PROGRAMMATIC AGREEMENT AMONG THE UNITED STATES MARINE CORPS, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER REGARDING THE PROCESS FOR COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT FOR UNDERTAKINGS ON MARINE CORPS BASE JOSEPH H. PENDLETON

WHEREAS, the United States Marine Corps (USMC) has determined that operation, maintenance, training, demolition, and construction (undertakings) at Marine Corps Installations West (MCIWEST)-Marine Corps Base (MCB) Camp Pendleton may have an effect on historic properties listed or eligible for listing in the National Register of Historic Places (NRHP); and

WHEREAS, the USMC has consulted with the Advisory Council on Historic Preservation (ACHP) and the California State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (NHPA), as amended, 16 U.S.C. 470f, and pursuant to such consultation, has developed this Programmatic Agreement (PA) in accordance with 36 CFR 800.14 to establish an efficient program alternative to comply with Section 106 that constitutes a departure from the normal Section 106 process (36 CFR 800.14(b)(1)(v));and

WHEREAS, the Signatories have reviewed the routine types of undertakings that occur on MCIWEST-MCB Camp Pendleton and developed standard management measures to avoid adverse effects to historic properties listed on or eligible for inclusion in the National Register of Historic Place (NRHP) and protect cultural resources that have not been evaluated under the criteria established by 36 CFR 60.4; and

WHEREAS, the Signatories recognize that the tailored Section 106 NHPA process realized through this agreement enables the USMC greater flexibility and provides measurable results in compliance with responsibilities listed in Section 110 of the NHPA and in MCIWEST-MCB Camp Pendleton's Integrated Cultural Resources Management Plan (ICRMP); and

WHEREAS, the USMC has demonstrated progress in its compliance with Section 110 of the NHPA by implementing the MCIWEST-MCB Camp Pendleton's ICRMP and provides guidance and direction of these programs. The programs emphasizes identification, evaluation, conditions monitoring, and stabilization but these efforts are not be limited to historic properties identified in undertakings considered under this PA; and

WHEREAS, the USMC has consulted with the SHPO per 36 CFR 800.6(a), notified the ACHP per 36 CFR 800.6(a)(1)(i)(C), and will execute this PA with ACHP's participation per 36 CFR 800.14(b)(2)(iii); and

WHEREAS, the USMC has consulted on this agreement and will continue to consult with federally recognized tribes including Rincon Band Of Mission Indians, Pauma Band Of Mission Indians, Pechanga Band Of Mission Indians, La Jolla Band Of Mission Indians, Soboba Band Of Mission Indians, Pala Band Of Mission Indians, and will afford the Tribes, should the Tribes so

desire, the opportunity to participate in the implementation of this PA and has invited the Tribes to sign this PA as Invited Signatories; and

WHEREAS, the USMC has consulted with the non-federally recognized tribes of the San Luis Rey Band of Mission Indians and the Juaneño Band of Mission Indians and has invited them to participate and concur with this PA; and

WHEREAS, the USMC has consulted with the San Diego County Archaeological Society (SDCAS) and has invited SDCAS to participate and concur with this PA; and

WHEREAS, the USMC has made a draft of this PA available to the public per 36 CFR § 800.14(b)(2)(ii) on the MCIWEST-MCB Camp Pendleton public website [http://www.pendleton.marines.mil/StaffAgencies/EnvironmentalSecurity.aspx]. The USMC will continue to use the National Environmental Policy Act of 1969 (NEPA), as amended (83 Stat. 852 et seq.; 42 USC 4321-4370h) public notification and scoping process to comply with 36 CFR Part 800 requirements for public notifications, identification of interested individuals or organizations, and public participation; and

WHEREAS, the USMC considers and documents an undertaking's effect on historic properties as part of its NEPA compliance and will continue to include information regarding its compliance with Section 106 as part of its NEPA compliance documentation; and

WHEREAS, the USMC continues to identify, evaluate, treat, protect, preserve, and consult about historic properties and has surveyed and inventoried approximately 89% of its land for archaeological sites and in 1999 inventoried and evaluated 100% of its buildings and structures constructed from 1942 to 1989. The USMC has also evaluated approximately 80% of its archaeological sites; and

WHEREAS, execution of this PA by the USMC obligates it to comply with the stipulations contained herein, and the MCIWEST-MCB Camp Pendleton Base Commander has concurred with this requirement;

NOW, THEREFORE, the USMC, the ACHP, and the SHPO agree that the undertakings shall be implemented in accordance with the following stipulations to satisfy the Marine Corps' Section 106 responsibilities for all individual actions included in the undertakings.

STIPULATIONS

The USMC shall ensure that the following measures are carried out:

I. SCOPE AND OBJECTIVES

A. Purpose

This PA establishes the processes that USMC will implement for MCIWEST-MCB Camp Pendleton (the Installation) consisting of 125,000

acres in northwestern San Diego County (Attachment A). It ensures that the USMC has an Installation Cultural Resources Program and qualified Cultural Resources Manager (CRM) and staff, as defined in Attachment B, to operate efficiently and effectively in accordance with the NHPA's intent and regulations. It requires the USMC to integrate cultural resources planning and management decisions in the Installation's policies and other program requirements. It also requires the USMC to effectively manage the Installation's Cultural Resources Program consistent with Section 110 of the NHPA and seek efficiencies under Section 106 and for the Installation's Integrated Cultural Resources Management Plan (ICRMP) to be updated in consultation with SHPO and other parties as described in Stipulation XII.

B. Streamline Section 106 process

The PA streamlines the Section 106 process of the NHPA and eliminates case-by-case consultation with SHPO and Invited Signatories for undertakings whenever:

(1) There are no known historic properties within an APE (Stipulation III.D(1));

(2) Historic properties that are listed in or eligible for the NRHP are present within an APE but will not be adversely affected (Stipulation III.D(2));

(3) Historic properties, and/or unevaluated properties that will be treated as if they were eligible for the NRHP, are within the APE but adverse effects will be completely avoided by implementing management measures (Stipulation III.D(3)); or

(4) The nature of the activity is such that it is unlikely to affect historic properties and is therefore exempt from further review and consultation, as specified in this PA (Stipulation III.E, and Attachments B and C).

(5) If the USMC's qualified professionals, as in Attachment B, determine that historic properties are present within an undertaking's APE and would be affected by an undertaking, and the Standard Resource Protection Measures (pursuant to Stipulation III.D(3)) contained in Attachment D cannot or will not be implemented, then USMC shall follow 36 CFR 800.4-800.6 to identify and evaluate historic properties, assess effect, and resolve any adverse effects through the development of a Memorandum of Agreement. The public involvement and participation processes will be integrated with those undertaken in compliance with NEPA. The USMC shall include information obtained as part of the Installation's compliance

with the provisions of 36 CFR Part 800 as part of its NEPA compliance documents.

C. Applicability

This PA applies to all programs, funding initiatives, permits, assistance, actions or decision under the statutory or regulatory authority by the USMC on MCIWEST-MCB Camp Pendleton that constitutes an undertaking that may affect historic properties. If more than one federal agency is involved in an undertaking the USMC shall consult with SHPO on how it will fulfill its 36 CFR 800 compliance requirements. For undertakings involving more than one federal agency this PA will only be applicable when USMC is designated as the lead federal agency. This PA applies only to federal actions that occur on the Installation. This PA does not supersede existing agreement documents (PAs, MOAs, or Program Comments) for specific classes of undertakings, projects, or programs which can also be used for USMC undertakings on the Installation in lieu of this PA to meet its Section 106 compliance responsibilities.

II. DEFINITIONS

Terms defined in 36 CFR Section 800.16, MCO P5090.2A CH 3, and in Attachment B apply to this PA.

III. PROCEDURES

A. Coordination and Information Exchange

(1) The USMC shall identify and evaluate historic properties in connection with the planning and implementation of undertakings that will be completed in accordance with the standards and guidelines specified in this PA, or as otherwise agreed to by the SHPO.

(a) The USMC shall submit all reports that document identification or evaluation efforts to the SHPO, as specified below, and the South Coastal Information Center of the California Historical Information System (CHRIS) for integration in the statewide database, as specified in Stipulation VII.C(8).

(b) Where Tribes, traditional leaders, or individuals specifically request that information about their traditional cultural properties remain confidential, the USMC shall maintain such records in confidential files at the Installation as authorized under Section 304 of NHPA.

(2) Consultation and coordination among USMC, the SHPO, the ACHP, Invited Signatories, and other consulting parties, pursuant to this PA, shall be the responsibility of the Installation CRM unless otherwise specified by the Base Commander.

B. Area of Potential Effects (APE) and Identification of Historic Properties

(1) Definition of APE. The CRM shall determine the APE in accordance with the definition provided in Attachment B. The APE will include all lay down and staging areas.

(2) Each undertaking's APE shall be inventoried to identify historic properties, as defined in Attachment B, that are within the defined area or whose boundaries are within 50-feet of the APE in accordance with the stipulations for identification enumerated below.

(3) No additional identification efforts are required before the implementation of an undertaking if the CRM determines that the APE is entirely within an area that has been previously surveyed, providing ground conditions have not changed, and determined to be adequate as defined in the Installation's Integrated Cultural Resources Management Plan (ICRMP); or meets the criteria of 36 CFR 60.4 and the CRM determines that no additional inventory or consultation with the SHPO is required before implementation, provided the following conditions are met:

(a) The CRM confirms that previous identification efforts meet current standards and are adequate; and

(b) SHPO and the CRM shall agree on the documentation standards for the undertaking and include documentation in the Quarterly Report to Invited Signatories (Stipulation VII.A).

(4) USMC shall ensure that all identification activities conform to the *Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation, Standards for Identification* (48 FR 44716 at 44720-44723).

(a) The scope of identification efforts as determined by the CRM will depend on: existing knowledge about historic properties; goals for survey activities developed in the planning process; and current management needs.

(b) Critical steps in the identification process are: a literature review; tribal consultation in accordance with Attachment F; field survey (as

necessary); documentation of results; and record keeping.

(c) Where the USMC proposes to carry out, or cause to be carried out, an intensive survey, as defined in Attachment B, of the APE, on MCIWEST-MCB Camp Pendleton land, it need not consult with the SHPO before such surveys are conducted. Where the USMC proposes to carry out, or cause to be carried out, a reconnaissance survey of the APE, on MCIWEST-MCB Camp Pendleton land it needs to consult with the SHPO before these surveys are conducted. Both types of surveys shall document the results and provide this documentation to the SHPO and Invited Signatories for review and comment in accordance with Stipulation VII. Intensive and reconnaissance surveys may only be carried out by:

(i) Professional archaeologists who meet the Secretary of the Interior's Professional Qualification Standards (48 FR 44716);

And who may be accompanied by:

(ii) Archaeological technicians who (1) work under the direct supervision of a professional archaeologist who meets the Secretary of the Interior's Professional Qualification Standards (48 FR 44716) and (2) who meet the Office of Personnel Management standards for personnel who may perform such surveys; and

(iii) Invited Signatory tribal representatives.

(5) The USMC shall record all identified historic properties on the appropriate California State Department of Parks and Recreation historic resource inventory forms (**DPR 523**). Completion of the forms will follow the standards outlined in *Instructions for Recording Historic Resources* (1995) or most recent version. Completed forms will be submitted to the South Coastal Information Center for trinomial assignment.

(a) The USMC will incorporate trinomial designations into the documentation submitted for SHPO review.

(b) If trinomials have been requested, but not received by the time the USMC needs to submit documentation to the SHPO, the USMC will provide copies of the transmittal letters to the South Coastal Information Center with its documentation as a temporary fulfillment of the requirement.

(c) The USMC will house archaeological site record and map information in a controlled access facility.

(6) The USMC will prepare a Survey Report (**SR**), and/or Archaeological Survey Reconnaissance Report (**ASRR**), if required per Stipulation III.B.(4), for each undertaking or group of small, related undertakings before implementing the action or related undertaking activities. The standards to be followed include:

(a) Preceding inventory and report efforts:

(i) CRM shall review previous surveys results, if any, and determine adequacy of previous identification effort and if resurvey is required, given additional information which may include tribal traditional knowledge and history, changing archaeological and related industry standards, research designs, conditions, or an undertaking's effects;

(ii) CRM shall identify previous surveys that have not been subject to previous Section 106 consultation with the SHPO, which shall be incorporated into SRs for current review.

(iii) CRM shall consider information obtained through tribal consultation and implementation of the tribal consultation protocol as outlined in Attachment F.

(b) USMC shall ensure that SRs conform to guidelines in the:

(i) State of California Department of Parks and Recreation guidelines "Archaeological Resource Management Reports (ARMR): Recommended Contents and Format (1989);

(ii) Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation, Reporting Identification Results (48 FR 44716 at 44723); and/or

(iii) Other standards mutually agreed to by USMC, the SHPO, and Invited Signatories.

(c) SRs shall list all historic properties identified within an undertaking's APE. Copies of the site record forms within or adjacent to the APE shall be included in the SRs.

(d) SRs shall include references to previous reports and property records if portions of the undertakings have been subject to earlier survey and these reports have been previously submitted to the SHPO for review. SRs shall also include a summary of the results of consultations with Invited Signatories as well as information regarding

properties that may be of religious and cultural significance from Tribes identified through a reasonable and good faith effort per Attachment F. Previously identified historic properties within an APE shall be updated to meet the documentation standards specified in this PA (Stipulation III.B(4)).

(e) SRs will be completed before implementing undertakings.

C. Evaluation of Historic Properties

(1) If an undertaking has the potential to affect an historic property, then USMC will follow the provisions of 36 CFR Part 800 regarding evaluation and determination of effects, except as provided in Stipulations III.C(2) and III.C(3) .

(2) Where there are previously identified cultural resources in the APE and the CRM determines that implementation of protection measures in Attachment D would result in the avoidance of adverse effects, USMC will assume, for purposes of a particular undertaking, that these properties are eligible and identify the applicable NRHP criteria without submitting NRHP determinations to SHPO before implementing an undertaking as specified in Stipulation III.D.3.

(3) When there are historic properties in the APE that have already received SHPO's agreement on their National Register eligibility and the CRM determines that appropriate measures can be undertaken to ensure that the qualifying characteristics of the historic properties are not adversely affected in any way, then these historic properties will be managed and maintained in a manner that ensures that their qualifying characteristic(s) is (are) preserved by using the Standard Resource Protection Measures listed in Attachment D before implementing an undertaking as specified in Stipulation III.D.3.

D. Implementation

(1) Undertakings Where There Are No Historic Properties:

When no historic properties are identified following an intensive survey or an approved reconnaissance survey pursuant to Stipulation III.B(4)(c), no consultation with the SHPO and the ACHP is required before implementing an undertaking. These undertakings will be listed in the Annual Report (Stipulation VII.A) and copies of redacted SRs will be available for review by the public excluding information about the nature and location of archaeological and historic resources that may be protected

in accordance with Section 304 of the NHPA (16 U.S.C. 470w-3) and Section 9 of the ARPA (16 U.S.C. 470hh).

(2) Undertakings Where Management Measures Are Not Necessary for the Protection of Historic Properties:

When an undertaking is planned following an intensive survey or an approved reconnaissance survey pursuant to Stipulation III.B(4)(c), and the CRM determines that historic properties will not be adversely affected and the undertaking can be implemented without the adoption of management measures to protect historic properties, then the undertaking will be implemented without further review or consultation with the SHPO and the ACHP. These undertakings will be listed in the Annual Report (Stipulation VII.A) and copies of the SRs will be available for review by the SHPO in accordance with Stipulation VII.C. Copies of redacted SRs will also be available for public review, excluding information about the nature and location of archaeological and historic resources that may be protected in accordance with Section 304 of the NHPA (16 U.S.C. 470w-3) and Section 9 of the ARPA (16 U.S.C. 470hh).

(3) Undertakings Where Management Measures Are Necessary and will be Implemented to Avoid Adverse Effects to Historic Properties:

(a) When historic properties are identified following an intensive survey or an approved reconnaissance survey pursuant to Stipulation III.B(4)(c), and the CRM determines that effective protection measures will be employed to avoid adverse effects (Attachment D), no review or consultation with the SHPO or the ACHP is required before implementing the undertaking.

(i) At its discretion USMC may consult with the SHPO, pursuant to 36 CFR Part 800 on any undertaking covered by this PA, where the use of the Standard Resource Protection Measures (Attachment D) is proposed.

(ii) At its discretion and with the cooperation of USMC, the SHPO may participate with USMC in review or consultation on a specific undertaking or class of undertakings where Standard Resource Protection Measures (Attachment D) are being used to avoid adverse effects.

(b) A list of these undertakings shall be submitted with the Annual Report for review pursuant to Stipulation VII.A.

(c) SRs prepared to document newly surveyed or resurveyed APEs, where management measures for the protection of historic properties

are being used to avoid adverse effects (Attachment D) need not be reviewed by the SHPO or the ACHP before implementing an undertaking.

(i) SRs for these undertakings shall be submitted to the SHPO if requested in accordance with Stipulation VII.C.

(ii) Copies of these SRs shall be submitted to the South Coastal Information Center for inclusion in the statewide inventory.

(iii) Copies of these SRs shall be submitted to tribal governments.

(iv) Redacted copies of SRs will be available for public review, excluding information about the nature and location of archaeological and historic resources that may be protected in accordance with Section 304 of the NHPA (16 U.S.C. 470w-3) and Section 9 of the ARPA (16 U.S.C. 470hh).

(4) Undertakings Requiring Compliance with 36 CFR Part 800:

USMC shall comply with 36 CFR Part 800 for undertakings that do not meet the conditions in Stipulation III.D(1), Undertakings Where There Are No Historic Properties; Stipulation III.D(2), Undertakings Where Management Measures Are Not Necessary for the Protection of Historic Properties; Stipulation III.D(3), Undertakings Where Management Measures Are Necessary and will be Implemented to Avoid Adverse Effects to Historic Properties; or Stipulation III.E, Exempt Undertakings. That is, USMC shall comply with 36 CFR Part 800 for undertakings that may adversely affect historic properties. For cases of inadvertent effects associated with projects implemented under the provisions of this agreement, refer to Stipulation V.

E. Exempt Undertakings

(1) Under this PA those classes of undertaking listed in Section I of Attachment C are exempt from further review or consultation. In addition, CRM will determine that any specific undertaking subsumed in the classes of undertakings listed in Section II of Attachment C qualifies as an exempt undertaking. However, the following exceptions apply:

(a) USMC may submit an otherwise exempt undertaking for review under this PA or 36 CFR Part 800;

(b) Should a dispute or objection by the public arise to an exempt undertaking or to an exempt class of undertakings before implementation USMC shall consult with the objecting party, the

SHPO, and/or the ACHP and Invited Signatories for not more than 30 calendar days following receipt to resolve the objection. If the objection cannot be resolved within this timeframe, USMC shall submit the disputed exemption for review either under this PA (Stipulation XIV) or under 36 CFR Part 800. USMC may propose that a disputed class of exempt undertakings be considered for revision pursuant to Stipulation III.E.(2).

(2) Revisions to the list of exempted undertakings:

(a) The USMC may consider adding other classes of undertakings to Attachment C. Attachment C may be revised to include such additional classes of undertakings upon the written agreement of all Signatory Parties and would not require amendment of this PA. The USMC will send the revised list to the Signatory Parties. The Signatory Parties have 30 calendar days from receipt of the revised list of exempted undertakings to review and provide comments on the revised list. If a Signatory Party disagrees with the revised list, USMC shall consult with the Signatory Party in accordance with Stipulation XIV Dispute Resolution of this agreement.

(b) Upon written recommendation by any Signatory Party to this PA, the Signatory Parties shall consider removal of any class of undertakings from Attachment C. Attachment C may be revised to exclude the class of undertakings upon the written agreement of all the Signatory Parties and would not require amendment of this PA. Disputes about deletions or classes of undertakings shall be resolved pursuant to Stipulation XIV. Until the dispute is resolved the class of undertakings involved in the dispute shall be subject to review pursuant to the applicable stipulations of this PA or 36 CFR Part 800.

IV. INSPECTION AND MONITORING

A. Inspections of Undertakings

The CRM or CRM designated staff shall inspect undertakings as necessary to ensure that identified protection measures are effective and being appropriately implemented. The CRM or CRM designated staff shall determine the schedule and requirements of any inspection that is conducted. A record shall be completed for each inspection event and kept on file at MCIWEST-MCB Camp Pendleton for the duration of this PA. SHPO and/or Invited Signatories may inspect an undertaking with advance notice and arrangements with the CRM.

B. Standards for Monitoring Undertakings Where Management Measures Are Not Required for the Protection of Historic Properties

Most undertakings that do not require management measures for protection of historic properties will not be monitored except as defined in Stipulation IV.D. The following circumstances are exceptions where the CRM determines that monitoring will be considered or undertaken.

(1) When undertakings change during implementation because of unforeseen circumstances and the CRM determines that these changes require the adoption of the Standard Resource Protection Measures (Attachment D) for previously identified historic properties, monitoring shall be required if the CRM determines that information is inadequate to determine whether these measures are appropriate. Monitoring might be appropriate if proposed activities are near some types of historic properties or cultural properties of importance to Invited Signatories. Monitoring may be necessary during and/or after for undertakings in these circumstances.

C. Standards for Monitoring Undertakings Where Management Measures Are Necessary and will be Implemented to Avoid Adverse Effects to Historic Properties

(1) If the CRM receives notification or identifies during an inspection that the prescribed Standard Resource Protection Measures (Attachment D) have not been implemented and activities have occurred that may have affected an identified historic property, then the undertakings will require monitoring during and/or after the undertaking as specified below.

(a) If the undertaking has not been completed, then the USMC will implement the following procedure:

(i) Immediately suspend all activities within 50 feet of the historic property until a qualified cultural resource professional that meets the Standards as specified in the *Secretary of the Interior's Professional Qualification Standards* (48 FR 44716), appropriate to the resource, and Tribal monitor examine the property and report to the CRM;

(ii) Within two working days (e.g. email or phone notification) the CRM will notify SHPO and the Invited Signatories by email/phone of the incident and proposed treatment and consult informally until agreement is reached on the proposed treatment;

(iii) CRM recommends appropriate measures that will avoid adverse effects to the historic property and report the incident

internally through the Installation's Environmental Incident Reporting System (EIRS);

(iv) CRM determines the need for additional consultation with SHPO and Invited Signatories;

(v) CRM provides avoidance measures and clearance to the undertaking proponent to proceed after consultation is complete, if required;

(vi) USMC shall implement avoidance measures and all agreed upon treatment measures, ensure undertaking is monitored, and proceed with undertaking including follow up and closeout in EIRS; and

(vii) USMC shall describe, in the Annual Report per Stipulation VII.A, all incidents where Standard Resource Protection Measures (Attachment D) were prescribed but either not implemented or not fully implemented, and the measures taken to ensure avoidance of adverse effects to historic properties.

(b) If the undertaking has not been completed and USMC is following the procedure in Stipulation IV.C(1)(a)(i-vi) but the CRM determines that the property has not been affected and Standard Resource Protection Measures (Attachment D) can be effectively employed for the remaining implementation period, then the CRM may decide that the undertaking may resume without further consultation. The CRM will provide clearance for the undertaking to proceed.

(c) If the undertaking has not been completed and the USMC is following the procedure in Stipulation IV.C(1)(a)(i) but the CRM determines that historic properties may have been affected, the USMC shall initiate consultation in accordance with Stipulation V and report the incident internally through EIRS as well as follow up and closeout in this system.

(d) If the undertaking has been completed when the CRM receives notification that prescribed protection measures have not been followed, then the USMC will implement following procedure:

(i) Field inspection by the CRM of the undertaking's APE and respective historic properties as soon as possible and the provisions of Stipulations V.C and V.D shall be followed;

(ii) Report the incident internally through EIRS as well as follow up and closeout in this system; and

(iii) Report incident in the Annual Report in accordance with Stipulation VII.A describing the USMC's failure to use prescribed protection measures.

(2) If the CRM determines that use of the Standard Resource Protection Measures (Attachment D) might not provide adequate protection to the historic property because of the nature, scope, frequency, and/or duration of certain types of recurrent undertakings, monitoring in a manner prescribed by the CRM will be carried out to verify that the protection measures are adequate.

D. Monitoring for Identification of Historic Properties

Based on the nature of the undertaking and where no known historic properties exist in the APE following an intensive or reconnaissance survey but uncertainty remains about the possible presence of historic properties because of observation limitations, information from the literature review, or other sources, monitoring may be employed during the implementation of an undertaking if recommended by the CRM. The presence of one or more of the following circumstances indicate the archaeological sensitivity of an area and a need for monitoring by a qualified archaeologist, as determined by the CRM, and a Native American (Tribal) monitor:

(1) The presence in the APE of ineligible prehistoric archaeological resources;
(2) The presence in natural areas surrounding the APE of several other recorded prehistoric archaeological sites;
(3) The presence of large or small drainages in the natural areas within or adjacent to the APE and the consequent potential for buried cultural deposits beneath alluvium deposited by these drainages; and
(4) The presence of vegetation in natural areas in the APE that obscured the ground surface at times during the inventory field surveys.

The purpose would be to ensure that unidentified historic properties, if present, are not irretrievably lost, damaged or destroyed or otherwise adversely affected. If any historic properties are identified, the provisions of Stipulation V shall be followed.

V. POST-REVIEW DISCOVERIES

The SHPO, ACHP, and Invited Signatories shall be notified by USMC within two working days (e.g. letter or email notification) after the discovery that an historic property or possible historic property has been affected inadvertently by an undertaking implemented under this PA.

A. Post-review Discoveries during Implementation of Undertaking When Property cannot be Protected

In the event that properties are discovered during implementation of an undertaking which has been duly considered under the terms of this PA and in which the property cannot be protected, the USMC shall address the discovery in accordance with the provisions of 36 CFR 800.13 in consultation with the SHPO, ACHP, and Invited Signatories that may attach religious and cultural significance to the property.

B. Post –review Discoveries When Undertaking is Not Complete and Management Measures Are Necessary

(1) If the undertaking has not been completed at the time the inadvertent effect is discovered, all activities within 50 feet of the historic property shall cease. The CRM may recommend the use of Standard Resource Protection Measures (Attachment D) including but not limited to archaeological and tribal monitoring. The CRM will determine monitoring duration and frequency. If Standard Protection Measures are not adopted as recommended by the CRM, the USMC shall consult with SHPO, ACHP, consulting parties, and Indian tribes that may attach religious and cultural significance to the property to identify appropriate mitigation measures. All efforts shall be taken to avoid or minimize harm to the property until the consultations and any required treatment are complete.

(2) When the properties are inadvertently encroached upon by the undertaking's activities and the undertaking has not been completed, all activities within 50 feet of the historic property shall cease until the CRM inspects the discovery. If the CRM determines that no effect or no adverse effects to historic properties have occurred (e.g. tree felled in archaeological site boundaries or vehicles driven on archaeological sites), SHPO and ACHP notifications are not required provided the CRM's recommendation are implemented as prescribed. Once these treatment measures are implemented, the case will be considered resolved. If the CRM's recommendations will not be implemented, the USMC shall consult with SHPO on effects and possible resolution and with ACHP and Invited Signatories as appropriate if an adverse effect has occurred.

(3) If consultation under this stipulation (V) determines that an adverse effect has occurred, the USMC will then consult with the other consulting parties or Indian tribes as appropriate to identify acceptable mitigation or treatment measures. The results of any Invited Signatories' consultation will be included in further consultation efforts with the SHPO and ACHP to resolve the inadvertent effects.

C. Post-review Discoveries for Undertakings Requiring Reconsideration

In instances where the involvement of the SHPO occurs after steps have been taken under the PA, the USMC shall be required to reconsider previous findings or determinations unless those findings and determinations are the subject of unresolved disputes or disagreements.

D. Post-review Discoveries Reporting Requirements

The USMC shall provide the SHPO, Invited Signatories, the ACHP, and other consulting parties with an interim report describing the undertaking and the circumstances surrounding the effect(s) within six months after the date of the initiation of consultation on the inadvertent discoveries and effect(s) . This report must include information regarding: the type of property affected; the property's NRHP status; the nature of the effect(s); the date the effect(s) was identified; the location of the property; the condition of the property; and any other pertinent information. The USMC shall include in the Annual Report all consultations conducted under Stipulations V.A through V.C and provide to the parties in accordance with Stipulation VII.A.

VI. TREATMENT OF HUMAN REMAINS OF NATIVE AMERICAN ORIGIN

The USMC shall ensure that the appropriate and respectful disposition of any human remains and associated funerary objects of Native American origin encountered during any action subject to this PA complies with § 3(d)(2) of NAGPRA and its implementing regulations codified at 43 CFR Part 10. The USMC will implement MCB Camp Pendleton's NAGPRA Comprehensive Agreement.

VII. SUBMISSION OF REPORTS

A. USMC shall submit Annual Reports to the SHPO, ACHP, and Invited Signatories, each year on or before December 1st. If USMC is unable to submit the Annual Report by this date, they shall notify the SHPO and negotiate a mutually acceptable delivery date. Failure to meet the negotiated date can result in termination of this PA. Redacted copies of the Annual Report will be available for public review excluding information that may be withheld in accordance with Section 304 of the NHPA and Section 9 of the ARPA. USMC shall also submit Quarterly Reports to Invited Signatories for each current fiscal year on or before December 31st, March 31st, July 31st, and September 30th. The content of these Quarterly Reports will be the same as the Annual Report (Stipulation VII.B).

B. At a minimum the Annual Report shall include:

(1) A description of all undertakings implemented pursuant to this PA during the preceding federal fiscal year (1 October through 30 September), including assumptions of National Register eligibility for historic properties and their qualifying characteristics, and the Standard Resource Protection Measures applied to each undertaking;

(2) A summary of all studies conducted for undertakings covered by the PA for the preceding fiscal year, including information regarding:

(a) The types of undertakings for which studies occurred;

(b) Results of all survey and identification efforts (e.g., acres surveyed, newly recorded and updated historic properties), including those where no historic properties were identified within an undertaking's APE;

(3) All undertakings whose APE was adequately covered by previous survey;

(4) All exempt undertakings included under Section II Screened Exemptions of Attachment C;

(5) Management measures employed to protect any identified historic properties;

(6) Post-review discoveries and findings from inspection and monitoring efforts;

(7) Consultation with interested persons or any pertinent results obtained from public notification and participation processes described under Stipulation IX; and

(8) Submission of the SRs and post-review discoveries to the South Coastal Information Center or a proposed schedule for submission.

(9) A description of actions taken in compliance with Section 110 of NHPA, particularly with regard to evaluation, but also in areas of identification, nomination, interpretation, preservation, enhancement, public participation, data management and dissemination, and protection.

C. SRs prepared for each undertaking implemented under the provisions of this PA as described in Stipulation III.B.(4), shall be made available for review upon request of the SHPO. The SHPO may request a review of any

or all subject SRs and USMC shall provide the requested SRs to the SHPO within 15 calendar days of receipt of a request.

VIII. NATIVE AMERICAN CONSULTATION

A. The USMC has consulted with interested Tribes regarding the streamlined Section 106 process realized through the implementation of this PA including Exempt Undertakings (Attachment C) and Standard Resource Protection Measures (Attachment D) for historic properties. The USMC, will continue to consult with the Indian tribes on a government-to-government basis as described in Attachment F, and will afford the Tribes, should the Tribes so desire, with the opportunity to participate in the implementation of the PA and of the undertakings as described in Attachment F. Such participation may include, but is not necessarily limited to, monitoring during any archaeological fieldwork or implementation of the undertaking as prescribed in Stipulations III and IV and during implementation of the undertakings.

B. If USMC determines that certain proposed undertakings would likely have effects on historic properties or Traditional Cultural Properties (TCP) as defined by National Register Bulletin 38 as significant to Indian tribes, based on known information or as requested by federally recognized Tribes or are controversial, those undertakings shall be excluded from implementation under the provisions of this PA. Compliance with Section 106 of the NHPA for these undertakings will follow 36 CFR Part 800.

IX. PUBLIC PARTICIPATION

USMC shall use the public notification process embodied in NEPA (40 CFR 1506.6) and detailed in Attachment E to fulfill the public involvement requirements of 36 CFR Part 800 for the undertakings covered by this PA. This provision does not negate government-to-government consultation requirements between USMC and federally recognized Tribes. Interested persons shall be afforded an opportunity to comment on the manner in which the effects of undertakings implemented under the provisions of this PA are taken into account through public notices included in the NEPA process. USMC's policy and procedures for implementing NEPA include public notification and involvement of interested persons, beginning at the earliest stages of planning an undertaking, during the environmental analysis period and after a decision is made.

X. COORDINATION WITH OTHER FEDERAL AGENCIES

Where the USMC acts as lead agency on behalf of other Federal agencies for an undertaking that may have effects within the boundaries of MCIWEST-MCB Camp Pendleton, the USMC may use this PA. Where USMC proposes an undertaking that may have effects beyond the boundaries of MCIWEST-MCB Camp Pendleton, the USMC shall comply with 36 CFR Part 800.

XI. EMERGENCY PROCEDURES

A. In the case of an emergency, as defined in 36 CFR Part 800.12(a) as a disaster or emergency declared by the President of the United States or by the Governor of California, or other immediate threats to life or property as determined by the Base Commander, the USMC shall perform those actions reasonably necessary, using industry standard methods, to protect cultural resources, with on-site monitoring by staff meeting the Secretary of the Interior's Professional Qualifications without consultation. Where possible, such emergency measures shall be undertaken in a manner that is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties. This emergency provision is limited to work initiated within 30 calendar days of an emergency.

B. If emergency action is required and undertaken, USMC shall notify the SHPO, Invited Signatories, and the ACHP, within 48 hours through phone/email of the need for said emergency action. As part of the notification, USMC shall provide a plan to address the emergency to each of the Signatory parties. The SHPO, Invited Signatories, and ACHP shall have ten (10) days to review and comment on the plan to address the emergency.

XII. SECTION 110, ARPA, AND ICRMP RESPONSIBILITIES

A. The USMC shall demonstrate that it is meeting its compliance responsibilities for Section 110 of the NHPA by the following:

(1) USMC will update its inventory of cultural resources data as available through GIS and ensure that the confidentiality of resource location information is protected. The USMC will complete this update annually.

(2) USMC will plan, program, and implement stewardship projects for systematic archaeological surveys until 100% survey coverage is obtained at adequate level for all lands available for survey on MCIWEST-MCB Camp Pendleton (Defense Installation Strategic Plan 2007 or latest version). The USMC will demonstrate progress towards 100% survey coverage annually.

(3) USMC will plan, program, and implement stewardship projects to evaluate all potential historic properties against the criteria for listing on the National Register of Historic Places (36 CFR § 60.4). Progress towards 100% evaluation of all potential historic properties needs to be completed annually.

(4) USMC will plan, program, and implement stewardship projects to annually monitor and assess archaeological site conditions in accordance with the Conditions Assessment, Site Monitoring, and Effect Treatment (CASMET) Program. Archaeological sites included in this program will be assessed annually.

(5) USMC will plan, program, and implement stewardship projects for treatment of historic properties to preserve and stabilize those properties threatened by decay, erosion, and other forms of degradation. This requirement will be completed on an as needed basis and prioritized according to the severity of the threat.

(6) USMC will plan, program, and ensure that all archaeological collections and associated records are curated in accordance with 36 CFR Part 79. This requirement will be completed annually.

(7) USMC will consult and coordinate with Indian tribes on a government-to-government basis in accordance with DODI 4710.02 and MCO P5090.2A CH 3 (or latest version) and conduct tribal consultation as described in Stipulation VIII and Attachment F. Any non-federally recognized tribes will be identified as other consulting parties as defined under 36 CFR 800.2(c)(5).

B. The USMC shall review the Installation's ICRMP annually (through an internal self-assessment conducted annually). The USMC will also update the Installation's ICRMP every 5 years and include the specified content in accordance with DoDI 4715.16, MCO P5090.2 Ch 2 (or latest version), and HQMC Guidance for Completion of an ICRMP Update (2009 or latest version). ICRMP updates will be submitted to SHPO for review and comment. SHPO has 45 calendars from receipt of an ICRMP update to provide comments. If SHPO does not provide comments during this review period, the Marine Corps can proceed to finalize the update of the ICRMP. The USMC shall work on these commitments pending the availability of funding. Progress towards Section 110 compliance and ARPA may also be demonstrated in some of the following ways:

(1) Nomination(s) to the NRHP;

(2) An established program for identifying and evaluating the eligibility of historic properties, including;

(a) Development of an action plan for evaluations containing objectives, annual goals, procedures, and time frames;

(b) With SHPO concurrence, development of specific approaches to evaluation of properties or classes of resources (e.g., thematic studies, multiple property studies);

(3) Implementation of an ARPA monitoring program in areas where site vandalism, destruction, and/or artifact theft are a problem;

(4) The USMC shall develop an environmental education and cultural resource awareness program to broaden the exposure of base personnel, staff and the public about heritage values, the fragile quality of historic properties, and the importance of preserving them. The Invited Signatories shall be given the opportunity to participate in the development and implementation of cultural resource awareness activities under this provision. This program will be accomplished by the CRMP through development and incorporation of a public outreach plan as part of the Installation's ICRMP update. The outreach plan will first identify internal and external target audiences as well as identify cultural resources themes that will focus interpretation and education materials on specific topics which are most important to the target audience. A public outreach efforts including a Cultural Resources webpage as part of the official Installation Marine Corps public website will be part of this program. The public outreach plan will identify and recommend various interpretation and education methods including heritage tourism and heritage education and seek partnerships and cooperative PAs. This plan will include a 5-year implementation strategy with goals and objectives, identify specific actions needed to achieve these goals, and prioritize and evaluate future decisions on public outreach;

(5) A program of cultural resource interpretation, documented through an interpretive plan, interpretive signs or exhibits, guided walks, brochures, and/or other means. Tribes will be consulted regarding participation in the interpretation program;

(6) A research program focusing on the evaluation, interpretation, treatment, preservation, and/or protection of historic properties, evidenced through cooperative agreements, partnerships, research reports, treatment plans, presentation or publication of professional papers;

(7) Contributions to regional and state cultural resource planning efforts, as a member of planning teams or committees;

(8) A record of regular training and enhancement of professional skills for the Cultural Resource Manager, including attendance at professional meetings, training, educational programs, and development of professional skills opportunities.

XIII. ADMINISTRATIVE PROVISIONS

A. Professional Qualifications and Standards

(1) **Professional Qualifications.** The USMC shall ensure that all activities prescribed by Stipulations III, IV, V, VI, VII, VIII, and IX of this PA be conducted by, or under the direct supervision of, a person or persons meeting, at a minimum, the Secretary of the Interior's Professional Qualifications Standards in the discipline of archaeology (48 FR 44716) or other discipline as appropriate. In addition, all tribal monitors participating in the undertakings shall be designated as monitors due to their specialized knowledge in religious and cultural significance for the Invited Signatories and the tribes that they represent.

(2) **Documentation Standards.** The USMC shall ensure that documentation prepared in fulfillment of the stipulations of this PA is consistent with the *Secretary of the Interior's Standards and Guidelines: Archeology and Historic Preservation [As Amended and Annotated]* (48 FR 44716), the *Secretary of the Interior's Guidelines for Archaeological Documentation* (48 FR 44716), and the *Secretary of the Interior's Standards for Archaeological Documentation* (48 FR 44716), the California Office of Historic Preservation's December 1989 *Archaeological Resource Management Reports (ARMR): Recommended Contents and Format* (Preservation Planning Bulletin No. 4[a]) or latest revisions of any of the aforementioned documents.

(3) **Curation and Curation Standards.** The USMC shall ensure that, to the extent that it does not conflict with § 3(d) (2) of the NAGPRA and its implementing regulations codified at 43 CFR Part 10, curation of materials and records resulting from the activities prescribed by stipulations III, IV, V, VI, VII, VIII, and IX of this PA complies with 36 CFR Part 79.

B. Confidentiality

(1) Confidentiality regarding the nature and location of archaeological sites covered by this PA or any of its attachments shall be maintained on a "need to know" basis limited to the Base Commander (or his designee), MCIWEST-MCB Camp Pendleton; ACHP; SHPO; designated representatives of the Invited Signatories, and archaeological contractors involved in the undertakings

(2) The USMC shall ensure that all sensitive information relating to a historic property (as defined in Section 301(5) of the NHPA), a traditional cultural property (as defined in the Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act), and sacred objects,

items of cultural patrimony, human remains and associated funerary objects (as defined in Section 2 of NAGPRA) is protected to the fullest extent available under law.

(3) All parties to this PA shall safeguard information about the nature and location of archeological, historic, and traditional cultural properties, and not reveal that information to any additional parties, as appropriate in accordance with Section 304 of the NHPA and Section 9 of the Archaeological Resources Protection Act (ARPA).

XIV. RESOLVING OBJECTIONS

A. Should any party to this PA object to the manner in which the proposed terms of this PA are implemented, to any action carried out or proposed with respect to implementation of the PA (other than the undertaking itself) or to any documentation prepared in accordance with, and subject to, the terms of this PA, the USMC shall immediately notify the other parties of the objection and consult with the objecting party, all other PA parties, and any Tribes listed on page one, paragraph seven that are not PA parties, for no more than 30 days to resolve the objection. The USMC shall reasonably determine when this consultation will commence. If the USMC determines that the objection cannot be resolved through consultation, the USMC shall forward all documentation relevant to the objection to the ACHP, including the USMC's proposed response to the objection, with the expectation that the ACHP will, within thirty (30) days after receipt of such documentation:

(1) Inform the USMC that the ACHP concurs in the USMC's proposed response to the objection, whereupon the USMC will respond to the objection accordingly; or

(2) Provide the USMC with recommendations, which the USMC will consider in reaching a final decision regarding its response to the objection.

B. Should the ACHP not exercise one of the above options within 30 days after receipt of all pertinent documentation, the USMC may move forward with its proposed response to the objection.

C. The USMC shall consider any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection. USMC's responsibility to carry out all actions under this PA that are not the subject of the objection will remain unchanged.

D. At any time during implementation of the measures stipulated in this PA, should an objection pertaining to such implementation be raised by a member of the public, the USMC shall notify the parties to the PA in writing of the objection and take the objection into consideration. The USMC shall consult with the objecting party and, if the USMC determines appropriate, with the CA SHPO and other PA parties for no more than 30 days. Within ten (10) days following closure of this consultation period, the USMC will render a decision regarding the objection and will notify all consulting parties of its decision in writing. In reaching its decision, the USMC will consider any comments from the consulting parties regarding the objection, including the objecting party. The USMC's decision regarding the resolution of the objection will be final.

E. The USMC shall provide the SHPO, the Tribes, and the ACHP, when ACHP comments have been issued hereunder, and any parties that have objected pursuant to Stipulation XIV.A with a copy of its final written decision regarding any objection addressed pursuant to this stipulation.

F. The USMC may authorize any action subject to objection under this stipulation to proceed after the objection has been resolved in accordance with the terms of this stipulation.

XV. AMENDMENTS, NON-COMPLIANCE AND TERMINATION

A. If any Signatory or Invited Signatory believes that the terms of this PA are not being honored or cannot be carried out, or that an amendment to its terms should be made, that Signatory or Invited Signatory will immediately consult with the other Signatories to consider and develop amendments to 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.

B. If this PA is not amended as provided for in this stipulation, or should any Signatory wish to terminate the PA, any Signatory may terminate this PA by notifying the other Signatories in writing and providing a written explanation of the reasons for termination. The PA shall be terminated when the final notice of termination is received by all Signatories.

C. Should this PA be terminated, and before any work continuing on its undertakings, the USMC shall consult in accordance with 36 CFR 800.14(b) to develop a new PA or follow 36 CFR Part 800 to review all its undertakings.

XVI. DURATION OF THE PA

A. This PA shall be in effect for six (6) years from the date of its execution. The signatories shall consult to reconsider the terms of this PA one year before its expiration. The purpose of such a review shall be to determine whether the terms of this agreement have been satisfactorily implemented and whether the Signatories (USMC, the SHPO and ACHP) can agree to extend this PA. Reconsideration may include continuation of the PA as originally executed, as amended, or termination.

B. Unless amended as stated above, at midnight of the seventh anniversary date of its execution, this PA shall expire. Should the PA not be extended and should no successor agreement document be in place at the time of expiration, USMC shall comply with 36 CFR Part 800 for all its undertakings.

C. If the administration of all or part of the Installation is transferred to another branch of the military or another government agency, or if the property is disposed of by the United States, this PA and the ICRMP shall be considered null and void and shall have no other force or effect. If part of the Installation has not been transferred and remains under USMC control, that part of the Installation shall be subject to this PA for the duration of this PA. For land acquisitions or transfer of administrative control to USMC for this Installation, the newly acquired or administratively controlled land could be subject to this PA through an amendment to its terms.

XVII. ANTI-DEFICIENCY ACT

The USMC 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. The USMC will make reasonable and good faith efforts to secure the necessary funds to implement this PA in its entirety. If compliance with the Anti-Deficiency Act alters or impairs the USMC's ability to implement the stipulations of this agreement, the USMC will consult in accordance with the amendment and terminations procedures found at Stipulation XV of this agreement.

XVIII. EFFECTIVE DATE

This PA shall take effect on the date that it has been fully executed by USMC, the SHPO, and the ACHP.

EXECUTION of this PA by USMC, the SHPO, ACHP, and implementation of its terms, evidences that USMC has taken into account the effects of these undertakings on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORY PARTIES:

THE UNITED STATES MARINE CORPS

_____ DATE: 5 SEPT 2014

Brigadier General Edward D. Banta
Commanding General, MCIWEST-MCB Camp Pendleton

STATE OF CALIFORNIA, OFFICE OF HISTORIC PRESERVATION

_____ DATE: 12-9-2014

Carol Roland-Nawi, PhD
State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

_____ DATE: 12/18/14

John M. Fowler
Executive Director

INVITED SIGNATORIES:

DATE: 11/13/14
Mark Macarro
Chairman, Pechanga Band of Luiseño Indians

DATE: 11/5/14
Randall Majel
Chairman, Pauma Band of Mission Indians

DATE: 11-24-14
Bo Mazzetti
Chairperson, Rincon Band of Luiseño Mission Indians

DATE: 11/26/14
Robert Smith
Chairman, Pala Band of Mission Indians

DATE: 12-4-14
LaVonne Peck
Chairperson, La Jolla Band of Mission Indians

DATE:
Rosemary Morillo
Chairperson, Soboba Band of Mission Indians

CONCURRING PARTIES:

DATE: 10-2-14
Mel Vernon
Captain, San Luis Rey Band of Mission Indians

DATE: 11-24-2014
David Belardes
Chairman, Juaneño Band of Mission Indians – Acjachemen Nation

DATE: 9/25/14
Rudolph Reyes
Chairman, Juaneño Band of Mission Indians

DATE: 9/25/14
Teresa Romero
Chairwoman, Juaneño Band of Mission Indians – Acjachemen Nation

DATE: 9/25/14
Sandra Pentney
for President, San Diego County Archaeological Society

ATTACHMENT A: INSTALLATION MAP

ATTACHMENT B

DEFINITIONS

The following definitions apply to this PA in addition to those defined in 36 CFR § 800.16 and MCO P5090.2A CH 3:

1. **Emergency Undertaking** is any undertaking on the Installation that the Installation Commander determines must be initiated within 30 days of a disaster (including human-caused fire) or national security emergency to avoid an imminent threat to human life or major property damage, as defined in 36 CFR 800.12.

2. **Exempt Undertaking** is an undertaking that is exempt from further review or consultation under terms of this PA, pursuant to Stipulation III.E, and specifically listed in Attachment C.

3. **Intensive Survey** is a systematic, detailed examination of an area designed to gather information about the number, location, condition, and distribution of historic properties within an undertaking's APE and may include subsurface investigation when the ground surface is obscured in archaeologically sensitive area.

4. **Cultural Resources Manager (CRM)** is the position at MCIWEST-MCB Camp Pendleton that is responsible for directing, planning, and administering the Installation's complex and multifaceted Cultural Resources Management Program (CRMP); providing professional and technical advice to Installation staff and command; directing the CRMP internally, and with external agencies, organizations, and the public; and planning and developing the Installation's cultural resource inventory, evaluation, and enhancement program. All identification and evaluation tasks covered under this PA will be carried out by professionals meeting the *Secretary of the Interior's Professional Qualification Standards* (48 FR 44716).

5. **Reconnaissance survey** is a non-intensive inventory strategy employed when gathering data to refine a historic context; checks on presence or absence of expected property types; estimates distribution of historic properties in a given area; provides general understanding of properties in an area; may require more detailed survey to meet specific needs.

6. **Tribal Monitors** are monitors designated by tribes, which are Invited Signatories, and have specialized knowledge in religious and cultural significance for the Invited Signatories that they represent.

ATTACHMENT C

EXEMPT UNDERTAKINGS

I. UNSCREENED EXEMPTIONS

The following classes of undertakings are considered exempt from further review or consultation under the terms of this PA, as defined in Attachment B, and pursuant to Stipulation III.E. MCIWEST-MCB Camp Pendleton has consulted with SHPO, ACHP, Invited Signatories, and other consulting parties on the classes of undertaking identified as unscreened exempt undertakings. Unscreened exemptions are those classes of undertakings that will not potentially affect historic properties in accordance with this PA. The CRM shall determine if an undertaking falls within a class of unscreened exemptions listed in this attachment (Section I A-F). Unscreened exemptions are not to be reported in the annual report. Classes of exempt undertakings are:

A. Normal training exercises that either occur in previously cleared training areas or do not include ground disturbance and are conducted in accordance with the Range and Training Area Operating Procedures (MCIWEST-MCB CAMPENO 3500.1 CH1). This document contains restrictions regarding the identification and avoidance of cultural resources, including archaeological sites, during training exercises. Range and training area users are required to have the most current version of the base Environmental Operations Map. This map identifies all environmental constraints on base. Archaeological sites are shown as Restricted Activity Areas that shall be avoided in training exercises with the exception of foot traffic and traversing sites via established roads;

B. Easement acquisitions in which historic properties are received in the acquisition;

C. Land acquisitions or transfers of administrative control to USMC, where the historic properties are received;

D. Transfer of use authorization from one authority to another when an action such as a boundary adjustment necessitates changing a right-of-way or easement from one authority to another;

E. Replacement of non-historic signposts and monuments, when no new ground disturbance is involved;

F. Broadcast seeding and mulching for establishment of vegetation that does not include earth disturbance.

II. SCREENED EXEMPTIONS

The MCIWEST-MCB Camp Pendleton CRM shall determine whether a specific undertaking subsumed in the following classes of undertakings may be treated as exempt under this PA. If the CRM determines that an undertaking may be treated as exempt, then the undertaking shall be considered exempt under this PA. If the CRM determines that an undertaking will affect, will continue an on-going effect, or may potentially affect historic properties, the undertaking shall not be considered exempt and shall be subject to the provisions of this PA under Stipulations III.D and IV) or 36 CFR Part 800. Screened exemptions are to be reported in the MCIWEST-MCB Camp Pendleton Annual Report. Screened undertakings may include:

A. Land use-planning activities that do not authorize specific undertakings (e.g., Land Management Plans and Cultural Landscape Plans)

B. Activities in which the APE is entirely within obviously disturbed contexts, and the disturbance is such that the presence of historic properties is considered highly unlikely;

C. Activities that do not involve ground or surface disturbance (e.g., repaving of existing roads) and that do not have the potential to affect access to or use of resources by Native Americans;

D. Issuance or granting of permits, easements, rights-of-way, or leases that do not authorize surface or resource disturbance, and that do not have the potential to affect access to or use of resources by Native Americans;

E. Application of pesticides and herbicides proven to not have the potential to affect access to or use of resources by Native American traditional religion, arts and medicine practitioners;

F. Work within the perimeter of existing material borrow pits;

G. Routine road maintenance and resurfacing where work is confined to previously maintained surfaces, ditches, culverts, and cut and fill slopes where there are no known historic properties or historic properties would not be affected because proposed work is clearly within a disturbed context;

H. Felling of hazardous trees within recreation areas or other areas for health and safety reasons provided they are left in place or cut up for firewood;

I. Maintenance or replacement in kind of existing nonstructural facilities that does not involve new or additional ground disturbance (e.g., maintenance or replacement of road guards, gates, fences, guardrails, barriers, traffic control devices, light fixtures, curbs, sidewalks, etc.);

J. After CRM screening for potential Consideration Criterion G eligibility, activities or alterations involving facilities or structures that are less than 50 years of age and that will not become 50 years of age within five years of the date of execution of this agreement;

J. Maintenance that does not add to nor change the configuration of the existing electronic communication site involving no ground disturbance or impacts to known historic properties;

K. Activities that involve less than one cubic meter of cumulative ground disturbance per acre.

L. Controlled burns, hazard fuel reductions, and fire school burns that reduce the potential for wildland fires provided that a resource advisor is present with current cultural resource maps to ensure avoidance of known cultural resources during these types of undertakings. Post-burn surveys will be conducted to identify previously unknown cultural resources and document any inadvertent effects to historic properties.

ATTACHMENT D

STANDARD RESOURCE PROTECTION MEASURES

The following protection measures shall be implemented as appropriate for all subject undertakings managed under this PA. When these protection measures are effectively applied, USMC will have taken into account the direct and indirect effects of these undertakings on historic properties.

I. AVOIDANCE OF HISTORIC PROPERTIES

At a minimum, activities associated with an undertaking shall be excluded from areas where historic properties occur.

A. All proposed activities, facilities, improvements, and disturbances shall avoid direct and indirect effects to historic properties. Avoidance means that no activities associated with an undertaking that may affect historic properties, unless specifically identified in this PA, shall occur within an historic property's boundaries, including any defined buffer zones. Portions of undertakings may need to be modified, redesigned, or eliminated to properly avoid historic properties.

(1) For historic properties eligible for the NRHP under 36 CFR 60.4(d), archaeological sites, the physical demarcation of historic properties, and their exclusion from an undertaking's proposed activity areas is a minimum requirement.

(2) Physical demarcation and avoidance during the implementation of an undertaking is also required for other historic properties eligible for the NRHP under other criteria. Minimum protection requirements shall also include the use of buffer zones to extend the protection area around historic properties where setting is an important attribute, and the proposed activity may affect the setting's quality.

(3) Linear sites may be crossed or bounded in areas where their features or characteristics clearly lack historic integrity, i.e., where those portions (taking into account any buffer zones related to setting) do not contribute to site eligibility or values.

B. All historic properties within an APE shall be clearly delineated before implementing any associated activities that have the potential to affect historic properties.

(1) Historic property boundaries shall be delineated with coded flagging or other effective marking. Activities within historic property boundaries will be prohibited with the exception of using developed USMC transportation

systems when the CRM recommends that such use is consistent with the terms and purposes of this agreement.

(2) Historic property location and boundary marking information shall be conveyed to appropriate USMC administrators or employees responsible for implementation so pertinent information can be incorporated into planning and implementation documents and contracts (e.g., as clauses or stipulations in permits).

C. Buffer zones may be established to ensure added protection where the CRM or other professional archaeologist or historian determines that they are necessary. The use of buffer zones in conjunction with other avoidance measures is particularly applicable where setting contributes to the property's eligibility under 36 CFR 60.4, or where it may be an important attribute of some types of historic properties (e.g., historic buildings or structures; historic or cultural properties of religious or cultural significance to Invited Signatories). The size of buffer zones needs to be determined by the professional archaeologist or historian on a case-by-case basis. Landscape architects may be consulted to determine appropriate viewsheds for historic resources. Invited Signatories shall be consulted when the use or size of protective buffers for Native American traditional or cultural properties needs to be determined.

D. When any changes in proposed activities are necessary to avoid historic properties (e.g., project modifications, redesign, or elimination; removing old or confusing project markings or engineering stakes within site boundaries; or revising maps or changing specifications), these changes shall be completed before initiating any activities.

E. Monitoring may be used to enhance the effectiveness of protection measures in conjunction with other measures (Stipulation IV) .The results of any monitoring inspections shall be included in the annual report (Stipulation VII.B.(6)).

II. SPECIAL CIRCUMSTANCES

The CRM may provide written approval for the work specified in this section within the boundaries of historic properties and under carefully controlled conditions. All activities performed under Standard Resource Protection Measures, Section II Special Circumstances of this attachment (Attachment D) must be documented in SRs, pursuant to this PA. No activities approved for Standard Resource Protection Measures under Section II Special Circumstances may be performed as exemptions described in Attachment C Exempt Undertakings.

A. Specified activities that may be approved under the following conditions:

1) Felling and removal of hazard, windthrow, and salvage trees within historic properties under the following conditions:

(a) Felled trees may be removed using **only** the following techniques:

(i) hand bucking and carrying,

(ii) rubber tired loader only when used outside the historic property boundary,

(iii) crane/self loader when staging is outside the historic property boundaries,

(iv) helicopter

(b) Equipment operators shall be briefed on the need to reduce ground disturbances (e.g., minimizing turns);

(c) No skidded or tracked equipment shall be allowed within historic property boundaries; and

(d) All such activities must be monitored by a qualified cultural resource team consisting of a qualified professional archaeologist and Tribal monitor at the time of tree removal.

(2) Placement of foreign, non-archaeological material (e.g., padding or filter cloth) over an archaeological deposit to prevent surface and subsurface impacts. Such foreign material may be used on an archaeological deposit under the following conditions:

(a) Engineers will design the foreign material depth to acceptable professional standards;

(b) Engineers will design the foreign material use to assure that there will be no surface or subsurface impacts to the archaeological deposit;

(c) The foreign material must be easily distinguished from and cannot mix with the underlying archaeological deposit;

(d) The foreign material must be removable should research or other management need require access to the archaeological deposit at a later date; and

(e) Concerns derived through consultation with Invited Signatories or other public concerns about the use of the foreign material will be addressed before use.

B. Any such specified activities within the boundaries of historic properties shall be reviewed during the Annual Report to assess continuation of or need for changes in the protection measure.

III. APPROVAL OF SPECIAL CIRCUMSTANCES

The CRM shall provide written approval (project approval letter required) for the specific activities listed in section III.C of this attachment (Attachment D) involving routine repair and maintenance of historic structures.

A. USMC shall emphasize the repair of existing elements, rather than in-kind replacement, whenever practicable (i.e., when more economical or when materials and skills are readily available).

(1) When applying these protection measures, the CRM shall verify that the proposed work conforms to the recommendations set forth in the *Secretary of the Interior's Standards for Rehabilitation, and Guidelines for Rehabilitating Historic Buildings.*

(2) Repair or in-kind replacement treatments shall apply only to historic properties which have maintenance and repair plans that have been approved by SHPO and are consistent with those presented in these approved plans for the historic fabric, materials, workmanship, or design of a structure's distinctive elements (e.g., foundations or footings, walls, porches, etc. [except roofs and windows] .

(3) Where proposed repair or in-kind replacement, or other historic preservation activities, may have an effect on a structure's character defining features or other distinctive elements (i.e., affecting original fabric, materials, workmanship, or design) without SHPO approved maintenance and repair plans:

a) Case-by-case consultation pursuant to 36 CFR Part 800 is required;

b) Persons meeting the Secretary of the Interior's Standards and Guidelines for Professional Qualifications for historian, historic archaeologist, architect, historic architect, landscape architect, architectural historian, or restoration engineer, must review, supervise, or complete the project, as preservation needs dictate.

B. All activities approved for the below listed protection measures shall be documented in the Installation's Annual Report.

C. Routine Repair and Maintenance Protection Measures. This measure is only for historic properties which have maintenance and repair plans that have been approved by SHPO.

(1) Structural Elements

(a) For historic properties that have maintenance and repair plans that have been approved by SHPO, repair or replacement of siding, trim, or hardware, when done in-kind to match historic material, design, and color.

(b) Repair of window frames or shutters by patching, splicing, consolidating, or otherwise reinforcing or replacing in-kind those parts and materials that are either extensively deteriorated or are missing. The same historic configuration of panes shall be retained.

(c) For historic properties which have maintenance and repair plans that have been approved by SHPO, replacement of window frames to match historic material and design. The same historic configuration of panes shall be retained.

(d) Replacement of glass, when done in-kind to match historic form and design. Window panes may be double or triple glazed as long as the glazing is clear and replacement does not alter the historic window form. This excludes the use of tinted glass, use of which requires consultation.

(e) Maintenance of features, such as frames, paneled or decorated jambs and moldings, through appropriate surface treatments such as cleaning, rust removal, limited paint removal, and reapplication of protective coating systems using historic color and texture.

(f) Repair or replacement of doors, when done in-kind to match historic material and form.

(g) Repair or replacement of porches, cornices, and stairs when done in-kind or to match historic material and design, and the style, materials, and character of the structure.

(h) Repair or replacement of foundations when the work does not change the structure's historic appearance or subsurface.

(i) For historic properties which have maintenance and repair plans that have been approved by SHPO, repair or replacement of roofs or parts of roofs that are deteriorated, when done in-kind or where

matching historic material and design. In areas of high fire danger, fire retardant roofing is allowed. If fire retardant materials are used, the materials must match the original roofing color and be as compatible with the design and character of the building as possible. Adequate anchorage for roofing material to guard against wind damage and moisture penetration shall be provided.

(2) Surfaces:

(a) Painting interior or exterior surfaces, when the new paint matches the existing or historic color. If the existing paint color is not desirable and the historic color is not known, the color should be in keeping with historic color schemes for nearby or similar structures. Damaged or deteriorated paint may be removed to the next sound layer by hand-scraping or hand-sanding. Use of abrasive methods, such as sandblasting, is not covered by this treatment.

(b) Replacement or installation of caulking and weather-stripping around windows, doors, walls, and roofs.

(c) Removal of hazardous materials or surfaces such as asbestos and lead paint, and replacing them with nontoxic materials that resemble the historic surfaces as closely as possible.

(3) Interior Elements:

(a) Replacement of modern appliances and fixtures (e.g., ranges, refrigerators, and bathroom fixtures). When associated historic cabinetry is present, and the interior, in general, retains its historic appearance, the cabinetry will be retained.

(b) Repair or replacement of floor coverings, when done in-kind to match historic material and design.

(c) Rendering inoperable, but not removing, gas lighting fixtures, when another inconspicuous light source is used.

(d) Floor, wall, or ceiling refinishing in-kind.

(4) Utility Systems:

(a) Installation of mechanical equipment that does not affect the visual integrity or exterior fabric of the building.

(b) Replacement, removal, or upgrading of electrical wiring.

(c) Replacement of floor furnaces and floor registers with surface-mounted wall heating systems or hot water appliances. Repairs to the floors will be done with in-kind materials and design. If the replacement is of a historic property's character defining feature, then the replacement will only be authorized if it is consistent with a SHPO approved maintenance and repair plan for that historic property.

(d) Repair, replacement, removal, or upgrading of water and plumbing systems when historic features, such as hand pumps, are left in place. Historic plumbing fixtures should be retained and used if possible.

(e) Replacement of metal water tanks with fiberglass, when the color and texture of the existing or historic tank are replicated or when landscaping camouflages the replacement tank. Redwood tanks with plastic inserts are also feasible. Construction of a structure around a tank to control temperature is allowed when landscaping camouflages the change.

(f) Replacement of and enlarging liquid propane gas systems, if tanks are screened with landscaping materials.

(g) Replacement of communications equipment, when the same size, shape, and general configuration are retained, excluding large antenna and communications dishes.

(h) Replacement of lightning rod wiring with new copper wire.

(5) Surrounding Features (see Ground Disturbing Activities, Section 7):

(a) Replacement of signs in-kind.

(b) Ongoing maintenance of immediately surrounding landscaping, including such modifications as removing hazardous vegetation, adding vegetation that blends with the historic landscape, or adding rocks to define paths, where not otherwise prohibited, so long as historic landscape characteristics are maintained.

(c) Installation of interpretive signs or rotational exhibit structures that are temporary (in place for 12 months or less), not attached to historic structures, and are sympathetic to the historic property. Signs should be constructed of materials and painted colors that harmonize with the historic property and its setting.

(d) Repair or replacement of driveways and walkways done in-kind to match existing or historic materials and design.

(e) Repair or replacement of fencing done in kind to match existing or historic material and design.

(f) Addition of a completely removable accessibility ramp which blends with the historic materials and style of the structure itself.

(g) Repair, replacement, or addition of exterior lighting that blends with the landscaping and style of the building.

(6) New Materials:

(a) Installation of dry insulation.

(b) Installation of fire or smoke detectors or burglar alarms.

(c) Installation of skirting over a structure's crawl space, if constructed or painted a color to match or blend with the structure.

(d) Installation of security systems or security devices, such as dead bolts, door locks, window latches, and door peepholes.

(7) Ground Disturbing Activities (where no known conflicts with other historic properties, e.g., prehistoric archaeological deposits, may exist):

(a) Excavations for repair or replacement of building footings or foundation work within two (2) feet of existing footings and foundations.

(b) Installation of utilities, such as sewer, water, or storm drains, electrical, gas, or leach lines, and septic tanks, where installation is restricted to specific areas previously disturbed by installation of these utilities.

(c) Tree planting or removal in areas that have been previously disturbed by these activities, including nursery beds and arboreta, provided historic landscaping is maintained.

ATTACHMENT E

PUBLIC PARTICIPATION

USMC will seek information and advice from state, local, and tribal governments, public and private organizations, Native Americans, and other interested persons likely to have knowledge of or concern about historic properties, as recommended in the Council's guidelines for 36 CFR Part 800 public consultation, Public Participation in Section 106 Review: A Guide for Agency Officials (1989), and incorporate such information into identification, evaluation, and treatment of historic properties. Participation of interested persons under 36 CFR Part 800 shall be coordinated with the public notification process of NEPA, consistent with NEPA regulations, 40 CFR 1506.6.

I. NEPA PUBLIC COMMENT PROCESS

USMC shall use the NEPA public notification and scoping process, as implemented through MCO P5090.2A CH3 and DoD Instruction 4710.35 to comply with 36 CFR Part 800 provisions for public notification, identification of interested persons, and public participation in decision-making. The NEPA scoping process affords interested persons the opportunity to comment on federal undertakings. These comments are taken into account as part of the NEPA decision.

A. Interested persons shall be notified of proposed undertakings through directed informational mailings of schedules of proposed actions. Schedules include all proposed undertakings with the potential to cause effects or significant impacts to cultural resources.

B. Schedules of proposed actions shall be submitted to identified interested persons, as described in Section II of this attachment, on a quarterly basis and include the following information about each proposed undertaking:

(1) Description, potential effects, and location;

(2) Estimated dates of public scoping and decision;

(3) Agency contact person;

(4) Process for receiving information;

(5) Status of environmental analysis; and

(6) Estimated implementation date.

C. Interested persons who have commented during the NEPA process receive notification of undertaking decisions.

D. If interested persons raise timely objections to or comments regarding specific undertakings, the USMC upon receiving the objections, shall follow the process pursuant to Stipulation XIV. Timely objections are those raised within the public notification and review procedures specified under NEPA regulations, 40 CFR 1506.6.

II. IDENTIFYING INTERESTED PERSONS

A. The NEPA process for public notification will be used to identify persons interested in how effects of undertakings on historic properties are being taken into account pursuant to this PA.

B. Interested persons shall include at a minimum:

(1) Individuals, groups, or organizations interested in undertakings implemented under this PA;

(2) Adjacent local, state, and tribal governments;

(3) Adjacent Native American communities including non-federally recognized tribes;

(4) Native American groups or individuals known to have interests in historic properties; and

(5) Others who notify USMC of their interest in receiving information about particular undertakings or historic properties.

ATTACHMENT F

TRIBAL CONSULTATION

USMC will seek information and advice from tribal governments through government-to-government consultation. The USMC will provide the Indian tribe a reasonable opportunity to identify its concerns about historic properties as well as identification and evaluation of historic properties including those of traditional religious and cultural importance and an undertaking's potential effects on such properties and measures to avoid adverse effects.

I. TRIBAL CONSULTATION PROTOCOL

For this Installation, the USMC has an established relationship with the tribes who have been invited to sign this PA. To facilitate the consultation process, consultations, such as those covered by this PA, are delegated to the Installation CRM by the Base Commander. Tribal consultation will be conducted through meetings, submittal of reports, email, phone conversations, and official correspondence.

A. Quarterly Reports. USMC will prepare and submit Quarterly Reports summarizing all undertakings implemented within the quarter (a three-month period beginning 1 October through 30 September) and any planned undertakings for the following quarter. Tribes will be requested to provide comments within two weeks of receipt. The content of the Quarterly Report will be the same as the Annual Report as summarized in Stipulation VII.B of this PA.

B. Semi-Annual Consultation Meetings. Tribal consultation meetings with be held every six months (semi-annually) at a minimum. Meeting minutes will be taken and distributed with two weeks of the consultation meeting via email. If agreed to by the Invited Signatories, concurring parties of non-federally recognized tribes will also be invited to participate in these meetings.

C. Native American (Tribal) Monitoring. When an undertaking is determined to require monitoring: 1) due to the nature of the undertaking and the APE includes an archaeological sensitive area, as defined in Stipulation IV.D; or 2) requires implementation of protection measures, per Attachment D Standard Resource Protection Measures, to avoid adverse effect; and/or 3) as a result of tribal consultation, monitoring will be required by a professional archaeologist and Native American (Tribal) monitor to avoid adverse effects or facilitate possible discovery of potential historic properties (post-review discovery).

D. Tribal Monitors. Tribal monitors are designated as monitors by tribes (Invited Signatories) due to their specialized knowledge in religious and cultural significance for the tribe that they represent.

II. NATIVE AMERICAN AND ETHNIC CONCERNS

USMC shall also ensure that information and concerns from Native Americans and persons from other ethnic groups are taken into consideration in the NEPA process when making decisions affecting historic properties identified with those groups.