

Fort Guijarros Museum Foundation
P.O. Box 23130
San Diego, CA 92193

Captain S.F. Adams
Commanding Officer
Department of the Navy
Naval Base Point Loma
140 Sylvester Road
San Diego, CA 92106-3521

May 1, 2012

Subject: Attachment to the Question (SHPO/External Stakeholder) Ser 00/054 and Response by the Fort Guijarros Museum Foundation

Thank you for the opportunity to comment on your questionnaire sent February 7, 2012. Given the problems associated with eviction from Naval Base Point Loma between verbal notification on November 10, 2012 and removal of our private property by December 31, 2012, we could not meet your February 17, 2012 deadline. The following are our responses to your questions.

Does the installation communicate with stakeholders as required?

Response: Naval Base Point Loma terminated its best line of communication with public stakeholders concerned with cultural resources. From 1996 through 2011 The US Navy and the Ft Guijarros Museum Foundation held a Cultural Resource Agreement in compliance with Section 110 of the National Historic Preservation Act. Termination of the agreement also eliminated access to the historical and archaeological records owned by the Fort Guijarros Museum Foundation and formerly housed in Building 127 at the Naval Base Point Loma. Elimination also terminated review of the archaeological records for Section 106 of the National Historic Preservation Act, and any stakeholder evaluation of construction impacts to National Register eligible properties on Naval Base Point Loma. Since reorganization to Navy Region Southwest in 1999 and recent combining of the formerly independent Environmental Office into Naval Facilities Engineering Command, communication with stakeholders dropped to an all time low.

For the first time since 1980, the base commanding officer failed to schedule a minimum 15-minute interview with the board chairman of the Fort Guijarros Museum Foundation to learn the Section 110 compliance program. Failure to communicate with the Fort Guijarros Museum Foundation and total reliance on Naval Facilities Engineering Command resulted in an inaccurate understanding of the 30-years of successful Section 110 programs provided at no cost to the United States Navy. Failure to carry on the Cultural Resource Agreement or to secure copies of privately owned materials would inevitably result in a complete breakdown and loss of stakeholder communication

threatening the survival of National Register eligible properties on Naval Base Point Loma.

Due to this recent programmatic modification at Naval Base Point Loma, there exists a severe conflict of interest within the Naval Facilities Engineering Command that threatens the survival of eligible National Register properties within the Base. Following a serious communication breakdown with Naval Facilities Engineering Command that threatened the 18th century ruins of Fort Guijarros, CA-SDI-12000, the chairman of the board of directors of the Fort Guijarros Museum Foundation brought this problem in 2009 to the attention of Captain Paul Marconi, former base commanding officer, and his executive officer. Captain Marconi responded with a luncheon meeting in his office to attempt to resolve the problem, but could not stop construction at Building 539.

Naval Facilities Engineering Command consistently designs construction projects that threaten National Register eligible properties on Naval Base Point Loma and consistently ignores stakeholder comments on federal undertakings. This included a failure to consult on-site (formerly in Building 127) evidentiary records owned by the Fort Guijarros Museum Foundation. Failure to consult with stakeholders or review field records concerning published field data on eligible National Register properties on Naval Base Point Loma has been deliberate by civilian employees of Naval Facilities Engineering Command and in non-compliance with Section 106 of the National Historic Preservation Act.

The best case in point to illustrate the damage caused by termination of the Cultural Resource Agreement and Section 106 and 110 compliance problems is the 2010 federal undertaking to extend the west side of Building 539 at the foot of Rosecrans Street on Naval Base Point Loma. This case illustrates the severe conflict of interest by Naval Facilities Command, who clearly places construction projects as a higher priority than Section 110 responsibilities and stakeholder communication. This is a case of the “fox guarding the henhouse.” In this case, Naval Facilities Engineering Command designed the extension of Building 539 without any communication with stakeholders or review of archaeological records managed by the Fort Guijarros Museum Foundation in Building 127. Those records included testing data, field drawings, photographs, and artifacts found within 30 centimeters of the undertaking construction. Naval Facilities Engineering Command has had a copy of the 1996 Archaeological Resources Protection Act application by the Fort Guijarros Museum Foundation to dig at that very location for known archaeological remains of the Spanish fort ruins. Copies of that application were also in the files at Building 127, yet civilian staff of Naval Facilities Engineering Command refused to consult those records, even when sitting on chairs in Building 127.

Throughout the design and approval process for the western extension of Building 539, Naval Facilities Engineering Command failed to notify stakeholders. Every attempt by the Fort Guijarros Museum Foundation to bring those records to their attention was rejected by Navy civilian staff. As noted, Navy personnel had in their possession the 1996 application documents that provide detailed records of what archaeology remains would be impacted by the undertaking. Navy civilian staff blocked all official attempts to

elevate this issue until the Fort Guijarros Museum Foundation telephoned the Executive Officer. In that telephone conversation, the chairman of the Fort Guijarros Museum Foundation reported the behavior of Naval Facilities Engineering Command staff member Rob Chichester to refuse to conduct stakeholder consultation, examine relevant records, and stonewall communication.

Refusal of Naval Facilities Engineering Command to communicate with stakeholders concerning the extension of Building 539 or review vital and relevant records housed in Building 127 violated Section 106 of the National Historic Preservation Act and one of the key purposes of the Cultural Resources Agreement. Instead, Navy civilian staff issued a fraudulent Finding of No Significant Impact (FONSI). When the Fort Guijarros Museum Foundation requested intervention by the California Office of Historic Preservation, Naval Facilities Engineering Command staff refused. Significant and eligible National Register archaeological ruins were impacted and are now covered by the western extension of Building 539.

The decision of Navy Region Southwest to suddenly and without warning on November 10, 2011 terminate the Cultural Resource Agreement with the Fort Guijarros Museum Foundation and direct removal of private property within 90-days terminated the only on-site Section 110 program to manage eligible National Register properties on Naval Base Point Loma. The disruptive damage of forced relocation has a ripple effect that will forever damage stakeholder relations throughout the San Diego region. What civilian stakeholder is going to trust the U.S. Navy to properly and objectively carry out Section 106 or 110 responsibilities in the future.

Records and assets owned by the Fort Guijarros Museum Foundation for the archaeological ruins of the 18th century Spanish fort and CA-SDI-12000 and the whaling station/lighthouse/Chinese fishing camp at CA-SDI-12953 had to be removed from Naval Base Point Loma within 90-days of the November 10, 2012 notification meeting with Captain S.F. Adams. This sudden eviction resulted in rapid, chaotic, and demoralizing removal of private property owned by the Fort Guijarros Museum Foundation. There was no time to properly mark computerized records or provide transitional documents. All attempts to explain this problem to Naval Facilities Engineering Command civilian staff were met with a complete lack of comprehension of the magnitude of the problem. All paper records, photographs, field drawings, and other privately owned materials were removed to civilian property by December 31, 2011.

I protested the demand that I appear at the November 10, 2011 meeting because my wife, Dale Ballou May, lay dying of lung cancer in our home and I did not wish to leave her side. I attempted to delegate the meeting to someone else. Under duress, I left my wife's side and attended the meeting, where I learned in less than ten words the Cultural Resource Agreement was terminated and we had 90-days to remove private property and turn in the keys. I believe forcing me to attend this meeting with no prior notification was perverse and morally unacceptable under any circumstances. My wife died on December 10, 2012 and I never shared the devastating news that the Navy evicted the Fort Guijarros Museum Foundation from Naval Base Point Loma.

These examples provided in this response demonstrate a systemic failure on the part of Navy Region Southwest and Naval Facilities Engineering Command to properly respect and communicate with stakeholders on federal undertaking projects that would impact cultural resources. I strongly recommend the Navy Judge Advocate Office conduct an objective review of the circumstances and Navy Region Southwest to remedy the problems I have identified in this questionnaire.

Did a stakeholder, or stakeholders express concerns about communication with the installation?

The case example of the western extension of Building 539 and the manner in which the Cultural Resources Agreement got terminated to properly and respectfully communicate with stakeholders on potential construction impacts to archaeological resources.

In particular, Mr. Rob Chichester, civilian staff, Naval Facilities Engineering Command is responsible for the breakdown of what had been a very responsive stakeholder communication system created by the Cultural Resources Agreement and the former Environmental Office before Chichester arrived on Naval Base Point Loma. When I telephoned the Base Engineer, he refused to respond to my concerns and rudely declared that Chichester merited a Challenge Coin for the manner in which he “managed” the Fort Guijarros Museum Foundation. I then elevated this issue to the Executive Officer, Naval Base Point Loma, who informed me Naval Facilities Engineering Command served as a tenant and not employees of the base.

Another example of the failure of Naval Facilities Engineering Command stakeholder communication is the decision to remove the 1996 National Register nomination papers from the State Historic Preservation Office in Sacramento by Navy civilian staff. These papers were submitted by Architect Milford Wayne Donaldson in 1996 and included a detailed archaeology site report written by myself. The State Historic Preservation Officer used that 1996 application to determine CA-SDI-12000 eligible for the National Register and verbally conveyed this to the former Environmental Office of the Naval Submarine Base. Removal of the papers by Naval Facilities Engineering Command staff was done without any stakeholder communication and now the State Historic Preservation Office has no paperwork on which to rely for evaluation of federal undertakings, such as the expansion of Building 539. I hope you begin to see a pattern of systematic abuse and failure to communicate with stakeholders?

Did a Stakeholder, or stakeholders, express concerns about a regulatory element of the CR program?

The Fort Guijarros Museum Foundation repeatedly expressed concerns about the extreme conflict of interest on the part of Naval Facilities Engineering Command when pressing federal undertakings through the Section 106 review process. The former Environmental Office of the Naval Submarine Base managed cultural resources through a Section 110 program facilitated by the Cultural Resources Agreement with the Fort Guijarros

Museum Foundation. Environmental Office staff maintained an arms-length distance between the Base Civil Engineer and federal undertakings that threatened eligible National Register properties. At no cost to the United States Navy, the Fort Guijarros Museum Foundation provided direct on-site access to archaeological collections, field records, field photographs and carefully examined field maps and to obtain stakeholder comment on federal undertakings. This commenting and due diligence review of records worked very well until Mr. Chichester arrived on Naval Base Point Loma and when Naval Facilities Engineering Command assumed the responsibilities of the former Environmental Office. As noted above, the entire system collapsed at that point and no stakeholder concerns were taken into consideration. To make matters worse, Mr. Chichester stonewalled all communication.

From 1980 through December 2011, the Fort Guijarros Museum Foundation met with Navy civilian staff of the Naval Base command on Point Loma to convey stakeholder concerns. The Cultural Resources Management Plan provided an opportunity for stakeholder input until Captain Wayne Thornton signed the Cultural Resources Agreement and then monthly meetings were held with Navy staff in the Command Conference Room of Naval Base Point Loma. This process continued when Mr. Chichester began attending the meetings, but the tone of stakeholder communication changed dramatically.

At the Building 539 extension federal undertaking became public at a Fort Guijarros Museum Foundation board meeting, Mr. Chichester repeatedly disrupted the meeting and demanded everyone stop talking about the potential construction impact of the Building 539 room extension on the archaeology site at CA-SDI-12000. This outrageous behavior caused me to telephone the Base Civil Engineer to complain. As noted above, the Base Civil Engineer rudely announced Mr. Chichester would be rewarded with a Challenge Coin for his behavior. This incident underscores the severe conflict of interest by Naval Facilities Engineering Command and systematic failure to communicate with stakeholders concerning cultural resources under either Section 110 or Section 106 regarding federal undertakings.

At this point, I would like to add that a Programmatic Agreement between Naval Facilities Engineering Command and the State Historic Preservation Office is being abused and to avoid stakeholder communication. The conflict of interest outlined in comments above has incorrectly given Naval Facilities Engineering Command the belief they need not communicate with stakeholders because said Programmatic Agreement gives them the power and authority to issue Findings of No Significant Impact without stakeholder communication, review of relevant records, or any other due diligence work. This abuse of the Programmatic Agreement with the State of California in no way relieves the United States Navy of the responsibility to seek stakeholder comments on federal undertakings, let alone the power to dismiss published records of CA-SDI-12000 as relevant evidence in reviewing undertaking impacts.

Does the installation have a developed education/training/outreach program?

Navy Region Southwest terminated the only existing education/training/outreach program on Naval Base Point Loma at the November 10, 2011 meeting when you notified the Fort Guijarros Museum Foundation the Cultural Resources Agreement was terminated and we had 90-days to remove our private property and turn in the keys.

Prior to November 10, 2011, the Fort Guijarros Museum Foundation developed three annual interpretive programs and occasional tours of historical properties in the Fort Rosecrans Historic District at no cost to the United States government. These programs were conducted at zero cost to the taxpayers and fulfilled Section 110 responsibilities to properly manage eligible National Register properties on Naval Base Point Loma.

Captain Mark Patton initiated this program in 2005 and invited Save Our Heritage Organisation and the Fort Guijarros Museum Foundation to carry out public tours of the base. The Fort Guijarros Museum Foundation recruited civilian and retired Navy, Army, and Air Force personnel to conduct docent tours of pre-1945 buildings, artillery batteries, and facilities and to receive civilian tours arranged by the commanding officer of Naval Base Point Loma. Over 1,000 civilians, Congressional representatives, and foreign ambassadors participated in those tours. Congressional, State of California, and City of San Diego leaders wrote letters and proclamations commending this program. As recently as 2010, Captain Paul Marconi received a preservation award.

For the past 30-years, the Fort Guijarros Museum Foundation developed all volunteer annual programs for elementary school children; seminars on military history, Spanish cultural events; a 1940s WW-II commemoration swing dance, live theater performances, and fundraising dinners to pay for these programs. Thousands of civilians from the San Diego Historical Society, San Diego Cannoneers, E Clampus Vitus, San Diego County Archaeological Society, Cabrillo Historical Association, Peninsula Chamber of Commerce, Point Loma High School, and other organizations interacted with Naval Base Point Loma through these programs.

Under the Cultural Resource Agreement, the Fort Guijarros Museum Foundation organized and financed a network of volunteer groups to promote historical and archaeological resource interpretation, which assisted the Navy meet Section 110 cultural resource management responsibilities at no cost.

The Fort Guijarros Museum Foundation financed the program by raising private money and grants from the Spanish Consulate in Los Angeles, County of San Diego, private donors and fund raising dinners that were held in the Admiral Kidd Club, Harbor Inn, and Argonaut Hall. Funds raised were also used to publish the *Fort Guijarros Quarterly* and *Fort Guijarros Journal* and distribute copies for free to the local school and public libraries. These publications disseminated archaeology information generated by the archaeology investigations of CA-SDI-12000 and CA-SDI-12953 on Naval Base Point Loma, which also assisted in meeting Section 110 responsibilities.

Through a cooperative arrangement with the Anthropology Department, San Diego State University, those publications and a new journal report on Spanish architecture were scanned and published Online (where the information still exists today). The Fort Guijarros Museum Foundation also privately funded public exhibits on U.S. Army Fort Rosecrans, CA-SDI-12000, and CA-SDI-12953 at Point Loma High School, local banks and businesses, the 4th Grade history program in Old Town, County of San Diego at 1600 Pacific Highway, Cabrillo National Monument, and continues to hang lithographic representations of historic sites on Naval Base Point Loma at The Living Room café at 1018 Rosecrans Street and another bank in the area.

Termination of the Cultural Resources Agreement also terminated the mission of the Fort Guijarros Museum Foundation to support the United States Navy. There is no replacement program to comply with Section 110 education on Naval Base Point Loma, no cultural resource training involving those resources, no outreach programs for Navy personnel on the base, and the infrastructure created over 30-years to enable civilian employees to interact with members of the public concerning the eligible National Register properties has been destroyed. All our qualified volunteers have resigned and our assets are being donated to other organizations.

Under the Cultural Resource Agreement with the Fort Guijarros Museum Foundation, Naval Base Point Loma networked with the Spanish Consulate in Los Angeles and Casa de Espana to conduct public educational commemorative programs around the 18th century archaeology site, CA-SDI-12000. For the past 30-years, these organizations cooperated with Naval Base Point Loma to hold a commemorative flag raising with speeches and followed by Spanish cultural events to memorialize the 1796-1821 Spanish cannon fort on Ballast Point (CA-SDI-12000) and Battle of San Diego Bay, which happened on March 22, 1803.

The Fort Guijarros Museum Foundation board of directors has included the Naval Base, Casa de Espana, the Honorary Consul General of Spain in San Diego, Peninsula Chamber of Commerce, Westerners, San Diego Historical Society, Cabrillo National Monument, San Diego County Archaeological Society, San Diego Cannoneers, and E Clampus Vitus. The Cultural Resource Agreement enabled cooperative partnerships with all these organizations for education, interpretation, and visitation of cultural resources on the base. Termination of the Cultural Resource Agreement will irretrievably impact these positive relationships. Volunteers included many retired Navy, Marines, Army, Air Force, National Guard and Coast Guard veterans.

Instead of publicly thanking the Fort Guijarros Museum Foundation, abrupt termination of the Cultural Resource Agreement and eviction from Naval Base Point Loma was an unnecessary humiliating and unforgivable act. Members of all those organizations see this act in the worst possible light. The letter from Navy Region Southwest was directed to an unauthorized civilian address and we did not receive it for many weeks following termination and eviction.

Does the Navy have cultural resources partnerships?

Termination of the Cultural Resources Agreement on November 10, 2011 not only broke ties with the Fort Guijarros Museum Foundation, but impacted relationships with many organizations that formerly cooperated with Naval Base Point Loma. During the 30-year relationship with the Fort Guijarros Museum Foundation, the United States Navy received letters and awards of commendation for the cultural resources partnerships on Naval Base Point Loma. Examples are letters from Congressman Bill Lowrey, commendations from Congressman Randy Duke Cunningham, the County of San Diego, City of San Diego, SOHO Preservation Awards, and an award from the Society for California Archaeology. Individual commendations were awarded to Captain Bill Mitchell, Captain Phil Klintworth, Captain Bruce Scott, Captain Paul Ward, Captain Mark Patton, and Captain Paul Marconi for their support and participation.

Overall, the Fort Guijarros Museum Foundation saved the United States Navy in excess of \$1,000,000 for archaeology fieldwork, artifact collection management, and the educational programs. Conversely, the Navy will have to pay at least \$60,000 a year to the San Diego Archaeological Center to curate the same collections that were curated on base for free. And yet the Fort Guijarros Museum Foundation received a rude verbal eviction notice on November 10, 2011 like we were being fired from a paid job.

I highly recommend the Judge Advocate and the General Accounting Office investigate the fiduciary and public relations failure of the Navy in this program. Two questions I would like to see answered is how the San Diego Archaeological Center received the contract to receive the 400 boxes of artifacts without going to a fair and open public bidding? And why did this happen with absolutely no warning?

Did a stakeholder or stakeholders provide positive feedback about the CR program?

The numerous government and professional organizational awards presented to the Fort Guijarros Museum Foundation, Naval Base Point Loma, and individual commanding officers over the past 30-years demonstrate the Cultural Resources Agreement had received many outstanding examples of positive feedback. But the termination of the Cultural Resources Agreement also terminates civilian opportunities to evaluate what the Navy is doing. How do the organizations listed in the above comments benefit from sending 400 boxes of artifacts thirty miles north to the San Diego Archaeological Center? How many Point Loma High School, University of San Diego, San Diego City College, San Diego Mesa College, or San Diego State College students are going to drive 30-miles north at \$4.20 a gallon up to San Pasqual to study those collections? Why were there no stakeholder meetings on this very volatile decision?

And how will any stakeholders know what Naval Facilities Engineering Command is doing that properly carry out Section 110 or Section 106 responsibilities to the eligible National Register properties on Naval Base Point Loma? The answer is that no one is there to advocate, protect, or interpret the archaeology and former United States Army

Fort Rosecrans buildings, artillery batteries, and structures now that the Fort Guijarros Museum Foundation volunteers are gone.

Does the installation incorporate cultural resources concerns early in project development?

As explained in detail above, Naval Facilities Engineering Command stonewalls public comment and fails to conduct due diligence review of published reports, on-site records, photographs, and professional field drawings to evaluate the impact of destructive undertakings. The Building 539 expansion incident is proof positive of the severe conflict of interest and deliberate failure to seek stakeholder concerns early or even later in project development. In fact, we might ask if the decision to terminate the Cultural Resources Agreement with the Fort Guijarros Museum Foundation was not mired in that same conflict of interest?

Now let me provide you with an earlier example of why the former Environmental Office of the Naval Submarine Base found the need to develop a Cultural Resources Agreement with an on-site civilian non-profit organization. This incident involved unannounced bulldozing in 1986 of a 6,000 year old prehistoric archaeology site, CA-SDI-48, supposedly protected on the Base Management Plan, and dynamiting of the 1898 United States Army Mining Casemate by Naval Facilities Engineering Command without conducting a Section 106 National Register evaluation or any stakeholder meetings. At no time did the Navy notify or meet with any members of the public concerning the project to destroy those cultural resources. The State of California, Office of Historic Preservation, had to stop the demolition and fly-in state personnel to force a Section 106 review. As with the case of the Building 539 extension incident, Naval Facilities Engineering Command attempted to avoid stakeholder review of federal undertakings by secretly denying the resources eligible for the National Register or the impact a significance effect. The conflict of interest was as apparent in 1986 as it was in 2010 with the Building 539 extension.

Clearly, there needs to be a qualified Navy cultural resources officer who does not work for Naval Facilities Engineering Command to carry out 110 resource management, Section 106 stakeholder meetings, and to objectively accept public comment seriously and this person cannot work for the civil engineers who designed and are building the project.

The former Environmental Office, Naval Base Point Loma, hired private contractors to survey and evaluate all eligible National Register properties to comply with Section 110 of the National Historic Preservation Act. The cost of managing those resources by a civilian contractor exceeded the budget of the Environmental Office in 1996-1997. The cost of contracting with the San Diego Archaeological Center to care for 400 boxes was estimated to be at least \$60,000 for intake and would mean the Navy would pay for this service forever. The cost of paying people to organize and manage educational programs, civilian tours of National Register buildings, and interact with stakeholders proved

infeasible in 1997. The answer came with the Cultural Resources Agreement in 1999, which only cost the Navy electrical and building maintenance costs.

When seeking public comment on how to manage the 400 boxes of collections, the Fort Guijarros Museum Foundation provided a **free copy of plans** that could adapt an underground Igloo bunker into an environmentally controlled space that would meet 36 CFR 79.9 collection management requirements. Captain Paul Ward funded conversion of Building 127 into the HVAC space to care for the 400 boxes. The Fort Guijarros Museum Foundation provided volunteers to carry out the curation at no cost to the Navy. And private funding supported the educational programs, computers, and docent tours. The thing to keep in mind is the Cultural Resources Agreement included the educational programs, docent led tours, and civilian public interaction that installation could not afford.

These programs were created, in part, to mitigate the adverse impacts of the 1986 destruction of the 6,000 year old archaeology site at CA-SDI-48 and the loss of the 1898 U.S. Army Fort Rosecrans Mining Casemate building and other federal undertaking damage over the years. Now those programs are gone and the long-term commitment to public comment is invalidated. Just sending the 400 boxes 30-miles north to San Pasqual Valley does not offset the loss of Section 110 programs on the installation.

Does the installation apply the Secretary of the Interior's Standards for Rehabilitation (Standards) for the maintenance and repair of historic buildings?

Now there is neither an installation Environmental Office nor the Fort Guijarros Museum Foundation to conduct Section 110 management or 106 federal undertaking review or to interact with installation staff on a monthly basis. Naval Facilities Engineering Command hires in house civilian staff to guide restoration and maintenance from a downtown office. However, over reliance on the Programmatic Agreement to dismiss federal undertakings with Findings of No Significant Impact means there is no public review of undertakings for the public to know if the historic buildings are cared for properly or not. Based on the Building 539 extension incident, I seriously doubt the installation applies *The Secretary of the Interior's Standards for the Treatment of Historical Properties*.

Termination of the Cultural Resources Agreement invalidated the long-term Section 106 agreements with the State Historic Preservation Office to mitigate adverse effects of undertakings on the 1898 United States Army Mining Casemate. The Section 110 management of surviving National Register eligible property and educational tours of the Fort Rosecrans Historic District no longer exist. There is now no mechanism for public or stakeholder review of potentially destructive undertakings to historical buildings.

Are mitigation requirements associated with Section 106 agreement documents (MOA/PA) being successfully met, monitored to ensure requirements have been completed and signatories and consulting parties notified of completion?

As noted earlier, Section 106 violations were to be mitigated by the Cultural Resources Agreement with the Fort Guijarros Museum Foundation. Termination of the Cultural Resource Agreement with the Fort Guijarros Museum Foundation on November 10, 2011 extinguished that long term mitigation program. Now there is no one on Naval Base Point Loma to monitor anything. And the Building 539 extension incident proves Naval Facilities Engineering Command has a severe conflict of interest that will result in abuse of the Programmatic Agreement by issuing fraudulent Findings of No Significant Impact.

Termination of this agreement and contracting with the San Diego Archaeological Center in San Pasqual Valley does nothing to carry out the requirements of the other laws and public stakeholder participation. In point of fact, this action has cost the Navy an enormous amount of money when Congress and the Administration are reducing money from the Department of Defense budget and the abrupt manner in which the termination happened will cost the Navy three decades of public trust with all the organizations formerly involved with the Fort Guijarros Museum Foundation on the installation.

Does the installation have cultural resources partnerships or cooperative agreements for study, management, or use of the installation's historic properties?

Effective November 10, 2011, there is no cultural resources partnership or cooperative agreement for study, management, or use of the installations historic properties. And we have to ask why the entire Cultural Resource Agreement had to be terminated? This not only cost the Navy over \$60,000 a year to pay the San Diego Archaeological Center to care for the 400 boxes of collections, it also terminated all the free volunteer docent tours, educational seminars, and cultural events. Now there is no one to provide free public/stakeholder programs to interpret the history of at least twenty-nine historic Fort Rosecrans buildings and structures or any other history on the installation. This is a classic case of "throwing the baby out with the bathwater" and a creating severe public relations nightmare for the Navy.

Creation of Navy Region Southwest in 1999 and termination of the installatoin Environmental Office effectively eliminated on-site Navy management of the known eligible historical buildings/structures and thirty-two archaeological sties on what became Naval Base Point Loma. The philosophy shifted from management with public interpretation programs to shutting down the base, severely limiting public interpretation, and virtually eliminating Section 106 stakeholder comment and all collections are now 30-miles north and virtually inaccessible for local educational use.

The contract for money with the San Diego Archaeological Center cannot be mistaken for Section 110 cultural resources partnership and is certainly not the same as the former Cultural Resources Agreement with the Fort Guijarros Museum Foundation. We

provided public interpretation services at no expense to the Navy and organized retired military personnel and members of the public to help by interpreting the buildings. Now our infrastructure is gone, our people have resigned, and the demoralizing effect of the November 10, 2011 dismissal has ruined our ability to recreate what has been lost.

Does the installation project review and approval process conform with Section 106?

As explained in the above comments, Naval Facilities Engineering Command has a severe conflict of interest and a history of stonewalling public/stakeholder review of their projects. I have provided the Building 539 incident as proof of this serious legal issue. The actions of Mr. Chichester are underscored by the complete and incomprehensible failure to properly consult archaeological records, field maps, photographs and failure to hold meetings with the archaeologists who investigated CA-SDI-12000 is proof there is no meaningful Section 106 review. The abuse of the Programmatic Agreement and complete lack of a check and balance system or any mechanism for public/stakeholder comment also underscores the systemic failure. Eviction of the Fort Guijarros Museum Foundation from Naval Base Point Loma removed the last opportunity for the Navy to receive early public/stakeholder comment in the construction process.

Does the installation's site approval process or National Environmental Policy Act (NEPA) review require cultural resources review/concurrence?

The case of the Building 539 extension demonstrates how Naval Facilities Engineering Command has abused the NEPA process. Lacking oversight, their staff could simply declare that any construction project never had a significant effect on cultural resources. Projects with a Finding of No Significant Impact would not be sent to a reviewing agency or a stakeholder and no one would ever know about the project until it was too late. As with the case of Building 539, even the commanding officer of Naval Base Point Loma could not stop construction. Even when I managed to get Mr. Chichester and Andy Yatsko into Building 127 to discuss my concerns, they refused to look at the field notes, photos, and records in our filing cabinets. They also refused to hold stakeholder meetings.

Does this installation comply with NAGPRA (Native American Graves and Repatriation Act)?

In 1998, the Environmental Office at Naval Submarine Base Point Loma retained Phil Walker, Ph.D., University of California, Santa Barbara and Kumeyaay elder Clarence Brown to examine every artifact and bone fragment in the 400 box collection from CA-SDI-12000 and CA-SDI-12953 collections to determine if human remains or sacred objects were present. The negative results were forwarded to the National Park Service, which concluded compliance with NAGPRA. On numerous occasions between 1981 and 1999, the Environmental Office contracted with professional archaeologists and Kumeyaay elders to monitor construction projects or evaluate human remains found on the Naval Base. I have no knowledge of NAGPRA compliance after that time.

Does the installation comply with ARPA (Archaeological Resources Protection Act)?

The answer to this question is difficult, as the Fort Guijarros Museum Foundation archaeology program represents only part of federal undertakings involving archaeology. The Archaeological Resources Protection Act did not exist until 1990. The Naval Submarine Supply Depot authorized the Naval Archaeologist to issue a Antiquities Permit in 1981 and the Naval Submarine Base, San Diego authorized subsequent American Antiquities permits 1982-1990 and then authorized Archaeological Resource Protection Act permits from 1990-1996 for investigations at CA-SDI-12000 and CA-SDI-12953.

The Naval Submarine Base and Naval Base Point Loma contracted with private companies to conduct Section 106 and 110 investigations for a variety of reasons. The cost of long-term contracting proved infeasible in 1997 and the installation command sought private non-profit partnerships to carry out the mission. The Fort Guijarros Museum Foundation provided in excess of \$1,000,000 in free services to the Navy between 1981 and 2011.

In lieu of installation staff archaeologists, the command requested the Fort Guijarros Museum Foundation to conduct archaeology testing on several occasions. Captain Phil Klintworth and Captain Paul Ward secured the Fort Guijarros Museum Foundation archaeologists to survey and test at the locations of the Harbor Inn, new Coast Guard Installation on Ballast Point, and Security Building on White Road at zero cost. Captain Ward funded adaptive re-use of Building 127 for the Fort Guijarros Museum Foundation to process the collections recovered from those projects and adapted the Igloo bunker 257 for artifact storage. Captain David Stanley approved expansion of the operation to include public interpretation of the Fort Rosecrans Historic District buildings for volunteer docent led tours by the civilian public. Captain Wayne Thornton negotiated and signed the Cultural Resources Agreement to carry out the Section 110 installation responsibilities.

Navy Region Southwest carried out the Cultural Resources Agreement to manage archaeological resources recovered in our investigations at CA-SDI-12000, as well as those recovered at the Section 106 investigation locations, and to conduct public tours to offset the 1986 impacts identified above.

There is now no program in place to manage historical buildings or structures under either Section 106 or 110 for Naval Base Point Loma. Back in 1999-2000, a BRAC study recommended closing Naval Base Point Loma and reverting the Military Reservation to a General Services Administration management offering to other federal agencies. The National Park Service conducted a study of how the potential resources on Point Loma might be used for expansion of Cabrillo National Monument and that report is Online in *Shadows of the Past at Cabrillo National Monument*. But 9/11 and the wars in Iraq and Afghanistan stopped the BRAC recommendation and the Navy retained its facilities in

the changing mission of the times. Since 2000, there has been no stakeholder hearings on the fate of those resources or the Point Loma Military Reservation.

Does the installation have adequate Navy Cultural Resources Management support to meet the installation's current cultural resources compliance requirements?

The United States Navy never had adequate civilian staff to manage all the National Register eligible properties on Naval Base Point Loma. The 1999 Cultural Resources Agreement partially resolved the problem by providing a non-profit civilian organization with private **fund raising capabilities** to assist the command in caring for some of the cultural resources. The scope involved the Fort Rosecrans Historic District and associated archaeology between this district and Ballast Point.

Termination of the Cultural Resources Agreement and dissolution of the Fort Guijarros Museum Foundation program on Naval Base Point Loma killed any semblance of compliance with Section 110 resource management. And the civilian public probably will not trust the Navy for the foreseeable future. The devastating effects on the morale of the Fort Guijarros Museum Foundation and all its associated organizations (see comments above) will adversely affect public participation for many years into the future. The timing for such a blow during the international economic recession could not be at a worse period, as there is no way Congress or the Administration will fund staffing to compensate for the loss. The repercussions of this thoughtless action will be felt all around San Diego for a long time.

Are volunteers adequately utilized?

Navy Region Southwest terminated the only effective civilian volunteer organization to help Naval Base Point Loma carry out Section 110 responsibilities. There is no volunteer organization with professional training and leadership capable of carrying out the legal responsibilities. The Fort Guijarros Museum Foundation provided free archaeology, collections management, and developed educational interpretive programs for Naval Base Point Loma. There is no legal mechanism for Naval Base Point Loma to raise private civilian funding to replicate or improve upon the volunteer programs created by the Fort Guijarros Museum Foundation to educate elementary school children, Naval personnel, politicians, or the public on the cultural resources on the base. Moreover, there is no network that connects the San Diego County Archaeological Society, San Diego Cannoneers, Westerners, E Clampus Vitus, Peninsula Chamber of Commerce, Cabrillo Historical Association, Casa de Espana, Ocean Beach Historical Society, La Playa Trails Association, la Playa Heritage and other groups that were working with the Fort Guijarros Museum Foundation between 1981 and 2011. The Navy really needs to investigate why this happened, who made the decisions, and how to solve it in the future. The only immediate solution will be to seek substantial funding from Congress to hire contractors or civilian employees to replicate this program. And we all know that is never going to happen.

Thank you for this opportunity to comment.

Ronald V. May, Chairman
Board of Directors
Fort Guijarros Museum Foundation
Post Office Box 15967
San Diego, CA 92175