

Appendix C. Fort Ord Cultural Resources Programmatic Agreement and Correspondence

PROGRAMMATIC AGREEMENT
AMONG
THE DEPARTMENT OF THE ARMY
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING
BASE CLOSURE AND REALIGNMENT ACTIONS AT
FORT ORD, CALIFORNIA

WHEREAS, the Department of the Army (Army) has determined that the closure, interim lease, and transfer of certain portions of Fort Ord, California under the authority of the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510), commonly known as BRAC 91, may have an effect on properties eligible for inclusion in the National Register of Historic Places (historic properties); and

WHEREAS, the Army has consulted with the Advisory Council on Historic Preservation (Council) and the California State Historic Preservation Officer (SHPO) pursuant to 36 Code of Federal Regulations Part 800.13 of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and Section 110 (16 U.S.C. 470h-2) of the same Act; and

WHEREAS, the Area of Potential Effect (APE) for this undertaking is understood to be those lands within the contiguous boundaries of Fort Ord; and

WHEREAS, the terms of this agreement are to apply to those Fort Ord lands that are being disposed of as part of the BRAC 91 action; and

WHEREAS, the Army in consultation with the SHPO has designed and completed a Phase I Archeological Survey for prehistoric sites on land to be transferred out of Federal ownership and located no historic properties; and

WHEREAS, the Army, in accordance with the provisions of a Programmatic Memorandum of Agreement among the United States Department of Defense, the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers regarding the Demolition of World War II Temporary Buildings, effective June 7, 1986, as amended, has completed all mitigation required prior to the transfer of World War II temporary buildings (1939-1946); and

WHEREAS, the definitions for Archeological Survey, notice/notification, Archeologist, Architectural Historian and Historic Architect given in Appendix A are applicable throughout this Programmatic Agreement; and

WHEREAS, interested members of the public and Native Americans have been provided an opportunity to comment on the effects BRAC 91 may have on historic properties at Fort Ord.

NOW, THEREFORE, the Army, the Council and the SHPO, agree that the BRAC 91 closure, lease, and transfer of certain portions of Fort Ord shall be administered in accordance with the following stipulations in order to satisfy the Army's Section 106 and 110 responsibilities for all individual undertakings included in this Programmatic Agreement.

STIPULATIONS

The Army will ensure that the following measures are carried out.

I. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES:

The Army will provide the SHPO with recommendations of National Register eligibility for properties within the APE on lands that will be transferred out of Federal ownership. Based upon the information obtained from testing and evaluation, the Army will determine, in consultation with the SHPO, the eligibility of the properties for inclusion in the National Register in accordance with 36 CFR 800.4(c). If the Army and the SHPO fail to agree upon the National Register eligibility of the property, the Army will obtain a determination from the Secretary of the Interior pursuant to 36 CFR 800.4 (c)(4).

II. TRANSFER OR INTERIM LEASE OF REAL PROPERTY AND IMPROVEMENTS THAT DO NOT INCLUDE HISTORIC PROPERTIES:

The Army will transfer and/or lease real property and improvements that do not include historic properties identified under Stipulation I, above, without further action under this Agreement.

III. TRANSFER OF REAL PROPERTY AND IMPROVEMENTS BY THE ARMY TO ANOTHER FEDERAL AGENCY THAT WILL ASSUME LAND MANAGEMENT RESPONSIBILITIES:

The Army will provide notification to the signatories of this agreement within forty-five (45) calendar days after the transfer of Fort Ord real property to Federal agencies that plan to assume land management responsibilities and use the land for purposes no more likely to adversely affect historic properties than those for which the lands were used by the Army prior to BRAC 91.

IV. TRANSFER OF HISTORIC PROPERTIES IDENTIFIED UNDER STIPULATION I:

A. Transfer to Another Federal Agency for Subsequent Transfer to Non-Federal Entities Under Federal Surplus Property Programs:

1. Transfer Under the Surplus Property Program for Historic Monuments: The Army will notify the signatories of this

agreement within forty-five (45) calendar days after the transfer of historic properties under the provisions of An Act to Facilitate the Preservation of Historic Monuments and Other Purposes (86 Stat. 503, 40 U.S.C. 484(k)(3) & (k)(4)), August 4, 1972, as amended, which require the preservation of those properties as Historic Monuments.

2. **Transfer Under All Other Surplus Property Programs:** With the exceptions noted in Stipulation V, separate preservation covenants enforceable under California State law and/or Federal Case law, if applicable, for each historic property will be developed jointly by the signatories to this agreement and attached to the transfer documents prior to the transfer of that property by the Army. The covenants will be enforced by the Federal Agency administering the surplus property program (sponsoring agency), the California State Office of Historic Preservation, or another entity acceptable to all the signatories of this agreement. If the sponsoring agency transfers the property without modifying the covenant(s) drafted by the signatories to this agreement and registers the deed in the proper office(s) in accordance with state and local law, no further actions under Section 110 or 106 of the National Historic Preservation Act will be required prior to transfer of the property. If the sponsoring agency proposes to modify the covenants, the proposed modifications will be considered a separate undertaking and the sponsoring agency shall comply with 36 CFR Part 800.4.

B. **Transfer by the Army to Non-Federal Entities:** With the Exceptions noted in Stipulations IV and V., separate preservation covenants enforceable under California State law and/or Federal Case law, if applicable, for each historic property identified under Stipulation I, above, will be developed jointly by the signatories to this agreement and attached to the deed prior to the transfer of that parcel by the Army and the deed will be registered in the proper office (s) in accordance with state and local law. The covenant(s) will be enforced by the California State Office of Historic Preservation or another entity acceptable to all of the signatories of this agreement. The Army will make every reasonable effort to configure the boundaries of parcels that include historic properties in accordance with the purposes of the covenants.

V. **TRANSFER WITHOUT MANAGEMENT COVENANTS:**

The Army will make a good faith effort to transfer each historic property with a preservation covenant. If such efforts fail and following consultation between the parties to this agreement, the properties may be transferred without a preservation covenant.

VI. LEASE OF HISTORIC PROPERTIES:

If the Army determines that the lease of real property that includes historic properties identified in Stipulation I, is required, the Army will, in consultation with the SHPO and the Council, develop and include clauses in the lease that require the management of the identified historic property or properties.

The Army or other entity acceptable to all parties to this agreement will enforce the lease. If agreement on the provisions of a lease cannot be reached, the Army will treat that lease as a separate undertaking and comply with 36 CFR Part 800.5 prior to leasing the parcel in question.

VII. ENVIRONMENTAL TESTING AND CLEANUP:

A. With the exception of Archeological and Architectural Monitoring stipulated in paragraph VII.C., the Army will proceed with environmental testing and cleanup, to include the disposal of unexploded ordnance, without further consultation under this Agreement.

B. Prior to initiating testing, cleanup, or unexploded ordnance disposal, the work crew(s) will be made aware of the potential for currently unlocated archaeological sites.

C. When the Army determines that archeological monitoring of an environmental cleanup site will not pose a risk to human health or safety, all ground disturbing activities inside National Register eligible sites, previously identified unevaluated sites, and sites discovered during the course of the work will be monitored by an archeologist. In the event that an archeological site(s) is located, a reasonable effort will be made to avoid or reduce adverse effects on the site(s). When testing and cleanup has the potential to affect historic building materials, the Army will ensure that the work plans and specifications are reviewed by an Historic Architect or Architectural Historian and consider their recommendations to avoid or reduce adverse effects on the historic materials. The Army will provide the SHPO and the Council with copies of a report(s) documenting these actions within ninety (90) calendar days after monitoring at each property is completed.

D. If, during the process of conducting environmental testing and cleanup and/or disposal of unexploded ordnance, a previously unidentified archeological site is discovered, the Army will, after the cleanup/disposal is complete but prior to the transfer from Federal ownership, evaluate the site and consult with the SHPO to determine if it is eligible for inclusion in the National Register.

E. If Native American cultural items, as defined in Section 2(3) of the Native American Graves Protection and Repatriation Act (NAGPRA) are encountered during the process of conducting

environmental testing and cleanup and/or disposal of unexploded ordnance, these activities will cease in the immediate vicinity of the discovery and the procedures in NAGPRA Section 3(d) will be followed. Headquarters Department of the Army (Army Environmental Center) and relevant Native American groups will be notified of the discovery.

VIII. HISTORIC RECORDS:

A. All maps, drawings, prints, studies, and other written documentation that relate to Fort Ord historic properties and are currently located at the Fort Ord Directorate of Public Works and Public Affairs Offices, or are produced by the Army in connection with the implementation of this Agreement, will be transferred to, and retained by, the Presidio of Monterey Command Historian. An inventory of documents transferred under this stipulation will be provided to the SHPO, the U.S. Army Center for Military History, the Monterey County Public Library System, the Monterey County Historical Society and the Monterey History and Art Association.

B. All materials and records resulting from archeological survey/data recovery conducted during the implementation of this Agreement shall be curated in accordance with 36 CFR Part 79, except for those items transferred pursuant to the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002(c)).

IX. ANNUAL REPORT:

The Army will prepare an annual report first due on April 30, 1995 on its implementation of this Programmatic Agreement and last due ninety (90) days after this implementation is complete. The report will be provided concurrently to the SHPO and the Council for review, comment, and consultation as needed. The annual report shall include information on the undertakings implemented under this Agreement. If the Council and/or the SHPO do not object within thirty (30) days of receiving such report, it will be assumed that they concur with the implementation of this Agreement.

X. DISPUTE RESOLUTION:

Should the SHPO and/or Council object in writing within twenty (20) calendar days to any actions, plans, specifications, or reports provided for review pursuant to this PA, the Army shall consult with the objecting party or parties to resolve the objection; if it cannot be resolved, the Army shall forward relevant documentation, the Council will either:

1. Inform the Army that the Council intends to comment pursuant to 36 CFR 800.6(b), or

2. Provide the Army with recommendations that the Army shall take into account prior to a final decision

The Army's responsibility to carry out all actions under this agreement that are not subjects of the dispute will remain unchanged.

XI. SHPO/COUNCIL MONITORING AND REVIEW:

The Council and SHPO may review activities carried out pursuant to this agreement and will review such activities if so requested. The Army will cooperate with the Council and SHPO in carrying out their monitoring and review responsibilities.

XII. PUBLIC OBJECTION:

At any time during implementation of the measures stipulated in this Agreement, should an objection to any such measure or its manner of implementation be raised by any member of the public, the Army shall take the objection into account and consult as needed with the objecting party, the Council and SHPO to resolve the objection.

XIII. AMENDMENTS:

Any party to this agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR Part 800.13 to consider such an amendment. No amendment to this agreement shall be effective until it has been executed by all consulting parties.

XIV. TERMINATION:

Any party to this Agreement may terminate it by providing thirty (30) days notice to the other parties, provided the parties consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the Army will comply with 36 CFR Part 800.4 through 800.6 with regard to individual undertakings covered by this Agreement.

XV. FAILURE TO EXECUTE THIS AGREEMENT: In the event the Army does not carry out the terms of this Programmatic Agreement, the Army will comply with 36 CFR 800.4 through 800.6 with regard to individual undertakings covered by this agreement.

APPENDIX A

DEFINITIONS OF TERMS USED IN THIS AGREEMENT

In addition to the terms defined here, and unless otherwise indicated, all definitions given in 36 CFR Part 800.2 will be accepted for the purpose of this Agreement.

1. Archeological Survey: Systematic identification of surface or subsurface evidence of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure.

2. Notice/Notification: Includes, as appropriate, a map, a legal description of the property transferred, a description of the intended use of the land, a letter from the receiving Federal agency stating that it will carry out the requirements of Section 110(a)(2) of the National Historic Preservation Act on the lands it receives, a list of historic properties transferred, the name and address of the entity to whom the property has been transferred, or the name and address of the Entity responsible for enforcement of preservation covenants.

3. Archeologist/Architectural Historian/Historic Architect: A professional who meets the minimum standards listed in Archeology and Historic Preservation, Secretary of Interior's Standards and Guidelines (Federal Register Vol. 48, No. 190 pp 44717 - 44742) in the appropriate field.

Execution and Implementation of this Programmatic Agreement evidences that the Army has satisfied its Sections 106 and 110 responsibilities for all individual undertakings of the Base Closure and Realignment of Fort Ord.

FORT ORD, CALIFORNIA

By: Thomas F. Ellzey, Jr. Date: 18 April 1994
THOMAS F. ELLZEY, JR., CPT, AA COMMANDING

DEPARTMENT OF THE ARMY

By: John H. Little Date: 3 May 94
JOHN H. LITTLE, MAJOR GENERAL, USA,
ASSISTANT CHIEF OF STAFF FOR INSTALLATION
MANAGEMENT

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: Alfred Zidell Date: April 19, 1994

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: Robert D. Bush Date: 5/5/94

OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION

BOX 942896

SACRAMENTO 94296-0001

(916) 653-6624

FAX: (916) 653-9824



September 7, 1994

REPLY TO: USA940722A

Joseph H. Plunkett, Chief
Base Realignment and Closure Division
Headquarters Forces Command
Department of the Army
FORT McPHERSON GA 30330-6000
ATTN: BRAC

Project: Fort Ord, Base Realignment and Closure, Evaluation of
Historic Archeological Deposits at Camp Pacific, East
Garrison, and First and First Farmstead

Dear Mr. Plunkett:

The Office of Historic Preservation (OHP) has reviewed and provides the following comments on the documentation you submitted in support of the cited project.

Your report indicates the testing at the three sites did not reveal any subsurface features, stratigraphy, or subsurface artifacts. The only historic materials that were observed at any of the sites were small pieces of concrete. You indicate that Camp Pacific, East Garrison, and the First and First Farmstead are not eligible for the National Register of Historic Places (NRHP), noting that the Army considers the East Garrison Historic District as an eligible property. I concur with your determination that Camp Pacific and the First and First Farmstead are not eligible for the NRHP. I also agree that the archeological remains at East Garrison do not contribute to the eligibility of the East Garrison Historic District.

Your consideration of historic properties in the planning process is appreciated. If you have any questions regarding our review of this undertaking, please call Gary Reinoehl of my staff at (916) 653-5099.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cheryl E. Widell".

Cheryl E. Widell
State Historic Preservation Officer

OFFICE OF HISTORIC PRESERVATION

DEPARTMENT OF PARKS AND RECREATION

IX 942896

MENTO 94296-0001

(916) 653-6624

FAX: (916) 653-9824



March 1, 1995

Reply to: USA940826F

Colonel, Joseph A. Roszkowski
Director Operations
U.S. Army Training and Doctrine Command
Base Realignment and Closure Office
FORT MONROE VA 23651-5000

Subject: Determination of Eligibility for Henneken's Ranch and
Windmill Site Fort Ord, Monterey County

Dear Col. Roszkowski:

Pursuant to the Stipulations of the Programmatic Agreement (PA) among the U.S. Army (Army), the Advisory Council on Historic Preservation (ACHP), and the California State Historic Preservation Officer (SHPO) for the closure of Fort Ord, the Army has requested my comments on the subject determination of eligibility. Thank you for consulting me.

This submission constitutes the Armies effort to provide additional information pertinent to the eligibility of the subject properties. In short, the Armies original submittal (August 22, 1994) inadequately addressed the issue of eligibility for the properties. On September 7, 1994 I raised questions regarding the submittals lack of a developed historic context and research orientation.

The Armies current determination finds both properties ineligible for the National Register under all four criteria. The argument holds that the properties served as an intermittent cow camp that is of no particular importance towards understanding the broad patterns of our history, and that the properties owner (Mr. Henry Henneken), was not an important personality, locally, statewide, nor nationally. The remnant concrete foundations do not posses any architectural significance nor do they represent the work of a master. Lastly, it is posited that, although trash disposal features hold abundant remains, further collection would only retrieve redundant information that is not considered important. Based on the additional information I concur that these properties are not eligible for the National Register.

If you have questions or comments about my review, please contact staff archaeologist Mr. Steven Grantham at (916) 653-8920.

Sincerely,

Ms. Cheryl E. Widell
State Historic Preservation Officer



DEPARTMENT OF THE ARMY
HEADQUARTERS UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND
FORT MONROE, VIRGINIA 22061-5000

July 11, 1995

REPLY TO
ATTENTION OF

Base Realignment
and Closure Office

Ms. Cherilyn Widell
California State Historic Preservation Officer
Office of Historic Preservation
Department of Parks and Recreation
Post Office Box 942896
Sacramento, California 94296-0001

Dear Ms. Widell:

As we informed you in a February 6, 1995 letter, the U.S. Army Training and Doctrine Command (TRADOC) Base Realignment and Closure Office has taken over the disposal process of former Fort Ord, California, lands from the U.S. Army Forces Command (FORSCOM). Fort Ord was closed, and its lands are being disposed of as part of the Department of Defense Base Closure and Realignment process.

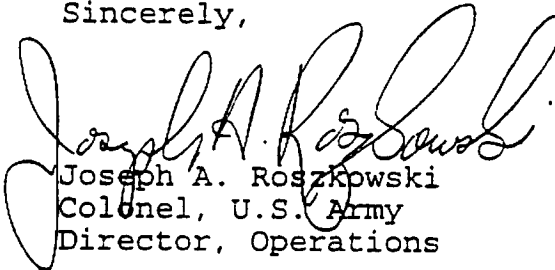
On September 28, 1994, FORSCOM wrote your office a letter supplying information that your staff had requested regarding two temporary buildings located in the East Garrison portion of Fort Ord. In accordance with Section IV.B of the Fort Ord programmatic agreement, this same letter also supplied draft preservation covenants for your review. A copy of the FORSCOM letter and preservation covenants are enclosed for your reference. It was proposed that these architectural and archeological preservation covenants would be attached to the deeds of Fort Ord properties considered to be eligible for the National Register. In this way, historic properties would be protected as they were transferred out of Federal ownership.

We can find no record that your office has provided the Army with any comments on these preservation covenants or responded to the September 28, 1994, FORSCOM letter. Disposal of former Fort Ord property is proceeding at this time. In accordance with Section IV.B of the Fort Ord programmatic agreement, the Army will utilize the above referenced preservation covenants during the disposal of Fort Ord National Register eligible properties. Specifically, the architectural preservation covenants will be attached to the deeds for the East Garrison historic district and Stillwell Hall when these properties are sold or transferred from

Army ownership. We will inform your office when these National Register eligible properties are sold or transferred and provide you with information on the owner(s).

Should you have any general questions regarding the disposal status of Fort Ord National Register eligible properties or the application of the preservation covenants, please contact Ms. Judy Johnston, HQ TRADOC BRAC, (804) 727-3845. Technical questions regarding the preservation covenants or Fort Ord National Register eligible properties can be answered by Dr. Neil Robison, Mobile District Corps of Engineers, (334) 690-3018.

Sincerely,



Joseph A. Roszkowski
Colonel, U.S. Army
Director, Operations

Enclosure



DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY FORCES COMMAND
FORT MCPHERSON, GEORGIA 30330-6000



REPLY TO
ATTENTION OF

Base Realignment and Closure Division

28 SEP 1994

Ms. Chrilyn Widell
California State Historic Preservation Officer
ATTN: Mr. Hans Kreutzberg
Office of Historic Preservation
Department of Parks and Recreation
Post Office Box 942896
Sacramento, CA 94296-0001

Dear Ms. Widell:

As you know, the Army is closing Fort Ord, Monterey County, California, as part of the Department of Defense Base Realignment and Closure program. In partial fulfillment of the Army's Section 106 responsibilities under the National Historic Preservation Act, a historic architectural study was conducted of the Fort Ord buildings to evaluate their eligibility for the National Register of Historic Places (Historical and Architectural Documentation Reports for Fort Ord, California 1993). Following your office review of this document, we received a 25 January 1994 letter from you requesting additional information on a number of Fort Ord buildings. This information was provided to your office by a letter dated 9 March 1994. On 11 August 1994, you provided us with your opinions concerning the conclusions presented in our 9 March letter and you also asked for additional information concerning the East Garrison historic district. Specifically, on 11 August you requested: 1) a map that delineated the boundaries of the East Garrison historic district and 2) additional information about whether a wood theater and chapel, both World War II temporary buildings, should be considered contributing elements of the East Garrison historic district.

Please find attached a map which displays the proposed boundaries of the East Garrison historic district. The building numbers of contributing buildings are displayed on the map and the attached list. Below is a verbal description of the district boundaries.

The East Garrison Historic District is bounded on the north and east sides by Reservation Road as it runs between East Garrison Gate to Watkins Gate. Watkins Gate Road, as it runs between Reservation Road to Chapel Hill Road, forms the south boundary. The western boundary is formed by Chapel Hill Road as it runs between Watkins Gate and Reservation Road.

The theater (Building T-92) and the chapel (Building T-135) are not recommended by the Army to be contributing elements of the East Garrison Historic District as it is now denied. All contributing buildings are permanent red clay tile buildings that were constructed in 1940 by the Works Projects Administration (WPA). These buildings, which include mess halls, latrines, storage facilities, and administration buildings, were built to support a troop tent camp.

The theater and chapel are temporary wood frame buildings located within the East Garrison Historic District, as it is now defined, are actually infill buildings that were placed there following a decision by the Roosevelt administration that participation by the United States in World War II was unavoidable. When constructed in 1940 the East Garrison was set up to support volunteer soldiers during their annual training encampments, not the draftees envisioned by the 1941 construction program.

The chapel was constructed from standard Army Quartermaster Corps plan number 800-550 and is a common type found throughout the United States at other military installations. This type was recorded at Camp McCoy, Wisconsin, for the 1986 World War II temporary building PMAA. The theater was constructed from standard Army Quartermaster Corps plan number 800-500. It also is found at other military installations and was recorded at Camp McCoy, Wisconsin, for the 1986 World War II temporary PMAA.

In compliance with Section IV.B. of the Fort Ord programmatic agreement we are submitting the attached draft preservation covenants for your review. We propose using these architectural and archeological covenants during the disposal of properties that possess buildings (Stillwell Hall and the East Garrison Historic District) or archeological sites determined to be eligible for the National Register. These draft covenants have also been sent to the Advisory Council on Historic Preservation

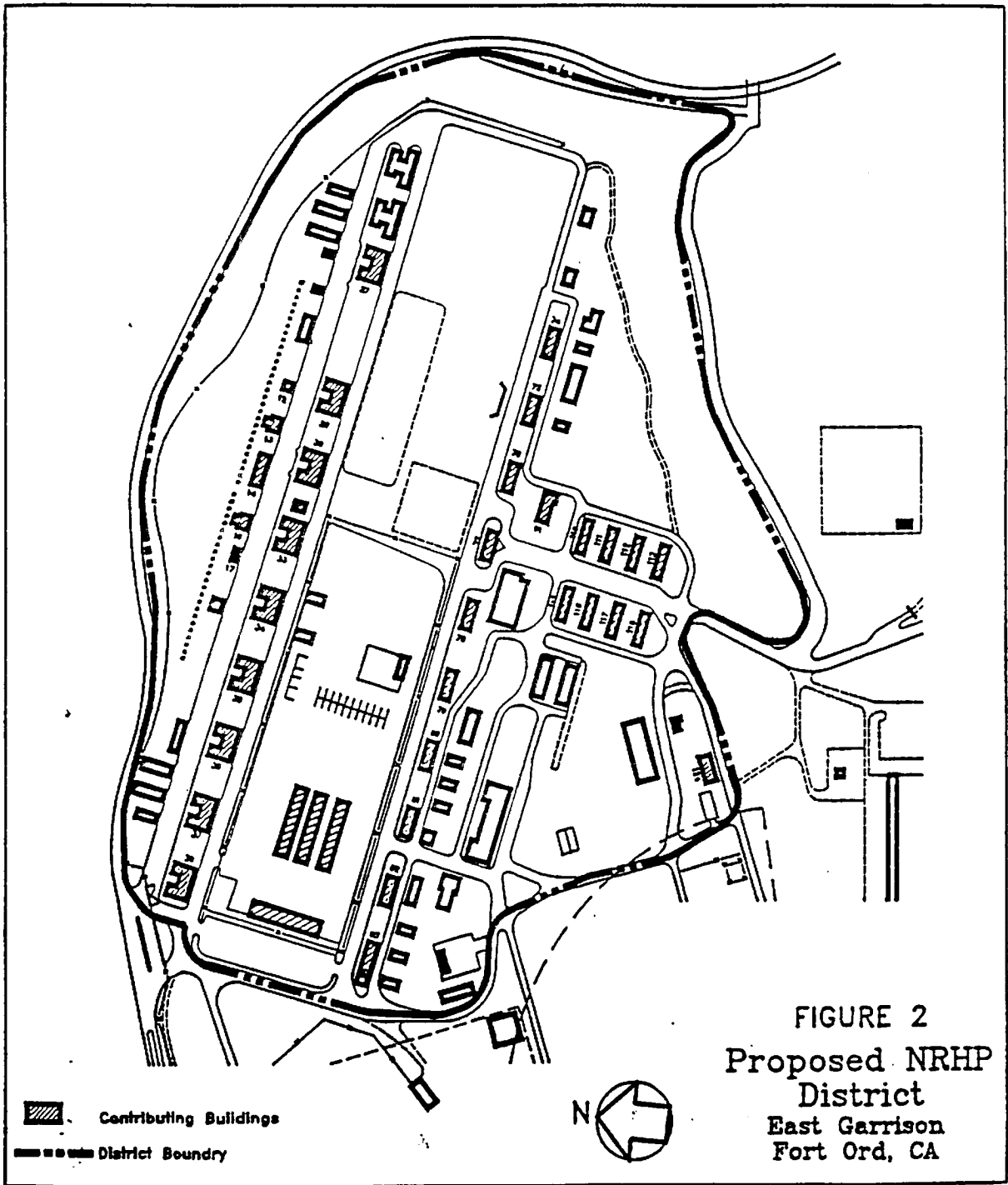
for their review. We assume that your office, as the agency responsible for California historic preservation matters, will hold the covenants. The Army has begun the disposal of properties at Fort Ord, so we would appreciate a rapid turnaround on any comments that you might have about the wording of these covenants.

Should you have any technical questions concerning the East Garrison Historic District or the draft preservation covenants, please contact Dr. Neil Robison at 205-441-5103. General questions concerning the closure and disposal of Fort Ord can be answered by Ms. Jerri Lenox at 404-669-6356.

Sincerely,



JH JOSEPH H. PLUNKETT
Chief, Base Realignment and
Closure Division, DCSPIM



East Garrison Historic District Contributing Buildings

12	37	91
13	38	96
14	74	110
16	75	111
17	76	112
27	77	113
29	78	115
30	79	116
33	80	117
34	81	118
35	82	124
36	83	

STANDARD PRESERVATION COVENANT FOR BUILDINGS AND STRUCTURES

1. In consideration of the conveyance of certain real property hereinafter referred to as (name of property), located in the County of (name), State of California, which is more fully described as: (Insert legal description.), (Name of property recipient) hereby covenants on behalf of (himself/herself/itself), (his/her/its) heirs, successors, and assigns at all time to the United States Army and the California Office of Historic Preservation to preserve and maintain (name of property) in accordance with the recommended approaches in the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings (U.S. Department of the Interior, National Park Service 1992) in order to preserve and enhance those qualities that make (name of property) eligible for inclusion in the National Register of Historic Places.
2. No construction, alteration, remodeling or other modification shall be undertaken or permitted to be undertaken on (name of property) which would affect the integrity or appearance of this property without the express written permission of the California Office of Historic Preservation.
3. The California Office of Historic Preservation shall be permitted at all reasonable times to inspect (name of property) in order to ascertain if the above conditions are being observed.
4. The California Office of Historic Preservation shall provide written notice of approval or denial of the proposed construction alteration, remodeling or other activity which offends the principles of clause one of this agreement. In the case of a denial, the reason or reasons shall be stated in the notice.
5. In the event of a violation of this covenant, and in addition to any remedy now or hereinafter provided by law, the California Office of Historic Preservation may, following reasonable notice to (name of recipient), institute suit to enjoin said violation or to require the restoration of (name of property). The successful party shall be entitled to recover all costs or expenses incurred in connection with such suit, including all court costs and attorneys fees.
6. In the event that a Building or Restricted Facade (i) is substantially destroyed by fire or other casualty, or (ii) is not totally destroyed by such fire or casualty, but damage thereto is so serious that restoration would be financially impractical in the reasonable judgment of the Owner, this Preservation Restriction shall terminate on the date of such destruction or casualty. Upon such termination, the Owner shall deliver a duly executed and acknowledged notice of such termination to the California Office of Historic Preservation, and record a duplicate original of said notice in the Registry of Deeds. Such notice shall be conclusive evidence in favor of every person dealing with the Premises as to the facts set forth therein.

7. (Name of recipient) agrees that the California Office of Historic Preservation may at its discretion, without prior notice to (name of recipient), convey and assign all or part of its rights and responsibilities contained herein to a third party.

6. This covenant is binding on (name of recipient), (his/her/its) heirs, successors, and assigns in perpetuity, unless waived by the California Office of Historic Preservation. Restrictions, stipulations, and covenants contained herein shall be inserted by (name of recipient) verbatim or by express reference in any deed or other legal instrument by which (he/she/it) divests (himself/herself/itself) of either the fee simple title or any other lesser estate in (name of property) or any part thereof.

7. The failure of the California Office of Historic Preservation to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.

The covenant shall be a binding servitude upon (name of property) and shall be deemed to run with the land. Execution of this covenant shall constitute conclusive evidence that (name of recipient) agrees to be bound by the foregoing conditions and restrictions and to perform the obligations herein set forth.

STANDARD PRESERVATION COVENANT FOR ARCHEOLOGICAL SITES

In consideration of the conveyance of the real property that includes the [name of archeological site] located in the County of [name of county], State of California, which is more fully described as: [insert legal description]. [Name of property recipient] hereby covenants on behalf of [himself/herself/itself], [his/her/its] heirs, successors, and assigns at all times to the United States Department of the Army and the California Office of Historic Preservation, to maintain and preserve the [name of archeological site], a location also known as the Preservation Area whose boundaries are described above, as follows:

1. Except as hereinafter provided, the Preservation Area [name of archeological site] shall remain in its existing state in order to preserve potential archeological resources therein, and to that end, except as otherwise provided herein, the Grantor, and his successors or assigns to that shall neither perform nor permit others to perform any of the following:

(a) The placement of any earth material or other substance on, above or below the ground;

(b) The excavation or removal of any earth material, plant material, mineral substance or other substance or material, except archeological resources retrieved pursuant to paragraph 7 below;

(c) The construction of any building or placement of any other structure on, above or below the ground surface;

(d) The conduct of any field investigation for any purpose, except the field surveys and subsurface investigations authorized by the California Office of Historic Preservation pursuant to paragraph 7 below; and

(e) Any other activity which by disturbing, altering or otherwise affecting the existing surface or subsurface of the Preservation Area would be detrimental to the appropriate preservation of the archeological resources therein.

2. No disturbance of the ground surface or any other thing shall be undertaken or permitted to be undertaken on [name of archeological site] which would affect the physical integrity of the [name of archeological site] without the express prior written permission of the California Office of Historic Preservation, signed by a fully authorized representative thereof. Should the California Office of Historic Preservation require, as a condition of the granting of such permission, that the [name of recipient] conduct archeological data recovery operations or other activities designed to mitigate the adverse effect of the proposed activity on the [name of archeological site], the [name of recipient] shall at [his/her/its] own expense conduct such activities in accordance

with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 44734-37), 950 CMR 70 - the State Archeologist's archeological permit regulations, and such other standards and guidelines as the California Office of Historic Preservation may specify, including but not limited to standards and guidelines for research design, field work, analysis, preparation and dissemination of reports, disposition of artifacts and other materials, consultation with Native American or other organizations, and re-interment of human remains.

3. [Name of recipient] shall make every reasonable effort to prohibit any person from vandalizing or otherwise disturbing the [name of archeological site], and shall promptly report any such disturbance to the California Office of Historic Preservation.

4. This Preservation Restriction does not grant right of access to the Preservation Area, provided, however, that upon advance notice to the then-existing owner, said owner shall permit Grantee access to the Preservation Area in the manner, time, and location reasonably specified by said owner, for the purpose of allowing Grantee to inspect the Preservation Area and determine whether the terms of this Preservation Restriction have been complied with.

5. [Name of recipient] agrees that the California Office of Historic Preservation may at its discretion, without prior notice to [name of recipient], convey and assign all or part of its rights and responsibilities contained herein to another governmental body or charitable corporation or trust with like purposes.

6. Except as otherwise provided by Paragraph 7 below, this Preservation Restriction shall be perpetual in duration. This parties agree that it is and shall be considered an easement in gross, and as such, is inheritable and assignable and runs with the land as an incorporeal property interest in the Preservation Area enforceable by the Grantee and its successors and assigns with respect to the Preservation Area and against Grantor and Grantor's heirs, successors and assigns, all of whom are collectively referred to herein as "Grantee" and "Grantor", respectively.

7. If the Grantor conducts and completes a study of the Preservation Area and retrieval of archeological resources and delivery of same to the California Office of Historic Preservation, all under the supervision of, and to the satisfaction of, the California Office of Historic Preservation, the California Office of Historic Preservation shall execute a void certificate of release of this Preservation Restriction and deliver said certificate of release in recordable form to the Grantor or his successors or assigns.

8. The failure of the California Office of Historic Preservation to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or

remedy at any other time.

9. Upon its execution, the Grantor shall promptly record this Preservation Restriction with the appropriate Registry of Deeds and file a copy of the recorded Preservation Restriction with the Grantee.

The covenant shall be a binding servitude upon the real property that includes the [name of archeological site] and shall be deemed to run with the land. Execution of this covenant shall constitute conclusive evidence that [name of recipient] agrees to be bound by the foregoing conditions and restrictions and to perform to obligations herein set forth.

OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION
P.O. BOX 942886
SACRAMENTO 94290-0001
(916) 653-9824
FAX: (916) 653-9824

October 12, 1995

Reply To: USA950911W

Jesse C. Gatlin, III, Colonel,
U.S. Army, Director, Operations
Headquarters, United States Army
Training and Doctrine Command
Fort Monroe VIRGINIA 23651-5000
Atten: BRAC Office; Tim Thompson

RE: Architectural and Archeological Covenants for Historic
Properties at Ford Ord, CA

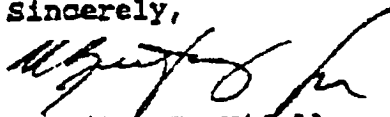
Dear Colonel Gatlin:

This will acknowledge our receipt on September 11, 1995 of your letter transmitting the text of preservation covenants proposed by the Army for use in the transfer of historic properties at Fort Ord to non-federal parties. We further acknowledge that the Army had previously furnished us with copies of these covenants but have been unable to locate the original submittal. Thank you for resubmitting these materials to us. We apologize for any inconvenience we may have caused.

We have reviewed the covenants the Army proposes to use and have no objection to their texts. We look forward to hearing from the Army whenever the covenants are to be used in a specific property disposal action. We would appreciate some advance notice in such instances.

The Army's consideration of historic properties in BRAC actions at Fort Ord is appreciated. If you have any questions, please call Hans Kreutzberg at (916) 653-9107.

Sincerely,



Cheryl E. Widell
State Historic Preservation Officer