

**PROGRAMMATIC AGREEMENT  
AMONG  
THE COMMANDER NAVAL BASE POINT LOMA,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER  
REGARDING  
NAVAL BASE POINT LOMA UNDERTAKINGS,  
SAN DIEGO COUNTY, CALIFORNIA**

**WHEREAS**, the U.S. Navy's mission is to organize, train, equip, and maintain combat-ready naval forces capable of winning wars, deterring aggression, and maintaining the freedom of the seas; and

**WHEREAS**, to meet requirements of the Department of Defense and Department of the Navy national defense mission, Commanding Officer NBPL (CONBPL), a subordinate command under the Commander Navy Region Southwest (CNRSW), administers, authorizes, carries out, or causes to be carried out a broad range of operational and maintenance activities and related support programs (undertakings); and

**WHEREAS**, CONBPL oversees cultural resource management for NBPL and is responsible for complying with Section 106 of the National Historic Preservation Act (NHPA; 16 U.S.C. 470f) and its implementing regulations, 36 CFR Part 800, for undertakings with the potential to affect properties listed in or eligible for listing in the National Register of Historic Places (NRHP; hereinafter referred to as "historic properties"); and

**WHEREAS**, pursuant to 36 CFR § 800.14(b), CONBPL seeks to programmatically fulfill its responsibilities under Section 106 of NHPA for these undertakings through development of this Programmatic Agreement (PA); and

**WHEREAS**, the scope of this PA covers NBPL proper and various component installations within the larger NBPL area of responsibility (AOR) as listed below and referenced in Attachment A; and

**WHEREAS**, CONBPL intends for this PA, when executed, to supersede the existing "Programmatic Agreement among the Commander Navy Region Southwest, the Advisory Council on Historic Preservation, and the California State Historic Preservation Officer regarding Navy Region Southwest Undertakings within the San Diego Metropolitan Area, California;" and

**WHEREAS**, CONBPL has prepared a NBPL Integrated Cultural Resources Management Plan (ICRMP) that will support the implementation of the management protocols stipulated under this PA; and

**WHEREAS**, CONBPL will ensure coordination of all Section 106 compliance with the requirements of other statutes, as applicable, including the National Environmental Policy Act (NEPA), the Archaeological Resources Protection Act (ARPA), the American Indian Religious Freedom Act (AIRFA), and the Native American Graves Protection and Repatriation Act (NAGPRA); and

**WHEREAS**, CONBPL has consulted with the Advisory Council on Historic Preservation (ACHP), and the California State Historic Preservation Officer (SHPO) in the development of this PA; and

**WHEREAS**, CONBPL has consulted with the Kumeyaay Indian tribes, who may attach religious and cultural significance to historic properties within the AOR, requested their participation in the development of this PA, and invited the following Indian tribes to concur in this PA: the Barona Band of Mission Indians, Ewiiapaayp Band of Mission Indians, Jamul Indian Village, Manzanita Band of Mission Indians, San Pasqual Band of Mission Indians, Sycuan Band of Mission Indians, Campo Band of Mission Indians, Inaja Band of Mission Indians, LaPosta Band of Mission Indians, Mesa Grande Band of Mission Indians, Santa Ysabel Band of Diegueno Indians, and Viejas Band of Kumeyaay Indians; and

**WHEREAS**, CONBPL has consulted with the Kumeyaay Indian tribes to determine that the current inventory of historic and archaeological resources under the management responsibility of NBPL does not include resources eligible as Traditional Cultural Properties (TCPs); and

**WHEREAS**, individual bases and satellite facilities within the AOR covered by this PA lie within the jurisdictions of various local governments, including the City of San Diego and County of San Diego, and CONBPL has consulted with these parties and requested their participation as invited signatories to this PA; and

**WHEREAS**, CONBPL has consulted with the National Park Service, the National Trust for Historic Preservation, the San Diego County Archaeological Society, the Save Our Heritage Organisation, and other individuals and organizations with a demonstrated interest in historic properties within the AOR, and has invited these parties to concur in this PA; and

**NOW, THEREFORE**, CONBPL, ACHP, and SHPO agree that CONBPL will comply with the following stipulations to satisfy its Section 106 responsibilities for operation and maintenance undertakings within the AOR.

### Stipulations

In cooperation with ACHP, SHPO, and other consulting parties to this PA, CONBPL shall ensure that the following measures are carried out, as indicated:

#### I. Applicability

This PA applies to all CONBPL undertakings initiated within the NBPL AOR (see Attachment A). As of the date of this PA, the NBPL AOR includes the installations listed below. The Navy may add or delete installations within the NBPL AOR to this PA without requiring an amendment to the PA. The Navy will notify the parties to this PA of any proposal to add or delete an installation to the PA. The Navy will provide the parties with 30 calendar days to review and comment on any such change. Any objections or disputes that arise from the proposal shall be resolved pursuant to the Dispute Resolution process at Stipulation XII through the annual report developed in accordance with Stipulation XI.

##### A. Naval Base Point Loma

Naval Submarine Base, San Diego (SUBASE)  
NAVSUP Fleet Logistics Center San Diego (FLC)

Commander 3rd Fleet (C3F)  
Space and Naval Warfare Systems Center Pacific (SSC Pacific)  
Space and Naval Warfare Systems Center Headquarters (SSC Headquarters)  
Fleet Combat Training Center Pacific (FCTC)  
Naval Mine and Antisubmarine Warfare Command (NMAWC)  
Fleet Intelligence Training Center (FITC)

B. Off-Station Family Housing Areas and Special Areas not shown on Attachment A

Admiral Hartman  
Beech Street Knolls  
Cabrillo National  
Chesterton  
Former Naval Training Center  
Gateway Village  
Mira Mesa Ridge  
Park Summit  
Serra Mesa  
Vista Ridge  
Balboa Avenue  
Mount Soledad Signal Station  
La Jolla Nautical Mile Towers  
Taylor Street

## II. Roles and Responsibilities

- A. CONBPL, the "agency official" as defined under 36 CFR 800.2(a), shall ensure Navy compliance with this PA.
- B. SHPO shall provide timely reviews of undertakings submitted for consultation on findings of adverse effect to historic properties, and shall participate in the review of undertakings when requested by CONBPL.
- C. ACHP and SHPO shall participate in dispute resolution consistent with Stipulation XII of this PA.

## III. Qualifications

In accordance with 36 CFR 800.2, CONBPL will ensure that all work pursuant to this PA will be carried out, reviewed by, or conducted under the supervision of individuals meeting the professional qualifications standards identified in The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, 36 CFR 61 (Federal Register Vol. 62, No. 119, 1997).

- A. Individuals meeting the above professional qualifications are hereinafter referred to as "qualified personnel" or "qualified Naval Base Point Loma personnel."
- B. Determinations of whether or not an undertaking requires further review, per Attachment C, will be carried out by qualified personnel.

#### **IV. Training**

CONBPL shall ensure that all appropriate Navy personnel responsible for making decisions regarding the planning, construction, maintenance, preservation, or rehabilitation of properties listed in or eligible for listing in the National Register are suitably trained in the application of The Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR 68)

- A. CONBPL shall provide training to implement the ICRMP on the appropriate treatment, preservation, and protection of cultural resources, including cultural awareness training for the appropriate treatment of historic properties of religious and cultural significance to Indian tribes. Training will be provided by appropriate personnel who meet the professional qualifications standards identified in The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, 36 CFR 61 (Federal Register Vol. 62, No. 119, 1997).
- B. CONBPL shall develop and implement an in-house orientation program to advise appropriate Navy personnel, including other personnel referenced in Stipulation VIII.G, responsible for decisions potentially affecting historic properties of this PA, the ICRMP, and their procedures regarding historic properties within the AOR. In-house orientation shall be administered by appropriate personnel who meet the professional qualifications standards identified in The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, 36 CFR 61 (Federal Register Vol. 62, No. 119, 1997).

#### **V. Integrated Cultural Resources Management Plan (ICRMP)**

CONBPL has developed an ICRMP that covers its AOR.

- A. The ICRMP provides detailed management guidance for historic properties within the NBPL AOR and facilitates review of CONBPL undertakings in support of the Navy's national defense mission by detailing NBPL's long term planning perspective, providing Standard Operating Procedures for consideration of cultural resources in the planning process and the identification of historic properties, identifying data gaps, and providing programming plans to address those gaps. The ICRMP was prepared in accordance with Navy ICRMP guidelines. The ICRMP is reviewed annually and updated as mission needs change or identification of resources evolve

and data gaps are addressed. In accordance with Navy policy, the installation shall share draft ICRMPs with and seek comments from tribes.

- B. CONBPL will implement the ICRMP in accordance with the procedures set forth in this PA. Should CONBPL choose to reconsider any treatment proposed by the ICRMP, the reconsideration will be subject to the standard Section 106 process set forth in 36 CFR Part 800. The ICRMP also includes procedures and consultation protocols for compliance with other historic preservation statutes and implementing regulations, as applicable, including ARPA, AIRFA, and NAGPRA.

## VI. Area of Potential Effects (APE)

Qualified CONBPL personnel shall determine and document the APE, as defined in 36 CFR 800.16(d), for each individual undertaking covered under this PA. The definition of an APE will be influenced by the scale and nature of the undertaking and may be different for different kinds of effects caused by an undertaking. As specified below, determination of an undertaking's APE will not require individual consultation with the SHPO or other participants in this PA. Definition of APEs for undertakings that depart from the circumstances described below will be subject to consultation with participants in this PA, consistent with 36 CFR 800.4(a)(1).

- A. For undertakings limited to the construction, maintenance, repair or renovation of non-historic buildings or structures more than 100 meters from a listed or eligible historic district or isolated listed or eligible building, structure, or landscapes, APEs will be defined as the discrete site of the undertaking and any associated lay down, access, or staging areas.
- B. For undertakings where the construction, maintenance, repair or renovation of buildings or structures will occur to a listed or eligible building or structure, within a listed or eligible historic district, or within 100 meters of a listed or eligible historic district or isolated listed or eligible building or structure, APEs will be defined to include the historic district or isolated historic property along with the discrete construction site for the individual building or structure and any associated lay down, access, or staging areas.
- C. For undertakings involving ground disturbing activities, APEs will include the planned area surface and subsurface disturbance, including any associated lay down, access, or staging areas and a 30 m buffer around each area of ground disturbance. If any part of a known archaeological site falls within an APE, the entire documented site will be included in the APE.
- D. APEs will not include potential visual or acoustic effects on known archaeological resources.

## VII. NRHP Eligibility Determinations

Professional investigations detailed in the Previous Studies section of the NBPL ICRMP have identified eligible and potentially eligible properties within the NBPL AOR. In conjunction with updates to the ICRMP and as future investigations are developed, CONBPL will determine if additional properties in the NBPL AOR, either determined ineligible or not previously evaluated, may be eligible.

- A. In accordance with 36 CFR 800.4, NBPL qualified personnel may evaluate previously unevaluated properties for eligibility for listing in the National Register. The results of any such determinations will be included in the annual report described in Stipulation XI. All supporting documentation, including Form DPR-523, for evaluated properties will be made available upon request.
- B. CONBPL acknowledges that Indian tribes possess special expertise in assessing the eligibility of historic properties of religious and cultural significance to them. CONBPL will consult with affiliated Kumeyaay Indian groups to determine if they attach religious and cultural significance to historic properties that might be affected by Navy undertakings within the AOR.
- C. Consultation with affiliated Kumeyaay Indian groups to determine if they attach religious and cultural significance to historic properties that might be affected by Navy undertakings within the AOR will occur on an as needed basis based on the potential effects of Navy undertakings.

## VIII. Finding of Effect

CONBPL will ensure that all new construction, alterations, equipment installation, structure modifications, or repairs and maintenance on Class 1 (land) and Class 2 (buildings and structures) properties will be reviewed in accordance with NBPL instructions for "Policy and Procedures for Conducting Environmental Review Process at Naval Base Point Loma, San Diego (NBPL)" (Attachment B). In conjunction with the Project Approval Review process, undertakings will be reviewed for potential effects to historic properties. Attachment C to this PA identifies undertakings that shall require no additional review in the following situations:

- A. When qualified personnel determine that an undertaking with the potential to affect historic properties will not affect listed, contributing or eligible properties consistent with a finding of "No Historic Properties Affected" under 36 CFR 800.4(d)(1), no further review under this PA is required. CONBPL will document the project in accordance with Stipulation XI.
- B. If qualified personnel determine that an undertaking has the potential to affect historic properties but will have no adverse effect in accordance with 36 CFR 800.5(b), or if a property affected by an undertaking is treated in accordance with the Secretary of the Interior's Standards for Rehabilitation of Historic Properties, no further review under this PA is required. CONBPL

- will monitor the project, and will document, record, and report the finding in accordance with Stipulation XI.
- C. CONBPL shall initiate consultation with SHPO, ACHP, Indian tribes, and any other interested parties under 36 CFR 800.6 for any proposed undertaking which may have an adverse effect on a historic property. CONBPL shall follow the process set forth in 36 CFR 800.6 to resolve the adverse effects and develop a Memorandum of Agreement to conclude the Section 106 process for that undertaking.
- D. During the planning of an undertaking that may potentially adversely affect historic properties, CONBPL may redesign the undertaking to avoid the adverse effect in consultation with qualified personnel, thereby resulting in a finding of 'no adverse effects' to historic properties. In such a case, no further review under this PA is required. CONBPL will document and report this decision to redesign the undertaking in accordance with Stipulation XI.
- E. If after completion of an undertaking's review pursuant to this PA or during the implementation of any previously reviewed project, CONBPL finds that it is necessary to modify the project scope or construction documents, qualified personnel shall review the proposed changes to determine if these modifications may affect a historic property. When such project changes are found to create no adverse effects to historic properties, CONBPL will document, record, and report findings in accordance with Stipulation XI, and the matter will be resolved.
- F. If qualified CONBPL personnel find that the modification may result in an adverse effect, CONBPL will determine if the adverse effect can be avoided in accordance with Stipulation VIII.D above. If the adverse effect cannot be avoided, CONBPL will consult to resolve the adverse effects in accordance with 36 CFR 800.6
- G. Where other personnel have been trained and certified and authorized in writing by CONBPL, these personnel may be allowed to review undertakings limited to areas that have been determined, through consultation, to meet the Criteria for "No Historic Properties Affected" pursuant to 36 CFR 800.4(d)(1) while documenting said finding within the installation's project review process, thereby completing the installation's compliance responsibilities under 36 CFR 800.
1. Other personnel may review undertakings that may occur in locations where previous reviews have identified no historic properties
  2. The use of other personnel will be limited to properties that have been determined ineligible for NRHP listing and do not warrant additional evaluation due to age under Criteria Consideration G.

3. The requirement for additional evaluation of properties due to age in association with Criteria Consideration G or the discovery of new information will be determined by qualified personnel.

## **IX. Ground-disturbing Activities**

CONBPL will ensure that ground-disturbing activities include appropriate measures to protect or avoid archaeological resources.

- A. As appropriate, CONBPL will provide for archaeological monitoring of all ground disturbing activities within areas of known or provisional archaeological sensitivity.
  1. Any required archaeological testing to identify new resources, and monitoring to avoid effects to known or to prevent effects to discoveries during construction shall be implemented in accordance with an archaeological research framework developed under the ICRMP process, and in compliance with other requirements of the NHPA, ARPA, NAGPRA and their implementing regulations, including 36 CFR 79.
  2. Any archaeological testing or monitoring shall also be implemented under appropriate consultation with SHPO and any Kumeyaay Indian tribe that may attach religious and cultural significance to the affected historic property. CONBPL will document, record, and report on the findings of these testing and monitoring activities, and provide notice of the resulting reports in accordance with Stipulation XI.
- B. During the preparation of the ICRMP and future ICRMP updates, and in consultation with pertinent parties to this PA, CONBPL will develop maps for the NBPL AOR identifying areas which will require monitoring by a qualified archaeologist, as defined in Stipulation III.A. Conversely, the ICRMP process will explicitly map areas where existing conditions, including previous disturbance and land areas created by filling of bay or wetlands, generally preclude the potential for accountable archaeological deposits, and where, at the discretion of qualified CONBPL personnel, archaeological monitoring would not be required.

## **X. Unanticipated Discoveries**

CONBPL will manage discoveries, unanticipated effects, and emergencies to avoid or minimize harm to historic properties, as follows:

- A. If during the performance of an undertaking, historic properties are discovered or unanticipated effects are found, CONBPL will stop work in the vicinity of the discovery until it concludes consultation consistent with Stipulation X.C as appropriate.

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- B. CONBPL will establish working procedures with Navy contracting commands to ensure that:
1. Contractors and other authorized agents engaged in ground disturbing activities will be required to stop work in the vicinity of any discovered archaeological deposit upon direction from a CONBPL-authorized archaeological monitor and/or contracting officer, and
  2. Construction in the vicinity of the discovery will not be resumed until CONBPL has completed the consultation in accordance with Stipulation X.C.
- C. CONBPL will notify SHPO and other parties to the PA as appropriate as soon as practical, and will develop actions to avoid and minimize effects to historic properties to the extent feasible. CONBPL will notify these parties of any time constraints. When appropriate, CONBPL will consult with SHPO regarding which parties to the PA should be notified and consulted. CONBPL and these parties will seek to mutually agree upon the time frame for this consultation but in no instance will the consultation exceed ten working days. CONBPL will provide SHPO and other parties to the PA as appropriate with written recommendations reflecting the proposed steps to be taken. If the parties do not object to CONBPL's recommendations within the agreed time frame, CONBPL will modify the scope of work as necessary to implement the recommendations.
- D. In the event that natural disasters, fires, spill events or other emergency events occur, CONBPL may take actions that may affect historic properties without consultation to protect life safety, stabilize any involved historic properties, and prevent further damage to property. Emergency response work will be undertaken in a manner to avoid or minimize effects on historic properties to the extent possible. Should historic properties be discovered during emergency repair or response activity, work in the immediate area of the property will cease if CONBPL has determined that a work stoppage at the site will not impede emergency response activities. As early as possible given the nature of the emergency, CONBPL will provide notification of the emergency to the SHPO and other appropriate parties to the PA, requesting comments under expedited consultation process except immediate rescue and salvage operations. Notification will include the steps being taken to address the emergency, the discovered property and its apparent significance, and a description of the emergency work and the potential effects on the discovered property. Within 30 calendar days following this notification, CONBPL will provide SHPO and other parties to the PA as appropriate a written report documenting the actions taken to minimize effects, present status, and planned treatment of the property. This action will also be included in the report developed in accordance with Stipulation XI.

## **XI. Reporting**

CONBPL shall provide an Annual Report to interested parties for each federal fiscal year by December 15 of the following fiscal year. Electronic reporting will be utilized as the preferred method to transmit this information. The Annual Report summarizes CONBPL actions under this PA.

- A. The reports will include the following information, subject to the confidentiality requirements of 36 CFR Part 800.11(c) and other applicable laws:
1. Summary of actions taken under Stipulations VII.A; VIII.A, B, D, and E; IX.A.2; and X.D to include:
    - (a) Building or site number/name, location and eligibility categorization
    - (b) Project name and designation with a brief description of proposed action and description of effects to historic properties
    - (c) List of agencies or parties consulted
    - (d) List of any reports that present the findings of archaeological work
    - (e) Name of the reviewer and date of review.
  2. Reports of any training given pursuant to Stipulation IV.
  3. Identification of current CONBPL points of contact and notification of any changes in key historic preservation personnel.
  4. Any recommendations to amend this PA or improve communications among the parties.
- B. SHPO and ACHP may review each report and may provide CONBPL with comments. SHPO and ACHP may request additional documentation or explanations from CONBPL. CONBPL will provide timely responses to all comments and requests.

## **XII. Resolving Objections**

Objections to the conduct of actions under this PA will be managed through consultation:

- A. Should a signatory or concurring party to this PA object in writing to CONBPL regarding any action carried out or proposed with respect to the implementation of this PA, CONBPL shall consult with the objecting party. If after initiating such consultation CONBPL determines that the objection cannot be resolved through consultation, it shall forward all documentation relevant to the objection to ACHP, including CONBPL's proposed response to the objection. Within 30 calendar days after receipt of all pertinent documentation, ACHP shall exercise one of the following options:

1. Advise CONBPL that ACHP concurs in CONBPL's proposed response to the objection, whereupon CONBPL will respond to the objection accordingly;
  2. Provide CONBPL with recommendations, which CONBPL shall take into account in reaching a final decision regarding its response to the objection; or
  3. Notify CONBPL that the objection will be referred to ACHP membership for formal comment and proceed to refer the objection and comment within 45 calendar days.
- B. Should ACHP not exercise one of the above options within 30 calendar days after receipt of the pertinent documentation, CONBPL may move forward with its proposed response to the objection.
- C. CONBPL shall take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; CONBPL's responsibility to carry out all actions under this PA that are not the subjects of the objection shall remain unchanged.
- D. Should an objection be raised by a member of the public to any stipulation under this PA or the manner of its implementation, CONBPL shall take the objection into account and consult as needed with the objecting party, ACHP and SHPO to address or consider the objection.

### **XIII. Amendment**

If any of the parties to this PA believe that the terms of the agreement cannot be carried out, or that an amendment to the terms of the agreement is required, that party shall immediately notify the other parties and request consultation to amend the PA. This PA may be amended when such an amendment is agreed to in writing by all Signatories. The amendment will be effective on the date a copy signed by all of the Signatories is filed with the ACHP.

### **XIV. Termination**

ACHP, SHPO, or CONBPL may terminate this PA by providing 30 calendar days written notice to the other Signatories, explaining the reasons for the termination. The parties shall consult during this 30-calendar-day period to seek agreement on amendments or other actions that would avoid termination. If within thirty (30) calendar days (or another time period agreed to by all Signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other Signatories. In the event of termination, CONBPL will comply with 36 CFR 800.3 through 800.7 with regard to individual undertakings covered by this PA.

**XV. Duration**

This PA shall expire ten years after the date of the final signature. Six months prior to the expiration date, ACHP, CONBPL, and SHPO shall review the PA for possible amendment and renewal.

**XVI. Anti-Deficiency Act**

CONBPL's obligations under this PA are subject to the availability of appropriated funds, and the stipulations of this PA are subject to the provisions of the Anti-Deficiency Act. CONBPL will make reasonable and good faith efforts to secure the necessary funds to implement its obligations under this PA. If compliance with the Anti-Deficiency Act alters or impairs CONBPL's ability to implement its obligations under this PA, CONBPL will consult in accordance with the amendment and termination procedures found at Stipulations XIII and XIV.

**EXECUTION**

Execution of this PA by CONBPL, SHPO, and the ACHP, and the implementation of its terms evidence that CONBPL has taken, and will take, into account the effects of Navy undertakings on historic properties within the NBPL AOR and afforded the ACHP an opportunity to comment. Each of the undersigned certifies that they have full authority to bind the party that they represent for purposes of entering into this agreement.

**SIGNATORIES**

## NAVAL BASE POINT LOMA

By:   
S. F. ADAMS  
CAPTAIN, USN  
Commanding Officer  
Naval Base Point Loma

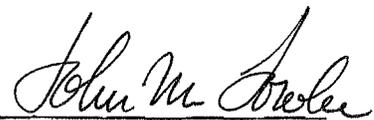
Date: 5/19/14

## STATE HISTORIC PRESERVATION OFFICER

By:   
for Carol Rowland-Nawi, Ph.D.  
California State Historic Preservation Officer

Date: 5/21/14

## ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:   
John M. Fowler  
Executive Director, Advisory Council on Historic Preservation

Date: 5/23/14