to protect and enhance the quality of its environment, to institute and maintain a comprehensive state-wide program for the management of hazardous wastes through the regulation of the generation, transportation, storage, treatment, and disposal of hazardous wastes.*

(Ga. L. 1979, p. 1127, § 2; Ga. L. 1992, p. 2234, § 5)

### 5.14.2 General Description

The Georgia Hazardous Waste Management Act describes a comprehensive, state-wide program to manage hazardous wastes through regulating hazardous waste generation, transportation, storage, treatment, and disposal. Hazardous waste is defined by the Board of GA DNR, and it includes any waste that the Board concludes is capable of posing a substantial present or future hazard to human health or the environment when improperly treated, transported, stored, disposed, or otherwise managed, based on regulations promulgated by the U.S. Environmental Protection Agency. The Hazardous Waste Management Act is administered and implemented by the GA EPD.



### 5.14.3 Consistency

With the expansion of TBR through the acquisition of adjacent lands, it is possible that the fleet of vehicles and equipment used to maintain and operate the facility may increase. Petroleum storage and refueling capacity is not expected to increase to accommodate the potential additional vehicles and/or equipment. Wastes generated from maintenance operations would be consistent with those currently generated at TBR and would include both hazardous waste (e.g., used oil) and regulated non-hazardous waste (e.g., pads or towels used to absorb oil or fuel). These wastes would be managed through the existing waste management system according to prescribed procedures already in place, which include the requirement that no hazardous waste would be disposed of, left, buried, or abandoned at TBR. No change to permits, hazardous waste generator status, or management would be required. The Proposed Action is therefore consistent with this policy.

## 5.15 Historic Areas (O.C.G.A. 12-3-50, et seq.)

### 5.15.1 Policy Statement

**12-3-50.1. Grants for the preservation of “historic properties”; additional powers and duties of department.**

*(a) It is declared to be the public policy of the State of Georgia, in furtherance of its responsibility to promote and preserve the health, prosperity, and general welfare of the people, to encourage the preservation of historic properties which have historical, cultural, and archeological significance to the state.*

(Code 1981, § 12-3-50.1, enacted by Ga. L. 1986, p. 399, § 1; Ga. L. 1996, p. 6, § 12)

### 5.15.2 General Description

The authority found at O.C.G.A. 12-3-50 provides the GA DNR with the powers and duties to “promote and increase knowledge and understanding of the history of this State from the earliest times to the present, including the archeological, Indian, Spanish, colonial, and American eras, by adopting and executing general plans, methods, and policies for permanently preserving and marking objects, sites, areas, structures, and ruins of historic or legendary significance, such as trails, post roads, highways, or railroads; inns or taverns; rivers, inlets, millponds, bridges, plantations, harbors, or wharves; mountains, valleys, coves, swamps, forests, or Everglade; churches, missions, campgrounds, and places of worship; schools, colleges, and universities; courthouses and seats of government; places of treaties, councils, assemblies, and conventions; factories, foundries, industries, mills, stores, and banks; cemeteries and burial mounds; and battlefields, fortifications, and arsenals. Such preservation and marking may include the construction of signs, pointers, markers, monuments, temples, and museums, which structures may be accompanied by tablets, inscriptions, pictures, paintings, sculptures, maps, diagrams, leaflets, and publications explaining the significance of the historic or legendary objects, sites, areas, structures, or ruins.” The Department is also required to “promote and assist in the publicizing of the historical resources of the State by preparing and furnishing the necessary historical material to agencies charged with such publicity; to promote and assist in making accessible and attractive to travelers, visitors, and tourists the historical features of the State by advising and cooperating with State, federal, and local agencies charged with the construction of roads, highways, and bridges leading to such historical points.” The Historical Preservation Division is charged with carrying out these duties, and coordinates its activities in the coastal area with the Coastal Resources Division.

### 5.15.3 Consistency

Impacts to cultural resources as result of the Proposed Action were analyzed in detail in the EIS. In accordance with the Programmatic Agreement (USMC 2012) executed with the Georgia SHPO, the

USMC would conduct any necessary additional investigations within target areas after acquisition occurs to identify cultural resources and determine their NRHP-eligibility in accordance with the NHPA and the updated ICRMP. The Programmatic Agreement states that the effects of the acquisition of the proposed expansion area on historic properties could not be fully determined prior to the signing of the ROD. Upon issuance of the ROD, the USMC shall consult with the GA SHPO and interested Native American tribes to avoid or minimize adverse effects to historic properties. If effects to historic properties cannot be avoided or minimized, the USMC shall resolve adverse effects per 36 CFR 800.6. The USMC would manage remaining portions of acquired areas (outside target areas) in accordance with the updated ICRMP. The Proposed Action is therefore consistent with this policy.

## **5.16 Georgia Natural Areas Act (O.C.G.A. 12-3-90, et seq.)**

### **5.16.1 Policy Statement**

#### **12-3-91. Legislative findings and declaration of purpose.**

*The General Assembly finds that there is an increasing nation-wide concern over the deterioration of man's natural environment in rural as well as urban areas; that there is a serious need to study the long-term effects of our civilization on our natural environment; that while the State of Georgia is still richly endowed with relatively undisturbed natural areas, these areas are rapidly being drastically modified and even destroyed by human activities; that it is of the utmost importance to preserve examples of such areas in their natural state, not only for scientific and educational purposes but for the general well-being of our society and its people. Therefore, it shall be the purpose and function of the Department of Natural Resources to:*

*(1) Identify natural areas in the State of Georgia which are of unusual ecological significance;*

*(2) Use its influence and take any steps within its power to secure the preservation of such areas in an undisturbed natural state in order that such areas may:*

*(A) Be studied scientifically;*

*(B) Be used for educational purposes;*

*(C) Serve as examples of nature to the general public; and*

*(D) Enrich the quality of our environment for present and future generations; and*

*(3) Recommend areas or parts of areas for recreational use.*

*(Ga. L. 1969, p. 750, § 2; Ga. L. 1972, p. 1015, § 1511)*

#### **12-3-92. "Natural areas" defined:**

*As used in this article, the term "natural areas" means a tract of land in its natural state which may be set aside and permanently protected or managed for the purpose of the preservation of native plant or animal communities, rare or valuable individual members of such communities, or any other natural features of significant scientific, educational, geological, ecological, or scenic value.*

*(Ga. L. 1966, p. 330, § 2; Ga. L. 1969, p. 750, § 3)*

### 5.16.2 General Description

The Georgia Natural Areas Act authorizes the GA DNR to identify areas in the state that are of unusual ecological significance and to secure the preservation of such areas in an undisturbed natural state. The purpose for such acquisition is to allow scientific study of the property, to educate, to “serve as examples of nature to the general public,” and to “enrich the quality of our environment for present and future generations.” Natural areas, as defined by the Act, are tracts of land in their natural state that are to be set aside and permanently protected or managed for the purpose of preserving natural plant or animal communities, rare or valuable members of such communities, or any other natural features of significant scientific, educational, geologic, ecological, or scenic value.

### 5.16.3 Consistency

The GA DNR maintains several wildlife management areas (WMAs) adjacent to or within close proximity to the proposed acquisition areas. These include the Townsend WMA, Penholoway WMA, and the Sansavilla WMA. In addition, several conservation easements are located within or in close proximity to the proposed acquisition. These include the Goodwood Easement, Fort Barrington Club Easement, Altamaha River Corridor, The Lost 1,000 Easement, and the Penholoway Swamp Easement. No impacts to these areas are anticipated as result of the Proposed Action. Therefore, the Proposed Action is consistent with this policy.

## 5.17 Georgia Oil and Gas and Deep Drilling Act (O.C.G.A. 12-4-40, et seq.)

### 5.17.1 Policy Statement

#### 12-4-41. Legislative findings and declaration of policy.

*The General Assembly finds and declares that its duty to protect the health, safety, and welfare of the citizens of this state requires that adequate protection of underground fresh water supplies be assured in any drilling operation which may penetrate through any stratum which contains fresh water. This duty further requires that adequate protection be assured in any drilling or the use of such drilled wells in certain other environmentally sensitive areas or in other circumstances where the result of such drilling and use may endanger the health, safety, and welfare of the citizens of this state. It is not the policy of the General Assembly to regulate the drilling of shallow exploration or engineering holes except in such environmentally sensitive areas as defined in this part. The General Assembly further finds and declares that, with the current energy shortage which this state and nation face, it must encourage oil and gas exploration to identify new sources of energy, but not at the expense of our important natural resources such as residential, municipal, and industrial supplies of fresh water. The General Assembly further finds and declares that with an increase in oil exploration, it must provide assurances to persons engaging in such exploration that adequate safeguards regarding results of exploration will remain privileged information for a specified time. The General Assembly further finds and declares that it is in the public interest to obtain, protect, and disseminate all possible geologic information associated with drilling operations in order to further the purposes of future energy related research.*

(Ga. L. 1975, p. 966, § 1)

## 5.17.2 General Description

Georgia's Oil and Gas and Deep Drilling Act regulates oil and gas drilling activities to provide protection of underground freshwater supplies and certain "environmentally sensitive" areas. The Board of the GA DNR has the authority to implement this Act. The Act establishes requirements for drilling, casing, and plugging of wells for oil, gas, or mineral exploration: (1) to alleviate escape of gas or oil from one stratum to another; (2) to prevent the pollution of freshwater by oil, gas, salt water, or other contaminants; (3) to prevent drowning of any stratum that might reduce the total ultimate recovery of gas or oil; and (4) to prevent fires, waste, and spillage of contaminants such as oil.

## 5.17.3 Consistency

No oil and/or gas drilling operations are proposed for this project. This policy is not applicable to the Proposed Action.

## 5.18 Licenses to Dig, Mine, and Remove Phosphate Deposits; Restrictions on License Holders. (O.C.G.A. 12-4-100, et seq.)

### 5.18.1 Policy Statement

#### 12-4-101. Restrictions on license holders.

*Whenever any person discovers phosphate rock or phosphatic deposits in the navigable streams or waters of this state or in any public land on their banks or margins and files with the Secretary of State notice of such discovery and a description of the location thereof, he shall be entitled to receive from the Secretary of State a license giving him or his assigns the exclusive right, for ten years from the date of the license, of digging, mining, and removing from such location and from an area for a distance of five miles in any or all directions therefrom the phosphate rock and phosphatic deposits that may be found therein, provided that persons receiving or holding such licenses shall in no way interfere with the free navigation of the streams and waters or the private rights of any citizen residing on or owning the lands upon the banks of such navigable rivers and waters; provided, further, that as long as the license remains in effect, no person, natural or artificial, shall have the privilege of locating a claim within 20 miles of any other claim for which he has received a license.*

(Ga. L. 1884-85, p. 125, § 1; Civil Code 1895, § 1726; Civil Code 1910, § 1977; Code 1933, § 43-401)

### 5.18.2 General Description

The laws found at O.C.G.A. 12-4-100, et seq., describe the State's management of phosphate deposits. There is great interest in phosphate mining in Georgia. In fact, the citizens of Georgia developed the Coastal Marshlands Protection Act in an effort to limit potential adverse environmental impacts from a proposed phosphate mining operation. The Secretary of State is charged with the administration of this statute and is networked with the Georgia Coastal Management Program.

### 5.18.3 Consistency

No mining of phosphates is proposed for this project, therefore, this policy is not applicable to the Proposed Action.

## **5.19 Protection of Tidewaters Act (O.C.G.A. 52-1-1, et seq.)**

### **5.19.1 Policy Statement**

#### **52-1-2. Legislative findings and declaration of policy.**

*The General Assembly finds and declares that the State of Georgia became the owner of the beds of all tidewaters within the jurisdiction of the State of Georgia as successor to the Crown of England and by the common law. The State of Georgia continues to hold title to the beds of all tidewaters within the state, except where title in a private party can be traced to a valid Crown or state grant which explicitly conveyed the beds of such tidewaters. The General Assembly further finds that the State of Georgia, as sovereign, is trustee of the rights of the people of the state to use and enjoy all tidewaters which are capable of use for fishing, passage, navigation, commerce, and transportation, pursuant to the common law public trust doctrine. Therefore, the General Assembly declares that the protection of tidewaters for use by the state and its citizens has more than local significance, is of equal importance to all citizens of the state, is of state-wide concern, and, consequently, is properly a matter for regulation under the police powers of the state. The General Assembly further finds and declares that structures located upon tidewaters which are used as places of habitation, dwelling, sojournment, or residence interfere with the state's proprietary interest or the public trust, or both, and must be removed to ensure the rights of the state and the people of the State of Georgia to the use and enjoyment of such tidewaters. It is declared to be a policy of this state and the intent of this article to protect the tidewaters of the state by authorizing the commissioner of natural resources to remove or require removal of certain structures from such tidewaters in accordance with the procedures and within the timetable set forth in this article.*

(Code 1981, § 52-1-2, enacted by Ga. L. 1992, p. 2317, § 1)

### **5.19.2 General Description**

The Protection of Tidewaters Act establishes the State of Georgia as the owner of the beds of all tidewaters within the state, except where title by a private party can be traced to a valid British Crown or State land grant. The Act provides the GA DNR the authority to remove those “structures” that are capable of habitation or incapable of, or not used for, transportation. Permits for such structures may not extend past June 30, 1997. The Act provides procedures for removal, sale, or disposition of such structures. (This is similar to the Right of Passage Act, except that it is specific to tidewaters rather than all waters of Georgia.)

### **5.19.3 Consistency**

No portions of the Proposed Action are located within tidewater areas, so this policy is not applicable to the Proposed Action.

## **5.20 Revocable License Program (O.C.G.A. 50-16-61, et seq.)**

### **5.20.1 Policy Statement**

#### **50-16-61. General supervision and office assignment (Under the Administrative Procedures Act, Revocable License Program).**

*The Governor shall have general supervision over all property of the state with power to make all necessary regulations for the protection thereof, when not otherwise provided for.*

## 5.20.2 General Description

O.C.G.A. 50-16-61 describes the general supervision of State properties as the responsibility of the Governor. Under this authority, the GA DNR, Coastal Resources Division, issues Revocable Licenses for recreational docks on State-owned tidal water bottoms. In 1995, the Georgia Supreme Court found that the State owns fee-simple title to the foreshore on navigable tidal waters and, as a result, owns the river's water bottoms up to the high-water mark and may regulate the use of these tidelands for the public good. (*Dorroh v. McCarthy* 265 Ga. 750, 462 S.E. 2d 708 [1995]). The opinion of the State Attorney General states: "In managing tidelands, the GA DNR acts under the authority of this section and the Department's employment of the extension of property lines method of allocating use of State-owned waterbottoms may be generally acceptable, but rigid adherence to such a policy when it denies deep water access to a riparian or littoral owner, may cause inequitable results (1993 Op. Att'y Gen. No. 93-25.) As described in the State Properties Code (O.C.G.A. 50-16-30, *et seq.*), the term 'Revocable License' means 'the granting, subject to certain terms and conditions contained in a written revocable license or agreement, to a named person or persons (licensee), and to that person or persons only, of a revocable privilege to use a certain described parcel or tract of the property to be known as the licensed premises for the named purpose.' A Revocable License may be revoked, cancelled, terminated, with or without cause, at any time by the licensor."

## 5.20.3 Consistency

No portions of the Proposed Action are located on State-owned tidal water bottoms. This policy is not applicable to the Proposed Action.

## 5.21 Right of Passage Act (O.C.G.A. 52-1-30, *et seq.*)

### 5.21.1 Policy Statement

#### **52-1-31. Legislative findings and declaration of policy.**

*The General Assembly finds and declares that by the common law the citizens of this state have an inherent right to use as highways all navigable streams and rivers which are capable of transporting boats loaded with freight in the regular course of trade either for the whole or part of the year and that this right of use extends to the entire surface of the stream or river from bank to bank. The General Assembly further finds that the common law regarding such right of use has not been modified by statute nor is it incompatible with the federal or state constitutions. Therefore, the General Assembly declares that ensuring the right of use by all the citizens of this state of navigable streams and rivers which are capable of transporting boats loaded with freight in the regular course of trade either for the whole or part of the year as highways has more than local significance, is of equal importance to all citizens of the state, is of state-wide concern, and, consequently, is properly a matter for regulation under the police powers of the state. The General Assembly further finds and declares that structures located upon navigable streams and rivers which are used as places of habitation, dwelling, sojournment, or residence interfere with the citizens' right to use the entire surface of such streams and rivers which are capable of transporting boats loaded with freight in the regular course of trade either for the whole or part of the year from bank to bank as highways and must be removed to ensure the rights of the citizens of this state to such usage. It is declared to be a policy of this state and the intent of this article to ensure such rights of the citizens of this state by authorizing the commissioner of natural resources to remove or require removal of certain structures from such streams and rivers which are capable of transporting boats loaded with freight in the regular course of trade either for the*

*whole or part of the year in accordance with the procedures and within the timetable set forth in this article.*

(Code 1981, § 52-1-31, enacted by Ga. L. 1992, p. 2317, § 1)

### **5.21.2 General Description**

The Right of Passage Act declares the right of use of all navigable waterways of the state by all citizens of Georgia. The Act establishes the mechanism to remove “structures” that are capable of being used as a place of habitation, are not used as or are not capable of use as a means of transportation, and do not have a permit under the Act. Permits shall not be issued for a term ending after June 30, 1997. The Right of Passage Act is implemented by the GA DNR Law Enforcement Division. (This is similar to the Protection of Tidewaters Act, except that it is specific to all navigable waters rather than tidewaters of Georgia.)

### **5.21.3 Consistency**

No portions of the Proposed Action are within navigable waterways of the State of Georgia. This policy is not applicable to the Proposed Action.

## **5.22 Mountain and River Corridor Protection Act (O.C.G.A. 12-2-1, et seq.)**

### **5.22.1 Policy Statement**

#### **12-2-8. Promulgation of minimum standards and procedures for protection of natural resources, environment, and vital areas of the state.**

*(a) The local governments of the State of Georgia are of vital importance to the state and its citizens. The state has an essential public interest in promoting, developing, sustaining, and assisting local governments. The natural resources, environment, and vital areas of the state are also of vital importance to the state and its citizens. The state has an essential public interest in establishing minimum standards for land use in order to protect and preserve its natural resources, environment, and vital areas. The purpose of this Code section shall be liberally construed to achieve its purpose. This Code section is enacted pursuant to the authority granted the General Assembly in the Constitution of the State of Georgia, including, but not limited to, the authority provided in Article III, Section VI, Paragraphs I and II(a)(1) and Article IX, Section II, Paragraphs III and IV.*

*(b) The department is therefore authorized to develop minimum standards and procedures, in accordance with paragraph (2) of subsection (b) of Code Section 50-8-7.1 and in accordance with the procedures provided in Code Section 50-8-7.2 for the promulgation of minimum standards and procedures, for the protection of natural resources, environment, and vital areas of the state, including, but not limited to, the protection of mountains, the protection of river corridors, the protection of watersheds of streams and reservoirs which are to be used for public water supply, for the protection of the purity of ground water, and for the protection of wetlands, which minimum standards and procedures shall be used by local governments in developing, preparing, and implementing their comprehensive plans as that term is defined in paragraph (3) of subsection (a) of Code Section 50-8-2.*

(Code 1981, § 12-2 8, enacted by Ga, L. 1989, p. 1317, § 5.1; Ga. L. 1991, p. 1719, § 1; Ga. L. 1992, p. 6. § 12; Ga L. 1993, p. 91, § 12)

### 5.22.2 General Description

The statute that is informally known as the Mountain and River Corridor Protection Act (O.C.G.A. 12-2-8) authorizes the GA DNR to develop minimum standards that can be adopted by local governments for the protection of river corridors (and mountains, watersheds, and wetlands). The Act is administered by the GA EPD. All rivers in Georgia with an average annual flow of 400 cubic feet per second are covered by the Act, except those within the jurisdiction of the Coastal Marshlands Protection Act. Some of the major provisions of the Act include: requirements for a 100-foot vegetative buffer on both sides of rivers; consistency with the Georgia Erosion and Sedimentation Act; and identification of river corridors by local governments in land-use plans developed under their respective comprehensive planning acts.

Regional Development Centers are instrumental in helping local governments enact the provisions of this Act. The Coastal Georgia Regional Development Center prepared a Regional River Corridor Protection Plan for counties within their jurisdiction. The Plan describes the ten local governments and the associated rivers that are affected by the River Corridor Protection Act and puts forward a regional plan for the protection of river corridors. Regional plans are preferable to having local governments prepare individual plans. The plan provides for construction of road crossings, acceptable uses of river corridors, maintenance of a vegetative buffer along the river for a minimum of 100 feet from the river's edge (residential structures are allowed within the buffer zone), timber production standards, wildlife and fisheries management, recreation, and other uses. The local governments within the Coastal Regional Development Center jurisdiction affected by the River Corridor Protection Act and their respective rivers are listed below. Eight coastal counties and two coastal cities (Richmond Hill and Woodbine) are affected.

### 5.22.3 Consistency

The Altamaha River is a protected river corridor under this policy and is located to the southwest of the proposed acquisition areas. The Proposed Action would not result in impacts to the Altamaha River. The Proposed Action is therefore consistent with this policy.

## 5.23 Georgia Safe Drinking Water Act (O.C.G.A. 12-5-170, et seq.)

### 5.23.1 Policy Statement

#### **12-5-171. Declaration of policy; legislative intent; Environmental Protection Division to administer part.**

*As a guide to the interpretation and application of this part, it is declared to be the policy of the State of Georgia that the drinking waters of the state shall be utilized prudently to the maximum benefit of the people and that the quality of such waters shall be considered a major factor in the health and welfare of all people in the State of Georgia. To achieve this end, the government of the state shall assume responsibility for the quality of such waters and the establishment and maintenance of a water-supply program adequate for present needs and designed to care for the future needs of the state. This requires that an agency of the state be charged with this duty and that it have the authority to require the use of reasonable methods, that is, those methods which are economically and technologically feasible, to ensure adequate water of the highest quality for water-supply systems. Because of substantial and scientifically significant variations in the characteristics, usage, and effect upon public interest of the various surface and underground waters of the state, uniform requirements will not necessarily apply to all waters or segments thereof. It is the intent of this part to confer discretionary administrative authority*



*upon such agency to take the above and related circumstances into consideration in its decisions and actions in determining, under the conditions prevailing in specific cases, those procedures to best protect the public interests. The GA EPD shall be the state agency to administer the provisions of this part consistent with the above-stated policy.*

(Code 1933, § 88-2601, enacted by Ga. L. 1964, p.499, § 1; Ga. L. 1977, p.351, § 1)

### **5.23.2 General Description**

The Georgia Safe Drinking Water Act of 1977 charges the GA EPD with the responsibility for maintaining the quality of drinking water and for maintaining a water-supply program adequate for present and future needs of the state, and to establish rules and policies for the proper administration of drinking water management programs.

### **5.23.3 Consistency**

The Proposed Action would not adversely impact the Upper Floridan aquifer, the principal drinking water aquifer in the coastal area. All potable water and wastewater requirements associated with the Proposed Action would rely on separate systems developed, operated, and maintained by the USMC. Each alternative would be consistent with state guidelines for water supply wells such as minimum distances from septic tanks (50 feet), septic tank absorption fields (100 feet), sewers (10 feet), and solid waste disposal sites (1,000 feet). Additionally, no wells would be located within any FEMA-defined floodplains. All site determinations, design criteria, and operation and maintenance associated with each alternative would be consistent with the applicable USMC UFC for water supply systems. The Proposed Action is therefore consistent with this policy.

## **5.24 Georgia Scenic Rivers Act (O.C.G.A. 12-5-350, et seq.)**

### **5.24.1 Policy Statement**

#### **12-5-352. Rivers comprising the Georgia Scenic River System.**

*(a) The Georgia Scenic River System shall be comprised of the following: (1) That portion of the Jacks River contained within the Cohutta National Wilderness Area and located in Fannin and Murray counties, Georgia, which portion extends a length of approximately 16 miles; (2) That portion of the Conasauga River located within the Cohutta National Wilderness Area and located in Fannin, Gilmer, and Murray counties, Georgia, which portion extends a length of approximately 17 miles; (3) That portion of the Chattooga River and its West Fork which are now designated as part of the Chattooga National Wild and Scenic River and located in Rabun County, Georgia, which portion extends a length of approximately 34 miles; and (4) That portion of Ebenezer Creek from Long Bridge on County Road S 393 to the Savannah River and located in Effingham County, Georgia, which portion extends a length of approximately seven miles.*

*(b) The Georgia Scenic River System shall also be comprised of any river or section of a river designated as a scenic river by Act or resolution of the General Assembly.*

(Ga. L. 1969, p. 933, § 3; Ga. L. 1978, p. 2207, § 1; Ga. L. 1981, p. 459, § 1)

### **5.24.2 General Description**

The Georgia Scenic Rivers Act of 1969 defines “scenic river” to mean certain rivers or section of rivers that have valuable scenic, recreational, or natural characteristics that should be preserved for the benefit and enjoyment of present and future generations. Certain sections of rivers are named in the Act,

and the process for designating other sections of Georgia rivers is described. The Georgia Scenic Rivers Act is administered by the GA EPD.

### **5.24.3 Consistency**

The acquisition areas as defined in Section 3.2 of this CCD do not include any scenic rivers covered under this act. Therefore, this policy is not applicable to the Proposed Action.

## **5.25 Georgia Scenic Trails Act (O.C.G.A. 12-3-110, et seq.)**

### **5.25.1 Policy Statement**

#### **12-3-111. Legislative purpose.**

*In order to provide for the increasing outdoor recreation needs of an expanding population with an increasing amount of leisure time, in order to promote the enjoyment and appreciation of the outdoor areas of Georgia, and in order to provide for a healthful alternative to motorized travel, trails should be established in urban, suburban, rural, and wilderness areas of Georgia. Therefore, the purpose of this article is to provide for a Georgia Scenic Trails System.*

(Ga. L. 1972, p. 142, § 2)

### **5.25.2 General Description**

The Georgia Scenic Trails Act authorizes the GA DNR to establish a Scenic Trails System in Georgia. The Department is authorized to construct, maintain, and manage trails on lands acquired through purchase, easement, lease or donation. The purpose is to create a balanced system of trails throughout the state, including urban, bicycle, horse, rural hiking, primitive hiking, historical, bikeways, and combination trails. The GA DOT is authorized to construct the bicycle trails and bikeways after the GA DNR has determined their routes.

### **5.25.3 Consistency**

The Georgia Coast Rail-Trail, a 68-mile long, multi-purpose trail extending 68 miles from Kingsland to Riceboro, is currently being built in segments over a number of years. The trail is being built on an existing, raised railroad bed, once owned by CSX Transportation, formerly known as Seaboard Coast Line. It will traverse the western portions of Camden, Glynn, McIntosh, and Liberty Counties. The trail is located approximately 1.5 miles to the east of the proposed acquisition area, and the Proposed Action would not affect the trail or recreational trail users. The Proposed Action is consistent with this policy.

## **5.26 Title 31 – Health (O.C.G.A. Title 31 generally) (Septic Tank Law)**

### **5.26.1 Policy Statement**

#### **31-2-7. Standards for individual sewage management systems.**

*(b) The Department of Human Resources shall have the authority as it deems necessary and proper to adopt state-wide minimum standards for on-site, individual sewage management systems, including but not limited to standards for the size and construction of septic tanks. The Department is authorized to require that any on-site, individual sewage management system be examined and approved prior to allowing the use of such system in the state. Any on-site, individual sewage management system which has been properly approved shall, by virtue of such*

*approval and by operation of law, be approved for installation in every county of the state; provided, however, that such on-site, individual sewage management system shall be required to meet local regulations authorized by law. Upon written request of three or more health districts, the department is authorized to require the reexamination of any such system or component thereof, provided that documentation is submitted indicating unsatisfactory service of such system or component thereof. Before any such examination or reexamination, the department may require the person, persons, or organization manufacturing or marketing the system to reimburse the department or its agent for the reasonable expenses of such examination.*

(Code 1981, § 31-2- 7, enacted by Ga. L 1992, p. 3308, § 1; Ga. L. 1994, p. 1777, § 1)

**31-3-5.1. Regulations for septic tanks or individual sewage management systems in unincorporated areas; conformity to building permit.**

*(b) No building permit for the construction of any residence, building, or other facility which is to be served by a septic tank or individual sewage management system shall be issued by or pursuant to the authority of a county governing authority unless the septic tank or individual sewage management system installation permit is in conformity with any state-wide minimum standards for sewage management systems or the rules and regulations of the county board of health adopted pursuant to the authority of subsection (a) of this Code section. No person, firm, corporation, or other entity shall install a septic tank or individual sewage management system in violation of any state-wide minimum standards or the regulations of a county board of health adopted pursuant to the authority of subsection (a) of the Code section. Each county governing authority shall provide by ordinance or resolution for the enforcement of the provisions of this subsection.*

(Code 1981, § 31-3-5.1, enacted by Ga. L. 1986, p. 227, § 1; Ga. L. 1992, p. 3308, § 2; Ga. L. 1994, p. 1777, § 2)

## **5.26.2 General Description**

The Department of Human Resources and the county boards of health are described and established by Title 31. There are other references for managing septic systems throughout the Code, including references within the River Corridor Protection Act (O.C.G.A. 12- 2-8), the Georgia Water Quality Control Act (O.C.G.A. 12-5-20), and others, which make reference to safe siting of septic systems to ensure that leachate from those systems does not infiltrate the waters of the state. The county board(s) of health are provided the authority and the responsibility of ensuring safe installation and maintenance of septic systems.

## **5.26.3 Consistency**

Currently, a septic system is used to manage wastewater at the existing TBR facilities. The Proposed Action would result in either the relocation of existing support facilities or the construction of additional support facilities. Alternative 1 would involve the relocation of the existing range compound facilities and observation tower to the northern corner of Acquisition Area 1B. The existing facilities would not be relocated under Alternatives 2, 3, or 4; however, a new observation tower would need to be constructed in the southwestern corner of Acquisition Area 3. Construction of septic tank facilities at these locations is anticipated as part of the Proposed Action. Development of septic tanks and wastewater management facilities would adhere to state and local regulations. The Proposed Action is therefore consistent with this policy.

## 5.27 Shore Protection Act (O.C.G.A. 2-5-230 , et seq.)

### 5.27.1 Policy Statement

#### 12-5-231. Legislative findings and declarations.

*The General Assembly finds and declares that coastal sand dunes, beaches, sandbars, and shoals comprise a vital natural resource system, known as the sand-sharing system, which acts as a buffer to protect real and personal property and natural resources from the damaging effects of floods, winds, tides, and erosion. It is recognized that the coastal sand dunes are the most inland portion of the sand-sharing system and that because the dunes are the fragile product of shoreline evolution, they are easily disturbed by actions harming their vegetation or inhibiting their natural development. The General Assembly further finds that offshore sandbars and shoals are the system's first line of defense against the potentially destructive energy generated by winds, tides, and storms, and help to protect the onshore segment of the system by acting as reservoirs of sand for the beaches. Removal of sand from these bars and shoals can interrupt natural sand flows and can have unintended, undesirable, and irreparable effects on the entire sand-sharing system, particularly when the historical patterns of sand and water flows are not considered and accommodated. Also, it is found that ocean beaches provide an unparalleled natural recreation resource which has become vitally linked to the economy of Georgia's coastal zone and to that of the entire state. The General Assembly further finds that this natural resource system is costly, if not impossible, to reconstruct or rehabilitate once adversely affected by man related activities and is important to conserve for the present and future use and enjoyment of all citizens and visitors to this state and that the sand-sharing system is an integral part of Georgia's barrier islands, providing great protection to the state's marshlands and estuaries. The General Assembly further finds that this sand-sharing system is a vital area of the state and is essential to maintain the health, safety, and welfare of all the citizens of the state. Therefore, the General Assembly declares that the management of the sand-sharing system has more than local significance, is of equal importance to all citizens of the state, is of state-wide concern, and consequently is properly a matter for regulation under the police power of the state. The General Assembly further finds and declares that activities and structures on offshore sandbars and shoals, for all purposes except federal navigational activities, must be regulated to ensure that the values and functions of the sand-sharing system are not impaired. It is declared to be a policy of this state and the intent of this part to protect this vital natural resource system by allowing only activities and alterations of the sand dunes and beaches which are considered to be in the best interest of the state and which do not substantially impair the values and functions of the sand-sharing system and by authorizing the local units of government of the State of Georgia to regulate activities and alterations of the ocean sand dunes and beaches and recognizing that, if the local units of government fail to carry out the policies expressed in this part, it is essential that the department undertake such regulation.*

(Code 1981, §12-5-231, enacted by Ga. L.1992, p.1362, § 1)

## 5.27.2 General Description

The Shore Protection Act is the primary legal authority for protection and management of Georgia's shoreline features including sand dunes, beaches, sandbars, and shoals, collectively known as the sand-sharing system. The value of the sand-sharing system is recognized as vitally important in protecting the coastal marshes and uplands from Atlantic storm activity, as well as providing valuable recreational opportunities.

The Shore Protection Act limits activities in shore areas and requires a permit for certain activities and structures on the beach. Construction activity in sand dunes is limited to temporary structures such as crosswalks, and then only by permit from the Coastal Resources Division. Structures such as boat basins, docks, marinas, and boat ramps are not allowed in the dunes. Shore Permits, which are administered by the Coastal Resources Division, are not granted for activities that are inconsistent with the Georgia Coastal Management Program. The Shore Protection Act prohibits operation of any motorized vehicle on or over the dynamic dune fields and beaches, except as authorized for emergency vehicles, and governmental vehicles for beach maintenance or research. The Shore Protection Act also prohibits storage or parking of sailboats, catamarans, or other marine craft in the dynamic dune field.

Direct permitting authority regarding any proposed facilities located within the jurisdictional area the Shore Protection Act lies with the Shore Protection Committee. These permits are administered by the Coastal Resources Division. This authority is a very important aspect of the Georgia Coastal Management Program since recreation at the water's edge is a significant demand. Providing public access and recreational opportunities at or near the beach while protecting the sand sharing system is an important component of the Program.

## 5.27.3 Consistency

The Proposed Action is located inland, thus would not result in any adverse impacts to shoreline features. This policy is not applicable to the Proposed Action.

## 5.28 Georgia Comprehensive Solid Waste Management Act (O.C.G.A. 12-8-21, et seq.)

### 5.28.1 Policy Statement

#### 12-8 21. Declaration of policy; legislative intent.

*(a) It is declared to be the policy of the State of Georgia, in furtherance of its responsibility to protect the public health, safety, and well-being of its citizens and to protect and enhance the quality of its environment, to institute and maintain a comprehensive state-wide program for solid waste management which will assure that solid waste facilities, whether publicly or privately operated, do not adversely affect the health, safety, and well-being of the public and do not degrade the quality of the environment by reason of their location, design, method of operation, or other means and which, to the extent feasible and practical, makes maximum utilization of the resources contained in solid waste.*

*(b) It is further declared to be the policy of the State of Georgia to educate and encourage generators and handlers of solid waste to reduce and minimize to the greatest extent possible the amount of solid waste which requires collection, treatment, or disposal through source reduction, reuse, composting, recycling, and other methods and to promote markets for and engage in the purchase of goods made from recovered materials and goods which are recyclable.*

(Code 1981, § 12-8-21, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 3259, § 1; Ga. L. 1993, p. 399, §§ 1, 2)

### 5.28.2 General Description

The Georgia Comprehensive Solid Waste Management Act defines the rules regarding solid waste disposal in the state. Solid waste-handling facilities must be permitted by the State unless an individual is disposing of waste from his own residence onto land or facilities owned by him and disposal of such waste does not adversely affect human health (O.C.G.A. 12-8-30.10). State law mandates that a county, municipality, or group of counties beginning a process to select a site for municipal waste disposal must first call at least one public meeting.

In addition to the above-named jurisdictions, a regional solid waste management authority must hold at least one meeting within the jurisdiction of each participating authority. Meetings held to make siting decisions for any publicly or privately owned municipal solid waste disposal facility must be publicized before the meeting is held (O.C.G.A. 12-8-26). Each city and county is required to develop a comprehensive solid waste management plan that, at a minimum, provides for the assurance of adequate solid waste-handling capability and capacity for at least ten years. This plan must identify those sites that are not suitable for solid waste facilities based upon environmental and land use factors (O.C.G.A. 12-8-31.1); these factors may include historic and archeological sites. Solid waste facilities within 5,708 yards of a national historic site are not permitted (O.C.G.A. 12-8-25.1). Solid waste facilities on property owned exclusively by a private solid waste generator are generally exempt from these provisions. Local governments have the authority to zone areas of environmental, historic, or cultural sensitivity and to protect those sites from becoming waste disposal areas regardless of whether they are public or privately owned.

### 5.28.3 Consistency

Solid waste generated under each alternative would increase during construction activities before returning to near baseline levels over the long-term. Each alternative includes the construction and maintenance of mission support facilities and infrastructure that would increase construction and demolition (C&D) waste in the short-term. Solid waste generated from training and operations under each alternative would represent only a slight increase under each alternative. The Georgia coastal region has remaining public C&D capacity of more than 26 million cubic yards and a municipal solid waste capacity of more than 20 million cubic yards.<sup>6</sup> Therefore, adverse impacts to solid waste disposal associated with each of the action alternatives would be short-term and minimal. The Proposed Action is therefore consistent with this policy.

## 5.29 Georgia Surface Mining Act (O.C.G.A. 12-4-70, et seq.)

### 5.29.1 Policy Statement

**12-4-71. Legislative purpose; duty of Environmental Protection Division to administer part.**

*(a) The purposes of this part are: (1) To assist in achieving and maintaining an efficient and productive mining industry and to assist in increasing economic and other benefits attributable to mining; (2) To advance the protection of fish and wildlife and the protection and restoration of land, water, and other resources*

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<sup>6</sup> Georgia Department of Community Affairs (GA DCA). 2010b. Disposal and Capacity 2009 Report (revised August 6, 2010). Online at: <http://www.dca.ga.gov/development/research/programs/downloads/2009CapacityDisposal.pdf>. Accessed October 10, 2011.

*affected by mining; (3) To assist in the reduction, elimination, or counteracting of pollution or deterioration of land, water, and air attributable to mining; (4) To encourage programs which will achieve comparable results in protecting, conserving, and improving the usefulness of natural resources to the end that the most desirable conduct of mining and related operations may be universally facilitated; (5) To assist in efforts to facilitate the use of land and other resources affected by mining so that such use may be consistent with sound land use, public health, and public safety, and to this end to study and recommend, wherever desirable, techniques for the improvement, restoration, or protection of such land and other resources.*

*(b) The Environmental Protection Division of the department shall administer this part consistent with the above-stated purposes.*

(Ga. L. 1968, p. 9, § 2)

## **5.29.2 General Description**

The Georgia Surface Mining Act regulates all surface mining in Georgia, including the coastal zone. Dredging or ocean mining of materials is not directly regulated by State authority, except that sand and gravel operations are subject to the Shore Protection Act.

## **5.29.3 Consistency**

The Proposed Action does not include any surface mining activities; therefore, this policy is not applicable to the Proposed Action.

## **5.30 Georgia Underground Storage Tank Act (O.C.G.A. 12-13-1, et seq.)**

### **5.30.1 Policy Statement**

#### **12-13-2. Public policy:**

*(a) It is declared to be the public policy of the State of Georgia, in furtherance of its responsibility to protect the public health, safety, and well-being of its citizens and to protect and enhance the quality of its environments, to institute and maintain a comprehensive state-wide program for the management of regulated substances stored in underground tanks.*

*(b) It is the intent of the General Assembly that the GA EPD shall be designated as the state agency to administer the provisions of this chapter. The director of the GA EPD shall be the official charged with the primary responsibility for the enforcement of this chapter. In exercising any authority or power granted by this chapter and in fulfilling duties under this chapter, the director shall conform to and implement the policies outlined in this chapter.*

*(c) It is the intent of the General Assembly to create an environmental assurance fund which, in addition to those purposes set forth in subsections (f) and (g) of Code Section 12-13-9, may also be used by owners and operators as an alternate to insurance purchased from insurance companies for purposes of evidencing financial responsibility for taking corrective action and compensation of third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from operating underground storage tanks.*

(Code 1981, § 12-13-2, enacted by Ga. L. 1988, p. 2072, § 1; Ga. L. 1989, p. 14, § 12)

### **5.30.2 General Description**

The Underground Storage Tank Law provides the authority for the GA EPD to define the State criteria for operating, detecting releases, corrective actions, and enforcement of the utilization of underground storage tanks (USTs). The rules at Chapter 391-3-15 of the Rules and Regulations of the State of Georgia establish minimum standards and procedures to protect human health and safety and to protect and maintain the quality of groundwater and surface water resources from environmental contamination that could result from any releases of harmful substances stored in such tanks. These requirements reflect the federal law regulating underground storage tanks as well as the applicable State rules. All facilities with underground storage tanks are subject to these requirements. The Memorandum of Agreement between the Coastal Resources Division and the GA EPD ensures cooperation and coordination in the implementation of UST standards within the coastal area.

### **5.30.3 Consistency**

There are no USTs or leaking USTs currently at TBR, and the Proposed Action would not result in the construction or operation of any UST. The Proposed Action is therefore consistent with this policy.

## **5.31 Georgia Water Quality Control Act (O.C.G.A. 12-5-20)**

### **5.31.1 Policy Statement**

#### **12-5-21. Declaration of policy; legislative intent.**

*(a) The people of the State of Georgia are dependent upon the rivers, streams, lakes, and subsurface waters of the state for public and private water supply and for agricultural, industrial, and recreational uses. It is therefore declared to be the policy of the State of Georgia that the water resources of the state shall be utilized prudently for the maximum benefit of the people, in order to restore and maintain a reasonable degree of purity in the waters of the state and an adequate supply of such waters, and to require where necessary reasonable usage of the waters of the state and reasonable treatment of sewage, industrial wastes, and other wastes prior to their discharge into such waters. To achieve this end, the government of the state shall assume responsibility for the quality and quantity of such water resources and the establishment and maintenance of a water quality and water quantity control program adequate for present needs and designed to care for the future needs of the state, provided that nothing contained in this article shall be construed to waive the immunity of the state for any purpose.*

*(b) The achievement of the purposes described in subsection (a) of this Code section requires that the GA EPD be charged with the duty described in that subsection, and that it have the authority to regulate the withdrawal, diversion, or impoundment of the surface waters of the state, and to require the use of reasonable methods after having considered the technical means available for the reduction of pollution and economic factors involved to prevent and control the pollution of the waters of the state.*

*(c) Further, it is the intent of this article to establish within the executive branch of the government administrative facilities and procedures for determining improper usage of the surface waters of the state and pollution of the waters of the state, and to confer discretionary administrative authority upon the GA EPD to take these and*



*related circumstances into consideration in its decisions and actions in determining, under the conditions and specific cases, those procedures which will best protect the public interest.*

(Ga. L. 1957, p. 629, § 2; Ga. L. 1964, p. 416, § 2; Ga. L. 1977, p. 368, § 1)

### **5.31.2 General Description**

The Georgia Water Quality Control Act grants the GA EPD authority to ensure that water uses in Georgia are used prudently, are maintained or restored to a reasonable degree of purity, and are maintained in adequate supply. In the administration of this law, the GA EPD can revise rules and regulations pertaining to water quality and quantity, set permit conditions and effluent limitations, and set permissible limits of surface water usage for both consumptive and non-consumptive uses through the Board of the GA DNR. Through a Memorandum of Agreement between the GA EPD and the Coastal Resources Division, the rules and permits of the GA EPD are administered in a manner consistent with the enforceable policies of the Georgia Coastal Management Program. The authority to regulate the rivers, streams, lakes, and subsurface waters throughout the state for public and private water supply and agricultural, industrial, and recreational uses is provided to the GA EPD. The Act makes it unlawful for any person to dispose of sewage, industrial wastes, or other wastes, or to withdraw, divert, or impound any surface waters of the state without a permit. Tourism and recreational entities, manufacturing and transportation facilities, and other activities found in the coastal zone covered under the policies of the Georgia Coastal Management Program are responsible for compliance with the regulations implementing the Georgia Water Quality Control Act.

### **5.31.3 Consistency**

Under each alternative, stormwater discharges associated with construction activities would comply with the requirements of the Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) permit program as administered by the GA EPD. Any non-exempt direct or indirect impacts to surface waters would require permits from the U.S. Army Corps of Engineers under Section 404 of the CWA and under the NPDES regulated by the GA EPD. The USMC would acquire all necessary permits after land acquisition has occurred. The Proposed Action is therefore consistent with this policy.

## **5.32 Water Wells Standards Act (O.C.G.A. 12-5-120, et seq.)**

### **5.32.1 Policy Statement**

#### **12-5-121. Legislative intent:**

*It is the intent of the General Assembly to provide in this part for the application of standards for the siting, construction, operation, maintenance, and abandonment of wells and boreholes so as to protect the public health and the water resources of this state.*

(Ga. L. 1976, p. 974, § 2; Ga. L. 1985, p. 1192, § 1)

### **5.32.2 General Description**

The Water Wells Standards Act of 1985 provides standards for siting, constructing, operating, maintaining, and abandoning wells and boreholes. The Act requires that individual and non-public wells must be located as far removed from known or potential sources of pollutants as possible. Licensing requirements for drilling contractors are established by the Act, as well a State Water Well Standards Advisory Council. The Council is authorized to adopt and amend rules and regulations that are reasonable to govern the licensing of well contractors. Compliance with the Water Wells Standards Act is required

for all activities that utilize well water. The provisions of the Act are enforceable under Georgia law. The Council may file a petition for an injunction in the appropriate superior court against any person that has violated any provisions of the Act.

### **5.32.3 Consistency**

Each alternative would be consistent with state guidelines for water supply wells such as minimum distances from septic tanks (50 feet), septic tank absorption fields (100 feet), sewers (10 feet), and solid waste disposal sites (1,000 feet). Additionally, no wells would be located within any FEMA-defined floodplains. All site determinations, design criteria, and operation and maintenance associated with each alternative would be consistent with the applicable USMC UFC for water supply systems. The Proposed Action is therefore consistent with this policy.

## **5.33 The Wildflower Preservation Act (O.C.G.A. 12-6-170, et seq.)**

### **5.33.1 Policy Statement**

#### **12-6-172. Powers and duties of Department and Board of natural Resources as to wildflower preservation.**

*(a) The Department of Natural Resources shall from time to time designate as a protected species and species of plant life within this state which it may determine to be rare, unusual, or in danger of extinction, and upon such designation such species will become subject to the protection of this article.*

(Ga. L. 1973, p. 333, § 3; Ga. L. 1982, p. 3, § 12)

### **5.33.2 General Description**

The Wildflower Preservation Act provides for designation and protection of plant species that are rare, unusual, or in danger of extinction. Additional species may be added by the Board of the GA DNR at any time. The protection offered to these species is limited to those that are found on public lands of the state. It is a misdemeanor to transport, carry, convey, sell, cut, pull up, dig up, or remove protected species listed by this Act.

### **5.33.3 Consistency**

As part of the EIS process, it was established that the USMC, in addition to conducting surveys for federally listed species, would provide follow-up field surveys for state-listed species potentially affected by the Proposed Action. State-listed species that are not protected under the Endangered Species Act include Georgia plume, corkwood, dwarf witch-alder, giant orchid, and tiny-leaf buckthorn.

In preparation of the EIS, literature regarding life histories, biology, and habitat requirements was reviewed and it was determined that the state-listed corkwood and dwarf witch-alder have the potential to occur within the proposed target areas and would require follow-up field surveys. It was further determined that no suitable habitat exists within the proposed acquisition areas for the state-listed Georgia plume, giant orchid, or tiny-leaf buckthorn. Field surveys were conducted in spring 2011 for the state-listed corkwood and dwarf witch-alder. Findings of these surveys were submitted to the GA DNR on May 2, 2011. It was determined that no state-protected species are likely to be adversely affected by the Proposed Action. The Proposed Action is therefore consistent with this policy.

## **6 Conclusion**

In accordance with the CZMA, 16 U.S.C. § 1456(c), as amended, it has been determined that the proposed modernization and expansion of TBR would be carried out in a manner that is fully consistent with the enforceable policies of the GCMP. This determination applies to the Proposed Action and the effects of the Proposed Action on the land or water uses or natural resources of the coastal zone, as directed by 15 CFR § 930.39.

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MARK WILLIAMS  
COMMISSIONER

A.G. 'SPUD' WOODWARD  
DIRECTOR

September 27, 2012

Townsend EIS Project Manager  
Post Office Box 180458  
Tallahassee, Florida 32318

RE: **Conditional** Consistency Determination for DEIS: Proposed Modernization and Expansion of Townsend Bombing Range, McIntosh County, Georgia

Dear Sir or Madam:

Staff of the Coastal Management Program has reviewed your June 25, 2012; July 2, 2012; and August 15, 2012 letters, as well as the attached Coastal Consistency Determination for the above referenced project. The proposed action includes acquisition of land, acquisition of a timber easement, modification of existing airspace, construction of infrastructure to support PGM training, and improvement of capabilities.

Final design plans for facility construction will not be available until after ROD (record of decision) issuance and completion of the land acquisition process. Therefore some reasonably foreseeable impacts to coastal resources cannot be concisely described at this point in time. Several enforceable policies may require additional coordination and/or state permits prior to actual construction, including but not limited to:

- CCD 5.9 Georgia Erosion and Sedimentation Act (O.C.G.A. 12-7-1, et seq.): 25' buffer variance may be required.
- CCD 5.12 Georgia Heritage Trust Act (O.C.G.A. 12-3-70, et seq.): conduct additional investigations within target areas after acquisition to identify cultural resources and determine if they are National Register of Historic Places (NRHP) eligible and consult with the Historic Preservation Division and interested Native American tribes to avoid or minimize adverse effects to historic properties.
- CCD 5.13 Groundwater Use Act (O.C.G.A. 12-5-90, et. seq.): permits for groundwater withdrawals over 100,000 gallons per day, potable water used by more than 25 people, wells within the Upper Floridan aquifer, and/or wells within the 100-year floodplain may be required.
- CCD 5.15 Historic Areas (O.C.G.A. 12-3-50, et seq.): conduct additional investigations within target areas after acquisition to identify cultural resources and determine if they are National Register of Historic Places (NRHP) eligible and consult with the Historic Preservation Division and interested Native American tribes to avoid or minimize adverse effects to historic properties.

- CCD 5.23 Georgia Safe Drinking Water Act (O.C.G.A. 12-5-170, et seq.): permits for potable water used by more than 25 people, wells within the Upper Floridan aquifer, and/or wells within the 100-year floodplain may be required.
- CCD 5.31 Georgia Water Quality Control Act (O.C.G.A. 12-5-20, et seq.): National Pollution Discharge Elimination System (NPDES) permits may be required. Additionally, if a Clean Water Act Section 404 permit is required from the US Army Corps of Engineers, a Section 401 Water Quality Certificate may be required.

The Program **concurs** with your consistency determination with the **condition** that any necessary State of Georgia permits and/or permissions are obtained prior to commencement of construction. The acquisition of land, acquisition of timber rights, and modification of existing airspace are fully consistent with the applicable enforceable policies of the Georgia Coastal Management Program and may proceed unconditionally. Please feel free to contact Kelie Moore or me if we can be of further assistance.

Sincerely,



A.G. "Spud" Woodward  
Director

SW/km

cc: Dale Caldwell, GaDNR/EPD Water Quality via e-mail  
Alice Vick, GaDNR/EPD Buffers via e-mail  
Dave Crass, GaDNR/HPD via e-mail