

**DOCUMENT OF ENVIRONMENTAL PROTECTION
(DEP)**

ACTIVITY:

**PROTECTION OF
CULTURAL RESOURCES**

CONTROL NUMBER DEP-10-001.0

July 2015

Effective Date: January 7, 2017

U.S. ARMY GARRISON-KWAJALEIN ATOLL (USAG-KA)

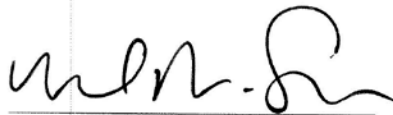
**PREPARED BY TELEDYNE BROWN ENGINEERING
HUNTSVILLE, ALABAMA**

THIS PAGE INTENTIONALLY LEFT BLANK

FINAL DOCUMENT OF ENVIRONMENTAL PROTECTION
FOR
PROTECTION OF CULTURAL RESOURCES
DEP-10-001.0
JULY 2015

SHALL TAKE EFFECT UPON SIGNATURE

FOR THE U.S. ARMY GARRISON KWAJALEIN ATOLL



MICHAEL M. LARSEN
COL, U.S. Army
Commanding

07 JAN 2017
DATE

**AGREE WITH DOCUMENT OF ENVIRONMENTAL PROTECTION
FOR
PROTECTION OF CULTURAL RESOURCES
DEP-10.001.0
JULY 2015**

U.S. Army Corps of Engineers, Honolulu District

Agency

TAKEMOTO.HELENE.1231191042
ENE.1231191042

Digitally signed by
TAKEMOTO.HELENE.1231191042
DN: c=US, o=U.S. Government,
ou=DoD, ou=PKI, ou=USA,
cn=TAKEMOTO.HELENE.1231191042
Date: 2015.10.07 11:26:00 -1000'

Name

Date

**AGREE WITH DOCUMENT OF ENVIRONMENTAL PROTECTION
FOR
PROTECTION OF CULTURAL RESOURCES
DEP-10.001.0
JULY 2015**

U.S. Fish and Wildlife Service

Agency


Name for Dan Polhemus

9/15/15
Date

**AGREE WITH DOCUMENT OF ENVIRONMENTAL PROTECTION
FOR
PROTECTION OF CULTURAL RESOURCES
DEP-10.001.0
JULY 2015**

National Marine Fisheries Service

Agency

Stan P. Kolish...
Name

7-2-15
Date

**AGREE WITH DOCUMENT OF ENVIRONMENTAL PROTECTION
FOR
PROTECTION OF CULTURAL RESOURCES
DEP-10.001.0
JULY 2015**

U.S.EPA

Agency

Norwood Scott

Name

7/1/2015

Date

CULTURAL RESOURCES DEP

JULY 2015

Revisions to the Final DEP Reflected Herein

1. Page 4, DEP Section 1.6(a). Replaced “cease” with “suspend”; added “surrounding the discovery” after “operations”.
2. Page 4, DEP Section 1.6(b). Deleted “all” after “take” and added “necessary” before “steps”.
3. Page 5, DEP Section 1.6(e). Deleted “artifact content indicates that” after “If” and added “affected” before “site”.
4. Page 5, DEP Section 1.6(f), first sentence. Replaced “halted” with “suspended”.
5. Page 5, DEP Section 1.6(g). Rewritten as: “If the RMIHPO does not visit the site, the USAG-KA CRM shall make a determination on the disposition in consultation with the Historic Preservation Professional and the RMIHPO. The USAG-KA CRM shall inform the RMIHPO of all actions taken.”
6. Page 6, DEP Section 1.7(a). Replaced “cease” with “suspend”; added “within the affected area” after “operations”.
7. Page 6, DEP Section 1.7(c). Rewritten as: “The USAG-KA Hospital personnel or an appropriately qualified Historic Preservation Professional shall determine if the remains are human.”
8. Page 9, DEP Section 1.10(d). Added “/or” after “USFWS and”.
9. Page 9, DEP Section 1.10(f). Added “/or” after “USFWS and”.
10. Page 9, DEP Section 1.10(g). Deleted “sediment”.
11. Page 10, DEP Section 2.0(a). Rewritten as: “Excavations in areas determined to be sensitive for the discovery of subsurface cultural resources (as determined by the USAG-KA CRM, archaeological and historic investigations, or the HPP), shall be monitored by a Historic Preservation Professional qualified under the *U.S. Secretary of the Interior’s Professional Qualification Standards* (US Department of the Interior, 1997). “
12. Page 11, DEP Section 5.2(b). Replaced “archaeological” with “cultural”.
13. Page 11, DEP Section 5.3(a). Rewritten as “The following documentation shall be maintained indefinitely: (1) Cultural Resource Surveys and Inventory Reports (2) Reports generated as a result of archaeological monitoring and accidental discoveries (3) Work Plans for the rehabilitation or renovation of cultural resources (4) Other documentation that will enhance the knowledge base of USAG-KA cultural resources”
14. Page 5, NCA Section 1.7(a). Replaced “cease” with “suspend”; added “surrounding the discovery” after “operations”.

Revisions to the Final DEP Reflected Herein (Continued)

15. Page 5, NCA Section 1.7(b). Deleted “all” after “take” and added “necessary” before “steps”.
16. Page 5, NCA Section 1.7(e). Deleted “artifact content indicates that” after “If” and added “affected” before “site”.
17. Page 5, NCA Section 1.7(f), first sentence. Replaced “halted” with “suspended”.
18. Page 6, NCA Section 1.7(g). Rewritten as: “If the RMIHPO does not visit the site, the USAG-KA CRM will make a determination on the disposition in consultation with the Historic Preservation Professional and the RMIHPO. The USAG-KA CRM will inform the RMIHPO of all actions taken.”
19. Page 6, NCA Section 1.8(a). Replaced “cease” with “suspend”; added “within the affected area” after “operations”.
20. Page 6, NCA Section 1.8(c). Rewritten as: “The USAG-KA Hospital personnel or an appropriately qualified Historic Preservation Professional will determine if the remains are human.”
21. Page 9, NCA Section 1.10, first sentence. Rewritten as: “Excavations in areas determined to be sensitive for the discovery of subsurface cultural resources (as determined by the USAG-KA CRM, archaeological and historic, or the HPP), will be monitored by a Historic Preservation Professional qualified under the *U.S. Secretary of the Interior’s Professional Qualification Standards* (US Department of the Interior, 1997).”
22. Page 13, NCA Section 14.0, second sentence. Deleted “sediment”.
23. Page 13, NCA Section 15.0, 4th sentence. Added “/or” after “USFWS and”.
24. Page 14, NCA Section 15.0, 1st paragraph, 3rd sentence. Added “/or” after “USFWS and”.
25. Page 15, NCA Section 17.2, 2nd sentence. Replaced “archaeological” with “cultural”.
26. Page 15, NCA Section 17.3, 1st sentence. Rewritten as: “*The following documentation will be maintained indefinitely:* cultural resource surveys and inventory reports, reports generated as a result of archaeological monitoring and accidental discoveries, work plans for the rehabilitation or renovation of cultural resources, and other documentation that will enhance the knowledge base of USAG-KA cultural resources.”

DOCUMENT OF ENVIRONMENTAL PROTECTION (DEP)

ACTIVITY: PROTECTION OF CULTURAL RESOURCES

DATE SUBMITTED: July 2015

DEP EFFECTIVE DATE: 7 January 2017

DEP EXPIRES: Five Years After Final Signature

REFERENCES:

- U.S. Army. Army Regulation 200-1, *Environmental Protection and Enhancement*, 13 December 2007.
- U.S. Army Kwajalein Atoll (USAKA). Document of Environmental Protection: *Dredging and Filling*, February 2011.
- USAKA. *Historic Preservation Plan, United States Army Kwajalein Atoll*, August 2006.
- U.S. Army Kwajalein Atoll. Document of Environmental Protection (DEP): *Protection of Cultural Resources*, November 2004.
- U.S. Army Space and Missile Defense Command *Environmental Standards and Procedures for United States Army Kwajalein Atoll (USAKA) Activities in the Republic of the Marshall Islands*, Thirteenth Edition, October 2014.
- U.S. Army Space and Strategic Defense Command. *Final Supplemental Environmental Impact Statement, Proposed Actions at U.S. Army Kwajalein Atoll*, December 1993.
- U.S. Army Space and Strategic Defense Command. *Final Environmental Impact Statement, Proposed Actions at U.S. Army Kwajalein Atoll*, October 1989.
- U.S. Department of the Interior. *Secretary of the Interior's Professional Qualification Standards*, June 1997.
- U.S. Department of the Interior. *Secretary of the Interior's Standards for Treatment of Historic Properties*, 1995.

TECHNICAL DESCRIPTION OF THE ACTIVITY

This DEP provides guidelines for cultural resource protection during ongoing operations, maintenance, construction, and mission activities at U.S. Army Garrison–Kwajalein Atoll (USAG-KA). This document focuses on guidelines for cultural resource consultation procedures. This DEP does not cover specific projects that may potentially affect cultural resources, or cultural resource recoveries or investigations.

All ongoing operations, maintenance, construction, and mission activities that may affect cultural resources at USAG-KA and that have the potential to affect any resource which could be eligible for the Republic of the Marshall Islands National Register of Historic Places (RMINRHP) under the criteria documented in Section 3-7.6.4 of the USAKA Environmental Standards (UES), shall be managed in accordance with the consultation procedures outlined in Section 1.0 of this DEP.

LOCATION OF ACTIVITY

The activity is located on 11 islands at Kwajalein Atoll, including the islands and waters of Eniwetak, 6 acres of Ennugarret, 71 acres of Ennylabegan, Gagan, Gellinam, Illeginni, Kwajalein, Legan, Meck, Omelek and Roi-Namur and other islands/atolls as identified for future activities.

COMPLIANCE STATUS

Cultural resource protection on USAKA is currently in compliance with the UES.

TABLE OF CONTENTS

	PAGE
1.0 Requirements and Limitations	1
1.1 Required Procedures	1
1.2 Assess Information.....	1
1.3 Locate Cultural and Historic Resources	2
1.4 Procedures for Activities Affecting Identified Cultural Resources	3
1.5 Excavation Procedures.....	3
1.6 Discovery of Archaeological Resources.....	4
1.7 Discovery of Human Remains.....	6
1.8 Protection of Cultural Resources from Theft and Destruction	7
1.9 Exempted Activities.....	7
1.10 Action to be Taken to Protect Migratory Birds and Other Wildlife Resources During Cultural Resource Preservation Activities.....	9
2.0 Monitoring Procedures.....	9
3.0 Reporting Procedures.....	10
4.0 Notification Procedures	10
5.0 Records Keeping Requirements.....	10
5.1 Documentation.....	11
5.2 Distribution	11
5.3 Record Retention	11
6.0 Minor DEP Modifications.....	12
7.0 Resolution of Noncompliant Areas.....	12
8.0 Comments Received on the Final DEP and USAG-KA's Responses	12
9.0 Comments Received on the Draft DEP and USAKA's Responses	23
10.0 Comments Received on the Notice of Continuing Activity (NCA) and USAKA's Responses	42
 Appendix A NCA-10-001.0, Notice of Continuing Activity for Protection of Cultural Resources, February 2010.....	 A-1

ABBREVIATIONS AND ACRONYMS

ARSTRAT	Army Forces Strategic Command
CRM	Cultural Resource Manager
CRP	Cultural Resource Plan
DEP	Document of Environmental Protection
DPW	Directorate of Public Works
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
HPP	Historic Preservation Plan
NCA	Notice of Continuing Activity
NMFS	National Marine Fisheries Service
RMI	Republic of the Marshall Islands
RMIACHP	RMI Advisory Council on Historic Preservation
RMIEPA	Republic of the Marshall Islands Environmental Protection Authority
RMIHPO	Republic of the Marshall Islands Historic Preservation Office
RMINRHP	RMI National Register of Historic Places
SEIS	Supplemental Environmental Impact Statement
UES	USAKA Environmental Standards
U.S.	United States
USAG-KA	United States Army Garrison – Kwajalein Atoll
USAKA	United States Army Kwajalein Atoll
USASMDC	United States Army Space and Missile Defense Command
USFWS	U.S. Fish and Wildlife Service

1.0 REQUIREMENTS AND LIMITATIONS

1.1 Required Procedures

- a. All ongoing operations, maintenance, construction, and mission activities that may affect cultural resources at USAG-KA and that have the potential to affect any resource which could be eligible for the RMINRHP under the criteria documented in Section 3-7.6.4 of the UES shall be managed in accordance with the consultation procedures outlined in this DEP as well as the current USAG-KA Regulation 200-4.
- b. The USAG-KA Commander shall designate a Cultural Resource Manager (CRM) to coordinate the installation's cultural resources management program and to provide sound recommendations, advice, and service to the Commander to assist in fulfilling the requirements of the UES and the Cultural Resources DEP. The CRM and any other person performing cultural resource related actions for USAG-KA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the *United States (U.S.) Secretary of the Interior's Professional Qualification Standards*. Maximum use shall be made of archaeologists with experience in the Pacific basin, and preferably in the Republic of the Marshall Islands (RMI).
- c. All consultation, coordination, communication, and notification between USAG-KA and the RMI Historic Preservation Office (RMIHPO) and the RMI Advisory Council on Historic Preservation (RMIACHP) shall be made directly and concurrently with the RMI Environmental Protection Authority (RMIEPA) [UES Section 3-7.3].

1.2 Assess Information

- a. The UES defines an undertaking as “a project, an activity, or a program that can result in changes in the character or use of cultural resources, if any such resources are located in the area of potential effects. The project, activity, or program must be under the direct or indirect jurisdiction of USAG-KA or must be licensed, assisted, or funded by a U.S. Federal agency. Undertakings include new and continuing projects, activities, and programs and any of their elements not previously considered.”

- b. Following a determination by the USAG-KA CRM, that a proposed project, activity, or program constitutes an undertaking, unless the undertaking is authorized in a DEP, that may result in changes in the character or use of cultural resources located in the area of potential effect, USAG-KA shall:
- (1) Review existing information (including undertaking-specific documents prepared by installation personnel and project proponents) on historic properties potentially affected by the undertaking, utilizing the 1989 USAKA Environmental Impact Statement (EIS), 1993 USAKA Supplemental EIS (SEIS), Historic Preservation Plan (current version), and other existing surveys and monitoring reports, including any data concerning the likelihood that unidentified cultural resources exist in the area of potential effect.
 - (2) Notify, as early as possible in the planning process, the RMIHPO of the planned undertaking; provide the RMIHPO with a detailed map clearly illustrating the undertaking, the nature of planned work, a proposed schedule of construction/development work, and consult with the RMIHPO concerning the undertaking.
 - (3) Identify, in conjunction with the RMIHPO, interested persons and stakeholders early in the process of the undertaking and seek information regarding identification of cultural resources at the proposed site of the undertaking.
 - (4) Request the views of the RMIHPO on further actions for identifying cultural resources that may be affected.

1.3 Locate Cultural and Historic Properties

- a. In consultation with the RMIHPO, the USAG-KA CRM shall make a reasonable and good faith effort to identify properties that may be affected by the undertaking, and gather sufficient information to evaluate their significance and potential eligibility for the RMINRHP.

- b. Efforts to identify cultural and historic properties shall follow the procedures in UES Section 3-7.5.3.

1.4 Procedures for Activities Affecting Identified Cultural and Historic Properties

The USAG-KA CRM shall ensure compliance with the procedures outlined below for identified cultural and historic properties.

- a. All building refurbishment and rehabilitation of structures identified in environmental documentation and cultural resource surveys as having the potential to be eligible for the RMINRHP shall be performed in accordance with the *Secretary of the Interior's Standards for Treatment of Historic Properties* (U.S. Department of the Interior, 1995).
- b. For all routine maintenance activities associated with infrastructure and building repair, refurbishment, and rehabilitation [e.g., window replacement (in kind); painting; electrical, plumbing, and other utility work not requiring excavations of previously undisturbed areas; roof maintenance, and road resurfacing,], such individual activities may proceed without consultation with the RMIHPO.
- c. To the greatest extent practical, ensure that all ground disturbance or construction activities at USAG-KA are sited to avoid known cultural resources considered eligible for inclusion in the RMINRHP, as identified in environmental documentation and cultural resource surveys.

1.5 Excavation Procedures

The following procedures shall apply to all ground disturbance or construction activities involving excavations performed to a depth of greater than six inches below existing grade at USAG-KA identified as having a potential for significant subsurface deposits.

- a. Prior to any excavation greater than six inches below grade, a review of the proposed excavation shall be conducted to determine if the activity is part of an existing completed consultation; is not an undertaking; or is exempt from considerations as an undertaking. If archaeological inspection or monitoring is required, the project lead or supervisor shall be notified and the requirement integrated into planning for the

- activity. The plans for proposed monitoring or inspections shall be documented, in advance, in a Cultural Resource Plan (CRP).
- b. The USAG-KA CRM shall ensure that a qualified Historic Preservation Professional monitors excavation activities covered by this subsection.
 - c. Prior to excavation, the USAG-KA CRM shall ensure that all construction personnel involved in excavation activities are apprised of:
 - (1) Procedures to follow if unexploded ordnance is encountered during construction excavation.
 - (2) The significance and importance of potential cultural and historical properties that might be encountered during construction excavation.
 - (3) Procedures to be followed if archaeological resources or human remains are discovered.

1.6 Discovery of Archaeological Resources

In areas that have a potential for significant subsurface deposits, a qualified Historic Preservation Professional shall monitor all excavations. The following procedures shall apply to the discovery of artifacts or subsurface features of potential archaeological or historic value in excavations on any part of USAG-KA.

- a. If discovery occurs during excavation activities, the equipment operators shall immediately suspend operations surrounding the discovery.
- b. Personnel, or the contractor making the discovery, shall secure the site and take necessary steps, including notification and use of USAG-KA Provost Marshal resources if necessary, to provide protection to the site or artifacts.
- c. The subsurface resources shall be left undisturbed and the USAG-KA CRM or the Historic Preservation Professional shall be immediately notified of the discovery and location of the site. If these individuals are not available, notification shall be made to the Chief of Directorate of Public Works (DPW).

- d. The USAG-KA CRM, with assistance from the Historic Preservation Professional, shall make an initial determination concerning the significance of the site and any artifacts it may include. Archaeological analysis shall be conducted in accordance with accepted professional standards.
- e. If the affected site is not significant, the undertaking shall proceed. The RMIHPO shall be informed of such findings.
- f. If the site is determined to be potentially significant, activities potentially affecting the site shall be suspended or redirected, as appropriate, until mitigation measures are developed to minimize effects on the resource. Within 24 hours of determining if the site is significant, the USAG-KA CRM shall contact the RMIHPO, who will indicate whether an on-site visit is desired, and if so, the visit shall occur within ten calendar days of notification. The USAG-KA CRM, in consultation with the Historic Preservation Professional, and the RMIHPO representative, shall jointly determine appropriate mitigation measures for the site and disposition of the significant cultural resource(s). This disposition may include the following procedures:
 - (1) Maintaining the cultural resource(s) in place and proceeding with the undertaking after desired communication has been completed
 - (2) Recording the location of the cultural resource(s), removing the cultural resource(s) for subsequent curation and study and allowing the undertaking to proceed
 - (3) In the case of historically significant finds, maintaining the cultural resource(s) in place and altering the project to avoid the undertaking, stopping the undertaking, or delaying the undertaking until a data recovery plan for the resource(s) can be designed and implemented at the site.
- g. If the RMIHPO does not visit the site, the USAG-KA CRM shall make a determination on the disposition in consultation with the Historic Preservation Professional and the RMIHPO. The USAG-KA CRM shall inform the RMIHPO of all actions taken.

1.7 Discovery of Human Remains

The procedures outlined below shall apply to the discovery of human remains.

- a. If discovery occurs during excavation activities, the equipment operators shall immediately suspend operations within the affected area.
- b. Personnel responsible for the activity leading to the discovery shall notify the USAG-KA Hospital, USAG-KA Provost Marshal and the USAKA-KA CRM. Pending arrival of these personnel, all necessary steps shall be taken to secure the remains.
- c. The USAG-KA Hospital personnel or an appropriately qualified Historic Preservation Professional shall determine if the remains are human.
- d. If the remains are human, the above officials shall determine if the remains involve a relatively recent death, in which case the USAG-KA Provost Marshal shall take charge of the site and subsequent investigation. In such cases, the procedures below do not apply.
- e. If it is determined that the remains are part of an archaeological site or are a World War II battle casualty, the following procedures apply.
 - (1) The USAG-KA CRM, in consultation with the Historic Preservation Professional, shall make an initial determination of the significance of the remains, applying accepted professional practices, including determining whether the remains involve an intact burial or are fragmentary and disturbed.
 - (2) Within 24 hours following initial determination that a relatively intact burial or significant human remains have been discovered, the RMIHPO shall be notified and may visit the site within ten calendar days of notification. If the RMIHPO does not visit the site, and has not indicated preferred disposition of the remains, the USAG-KA CRM, in consultation with the Historic Preservation Professional shall determine disposition of the remains and inform the RMIHPO of the disposition.

- f. If the remains are determined to be significant, the USAG-KA CRM, with assistance from the Historic Preservation Professional, and the RMIHPO shall jointly determine appropriate disposition of the remains.
- g. Disposition may be by any one of the following approaches:
 - (1) Document the remains, re-inter them where they were discovered, and allow the undertaking to proceed.
 - (2) Document the remains, re-inter them in another agreed-upon location, and allow the undertaking to proceed.
 - (3) Document the remains, remove them for subsequent curation and study, and allow the undertaking to proceed.
 - (4) Document the remains and alter or stop the undertaking to avoid further disturbance of the remains or associated site.
 - (5) Document the remains and delay the undertaking to allow further archaeological fieldwork and research.

1.8 Protection of Cultural Resources from Theft and Destruction

- a. USAG-KA shall advise all personnel, contractors, representatives, visitors and resident dependents against collection and destruction of cultural materials at USAG-KA, per UES Section 3-7.6.3.
- b. Appropriate measures shall be developed by the USAG-KA CRM for the protection of historic and archaeological resources from looting and vandalism.

1.9 Exempted Activities

A project, activity, or program is not considered an undertaking, and shall be exempted from consultation, if one or more of the following exceptions apply:

- a. Ground-disturbing activities in areas where significant and extensive ground disturbance has already occurred.

- b. Ground-disturbing activities in areas of islands that were created by dredging and filling after 1944.
- c. Ground-disturbing activities in areas that have been determined to be non-sensitive by the USAG-KA CRM, in consultation with the Historic Preservation Professional, based on previous surveys, archaeological testing, data recovery, and monitoring records.
- d. Installation maintenance activities associated with infrastructure and non-historic building repair, refurbishment, and rehabilitation.
- e. In-kind window replacement.
- f. Painting.
- g. Utility (Electrical, High Voltage, Water (potable & non-potable), and Communications) installation, repair, and maintenance which does not require excavation of previously undisturbed areas.
- h. Roof maintenance.
- i. Road resurfacing including grading of existing unpaved roads.
- j. Repair, refurbishment and rehabilitation activities associated with facilities constructed after 1945 and not identified as eligible for the RMINRHP. Such repairs, refurbishment, and rehabilitation can include:
 - (1) Replacement/repair/alternation of architectural elements (e.g. roofs, doors, porches, partition walls, trim, brick/CMU work, windows, and doors) which are not original to the building, and are not elements considered characteristic, distinctive, or unique, or which may have acquired significance over time
 - (2) Replacement/repair/alternation of interior utilities and infrastructure not requiring removal, demolition, or alteration of historic/original fabric either to install or access the said utility or infrastructure. This would include plumbing, communications, electrical, ventilation, and air conditioning infrastructure.

1.10 Action To Be Taken to Protect Migratory Birds and Other Wildlife Resources During Cultural Resource Preservation Activities

- a. No wildlife habitat or resources shall be intentionally taken as part of this activity.
- b. Should preservation efforts, vegetation clearing, or sediment excavation become necessary on cultural and historic properties that are located in potential habitation and nesting areas of migratory birds or other endangered resources, a site survey shall be conducted to ensure that the activity will not disturb those resources.
- c. If the site survey reveals a potential impact to birds or sea turtles or their habitat, the U.S. Fish and Wildlife Service (USFWS) shall be notified, as early as possible in the planning process, of the planned undertaking and shall be provided with a detailed map clearly illustrating the project, the nature of the planned work, and a proposed schedule.
- d. Consultation with the USFWS and/or the National Marine Fisheries Service (NMFS) shall be conducted in accordance with the latest version of the UES.
- e. Dredging or filling shall not be conducted as part of this activity.
- f. Should preservation efforts become necessary for cultural and historic properties that are located in potential marine-life habitat, a site survey shall be conducted to ensure that the activity will not disturb those resources. If marine life resources should be discovered, the USFWS and/or the NMFS shall be consulted before the activities proceed.
- g. To minimize adverse impacts to fish and wildlife, and the degradation of their habitats, conservation measures identified in the current Dredge and Fill DEP shall be taken during excavation of cultural and historic properties on the shore.

2.0 MONITORING PROCEDURES

- a. Excavations in areas determined to be sensitive for the discovery of subsurface cultural resources (as determined by the USAG-KA CRM, archaeological and historic investigations, or the HPP), shall be monitored by a Historic Preservation

Professional qualified under the *U.S. Secretary of the Interior’s Professional Qualification Standards* (US Department of the Interior, 1997).

- b. The Historic Preservation Professional shall ensure that the procedures in Sections 1.5, 1.6, and 1.7 are followed whenever cultural resources are encountered during the excavation.
- c. The need for archaeological monitoring will be determined by the nature and location of the specific project, and through consultation with the USAG-KA CRM.

3.0 REPORTING PROCEDURES

No recurring reports are required by this DEP.

4.0 NOTIFICATION PROCEDURES

Many of the activities in this DEP require notification and consultation between USAG-KA and the RMIHPO. These notification requirements are detailed in Table 4.0 below.

Table 4.0 NOTIFICATIONS

Event	Timeframe	To Be Notified	Notified By
An Undertaking DEP Section 1.2	As early as possible in the planning process	RMIHPO	USAG-KA CRM
Discovery of Archaeological Resources DEP Section 1.6	Within 24 hours of determining if the site is significant	RMIHPO	USAG-KA CRM
Discovery of Human Remains DEP Section 1.7	Within 24 hours following initial determination	RMIHPO	USAG-KA CRM
Marine Life Resources DEP Section 1.10	As early as possible in the planning process	USFWS NMFS	USAG-KA CRM

5.0 RECORDS KEEPING REQUIREMENTS

Consultations, plans, and reports generated in accordance with this DEP shall be prepared as required in UES Section 3-7.5, and shall be provided to the RMIHPO, by the USAG-KA CRM, for review and comment.

5.1 Documentation

- a. Documentation may include copies of all site survey forms, photographs, topographic maps indicating areas actually surveyed and precise location information of all recorded resources, and any other relevant maps or documents. Specific areas requiring surveys that have not been conducted shall be identified.
- b. A report detailing the results of each monitoring activity shall be prepared. Monitoring reports (including drawings, photos and soil descriptions) will assist in determining and/or verifying the location of sensitive and non-sensitive areas of the islands.

5.2 Distribution

- a. The USAG-KA CRM shall furnish a copy of final survey or monitoring reports that describe previously unrecorded cultural resources to the RMIHPO concurrently with the RMIEPA.
- b. In conjunction with the RMIHPO, location information for cultural resources may be withheld from the public when release of such information might increase vandalism or misuse of a cultural property.

5.3 Record Retention

- a. The following documentation shall be maintained indefinitely:
 - (1) Cultural Resource Surveys and Inventory Reports
 - (2) Reports generated as a result of archaeological monitoring and accidental discoveries
 - (3) Work Plans for the rehabilitation or renovation of cultural resources
 - (4) Other documentation that will enhance the knowledge base of USAG-KA cultural resources

- b. Detailed records of monitoring activities shall be maintained to provide data for the updating of archaeologically sensitive areas at USAG-KA.
- c. Consultation correspondence with outside agencies concerning undertakings shall be maintained for the life of the project plus 10 years. Records shall be maintained at USAG-KA.

6.0 MINOR DEP MODIFICATIONS

Minor modifications to this DEP may be accomplished under the provisions of UES Section 2-17.3.6(3).

7.0 RESOLUTION OF NON-COMPLIANT AREAS

Annual surveys/inspections will continue to be conducted on all USAG-KA historical structures. If issues are found, the appropriate action will be taken to remedy the problem. Work orders will be submitted and processed as funding is available.

8.0 COMMENTS RECEIVED ON THE 2015 FINAL DEP AND USAG-KA'S RESPONSES

U.S. Army Corps of Engineers, Honolulu District

COMMENT 1:

DEP Section 1.5(c)(3)/NCA Section 1.6(c)(3) states: Procedures to be followed if archaeological resources or human remains are discovered.

The terms archaeological and cultural are misused. The term Cultural is more generic. Archaeological means things that are pre-history. But the DEP seems to use them as synonymous and they are not. Replace "archaeological" with "cultural".

USAG-KA RESPONSE: Comment noted. No change. Archaeology is not limited to pre-history. Branches of archaeology include Historic Archaeology and Battlefield Archaeology. The important distinction for the procedures in DEP Section 1.5(c)(3) and NCA Section 1.6(c)(3) are that they are specifically intended to protect sub-surface resources that are discovered inadvertently or during monitoring. In every case these would be archaeological in nature

instead of Standing Structures or Traditional Use sites which would comprise other types of Cultural Resources at USAKA.

COMMENT 2:

DEP Section 1.6/NCA Section 1.7: Discovery of Archaeological Cultural Resources

Replace “Archaeological” with “Cultural”

USAG-KA RESPONSE: Comment noted. No change. See Comment 1 Response.

COMMENT 3:

DEP Section 1.6(a): If discovery occurs during excavation activities, the equipment operators shall immediately cease operations.

NCA Section 1.7(a) states: If discovery occurs during excavation activities, the equipment operators will immediately cease operations.

The DEP also requires that if cultural resources are found, then all operations are to cease. That is not acceptable. The affected area should be suspended but not cease operations. We usually use these terms “suspend operations in the affected area” in our specifications and scope of work and not cease operations.

USAG-KA RESPONSE: Comment noted.

DEP Section 1.6(a) is updated to state: *If discovery occurs during excavation activities, the equipment operators shall suspend operations surrounding the discovery.*

NCA Section 1.7(a) is updated to state: *If discovery occurs during excavation activities, the equipment operators will immediately suspend operations surrounding the discovery.*

COMMENT 4:

DEP Section 1.6(b) states: Personnel, or the contractor making the discovery, shall secure the site and take all steps, including notification and use of USAG-KA Provost Marshal resources if necessary, to provide protection to the site or artifacts.

NCA Section 1.7(b) states: Personnel, or the contractor making the discovery, will secure the site and take all steps, including notification and use of USAKA Provost Marshal resources if necessary, to provide protection to the site or artifacts.

Delete “all” after “take” and add “necessary” before “steps”.

USAG-KA RESPONSE: Comment noted.

DEP Section 1.6(b) is updated to state: *Personnel, or the contractor making the discovery, shall secure the site and take necessary steps, including notification and use of USAG-KA Provost Marshal resources if necessary, to provide protection to the site or artifacts.*

NCA Section 1.7(b) is updated to state: *Personnel, or the contractor making the discovery, will secure the site and take necessary steps, including notification and use of USAKA Provost Marshal resources if necessary, to provide protection to the site or artifacts.*

COMMENT 5:

DEP Section 1.6(e) states: If artifact content indicates that the site is not significant, the undertaking shall proceed. The RMIHPO shall be informed of such findings.

NCA Section 1.7(e) states: If artifact content indicates that the site is not significant, the undertaking will proceed. The RMIHPO will be informed of such findings.

Delete “artifact content indicates that” and add “affected” before “site”.

USAG-KA RESPONSE: Comment noted.

DEP Section 1.6(e) is updated to state: *If the affected site is not significant, the undertaking shall proceed. The RMIHPO shall be informed of such findings.*

NCA Section 1.7(e) is updated to state: *If the affected site is not significant, the undertaking will proceed. The RMIHPO will be informed of such findings.*

COMMENT 6:

DEP Section 1.6(f), first sentence, states: If the site is determined to be potentially significant, activities potentially affecting the site shall be halted or redirected, as appropriate, until mitigation measures are developed to minimize effects on the resource.

NCA Section 1.7(f), first sentence, states: If the site is determined to be potentially significant, activities potentially affecting the site will be halted or redirected, as appropriate, until appropriate mitigation measures are developed to minimize affects on the resource.

Replace “halted” with “suspended”.

USAG-KA RESPONSE: Comment noted.

DEP Section 1.6(f), first sentence, is updated to state: *If the site is determined to be potentially significant, activities potentially affecting the site shall be suspended or redirected, as appropriate, until mitigation measures are developed to minimize effects on the resource.*

NCA Section 1.7(f), first sentence, is updated to state: *If the site is determined to be potentially significant, activities potentially affecting the site will be suspended or redirected, as appropriate, until appropriate mitigation measures are developed to minimize effects on the resource.*

COMMENT 7:

DEP Section 1.6(g) states: Except in unusual circumstances or as agreed to by USAG-KA, if the RMIHPO does not visit the site, the USAG-KA CRM shall make the above determination in consultation with the Historic Preservation Professional and the RMIHPO; and complete all desired documentation, removal, or other actions; and inform the RMIHPO of all actions taken.

NCA Section 1.7(g) states: Except in unusual circumstances or as agreed to by USAG-KA, if the RMIHPO does not visit the site, the USAG-KA CRM will make the above determination in consultation with the Historic Preservation Professional and the RMIHPO, and complete all desired documentation, removal, or other actions; and inform the RMIHPO of all actions taken.

Some of the statements are run-on sentences and need to be rewritten for clarify. Since the NCA are similar with the language, they need to be revised accordingly as well.

USAG-KA RESPONSE: Comment noted.

DEP Section 1.6(g) is updated to state: *If the RMIHPO does not visit the site, the USAG-KA CRM shall make a determination on the disposition in consultation with the Historic*

Preservation Professional and the RMIHPO. The USAG-KA CRM shall inform the RMIHPO of all actions taken.

NCA Section 1.7(g) is updated to state: *If the RMIHPO does not visit the site, the USAG-KA CRM will make a determination on the disposition in consultation with the Historic Preservation Professional and the RMIHPO. The USAG-KA CRM shall inform the RMIHPO of all actions taken.*

COMMENT 8:

DEP Section 1.7(a) states: If discovery occurs during excavation activities, the equipment operators shall immediately cease operations.

NCA Section 1.8(a) states: If discovery occurs during excavation activities, the equipment operators will immediately cease operations

Replace “cease” with “suspend” and add “within the affected areas” after “operations”.

USAG-KA RESPONSE: Comment noted.

DEP Section 1.7(a) is updated to state: *If discovery occurs during excavation activities, the equipment operations shall immediately suspend operations within the affected area.*

NCA Section 1.8(a) is updated to state: *If discovery occurs during excavation activities, the equipment operators will immediately suspend operations within the affected area.*

COMMENT 9:

DEP Section 1.7(c) states: The USAG-KA Hospital personnel or an appropriately qualified Historic Preservation Professional shall determine if the remains are human or animal. If animal, the procedures under Section 1.6, “Discovery of Archaeological Resources,” shall apply.

NCA Section 1.8(c) states: The USAG-KA Hospital personnel or an appropriately qualified Historic Preservation Professional will determine if the remains are human or animal. If animal, the procedures under Section 1.7, “Discovery of Archaeological Resources,” will apply.

Disagree. What happens if it is current animal like a chicken bone? Recommend deleting the statement.

USAG-KA RESPONSE: Comment noted.

DEP Section 1.7(c) is updated to state: *The USAG-KA Hospital personnel or an appropriately qualified Historic Preservation Professional shall determine if the remains are human.*

NCA Section 1.8(c) is updated to state: *The USAG-KA Hospital personnel or an appropriately qualified Historic Preservation Professional will determine if the remains are human.*

COMMENT 10:

DEP Section 1.10(d) states: Consultation with the USFWS and the National Marine Fisheries Service (NMFS) shall be conducted in accordance with the latest version of the UES.

NCA Section 1.15, 1st paragraph, last sentence states: Consultation with the USFWS and the National Marine Fisheries Service (NMFS) will be conducted in accordance with the latest version of the UES.

Add “/or” after “and”

USAG-KA RESPONSE: Comment noted.

DEP Section 1.10(d) is updated to state: *Consultation with the USFWS and/or the National Marine Fisheries Service (NMFS) shall be conducted in accordance with the latest version of the UES.*

NCA Section 1.15, 1st paragraph, last sentence is updated to state: *Consultation with the USFWS and/or the National Marine Fisheries Service (NMFS) will be conducted in accordance with the latest version of the UES.*

COMMENT 11:

DEP Section 1.10(f), last sentence, states: If marine life resources should be discovered, the USFWS and the NMFS shall be consulted before the activities proceed.

NCA Section 1.15, 2nd paragraph, last sentence, states: If marine life resources should be discovered, the NMFS and USFWS will be consulted before the activities proceed.

Add “/or” after “and”

USAG-KA RESPONSE: Comment noted.

DEP Section 1.10(f), last sentence, is updated to state: *If marine life resources should be discovered, the USFWS and/or the NMFS shall be consulted before the activities proceed.*

NCA Section 1.15, 2nd paragraph, last sentence, is updated to state: *If marine life resources should be discovered, the NMFS and/or USFWS will be consulted before the activities proceed.*

COMMENT 12:

DEP Section 1.10(g), last sentence states: To minimize adverse impacts to fish and wildlife, and the degradation of their habitats, conservation measures identified in the current Dredge and Fill DEP shall be taken during sediment excavation of cultural and historic properties on the shore.

NCA Section 14.0, last sentence states: To minimize adverse impacts to fish and wildlife, and the degradation of their habitats, conservation measures identified in the current Dredge and Fill DEP will be taken during sediment excavation of cultural and historic properties on the shore.

Not all excavation have sediment.

USAG-KA RESPONSE: Comment noted.

DEP Section 1.10(g), last sentence, is updated to state: *To minimize adverse impacts to fish and wildlife, and the degradation of their habitats, conservation measures identified in the current Dredge and Fill DEP shall be taken during excavation of cultural and historic properties on the shore.*

NCA Section 14.0, last sentence, is updated to state: *To minimize adverse impacts to fish and wildlife, and the degradation of their habitats, conservation measures identified in the current Dredge and Fill DEP will be taken during excavation of cultural and historic properties on the shore.*

COMMENT 13:

DEP Section 2.0(a) states: For any type of excavation that will occur in areas that have been determined to be; by the USAG-KA CRM, archaeological and historic investigations, or the HPP; sensitive for the discovery of subsurface cultural resources, a Historic Preservation

Professional qualified under the *U.S. Secretary of the Interior's Professional Qualification Standards* (US Department of the Interior, 1997) shall monitor all digging.

NCA Section 1.10, first sentence states: For any type of excavation that will occur in areas that have been determined to be, by the USAG-KA CRM, archaeological and historic investigations, or the HPP, sensitive for the discovery of subsurface cultural resources, a Historic Preservation Professional qualified under the *U.S. Secretary of the Interior's Professional Qualification Standards* (US Department of the Interior, 1997) will monitor all digging.

Needs to be revised for clarity.

USAG-KA RESPONSE: Comment noted.

DEP Section 2.0(a) is updated to state: *Excavations in areas determined to be sensitive for the discovery of subsurface cultural resources (as determined by the USAG-KA CRM, archaeological and historic investigations, or the HPP) shall be monitored by a Historic Preservation Professional qualified under the U.S. Secretary of the Interior's Professional Qualification Standards (U.S. Department of the Interior, 1997).*

NCA Section 1.10, first sentence, is updated to state: *Excavations in areas determined to be sensitive for the discovery of subsurface cultural resources (as determined by the USAG-KA CRM, archaeological and historic, or the HPP), will be monitored by a Historic Preservation Professional qualified under the U.S. Secretary of the Interior's Professional Qualification Standards (US Department of the Interior, 1997).*

COMMENT 14:

DEP Section 5.2(b) states: In conjunction with the RMIHPO, location information for archaeological resources may be withheld from the public when release of such information might increase vandalism or misuse of a cultural property.

NCA Section 17.2, last sentence, states: In conjunction with the RMIHPO, location information for archaeological resources may be withheld from the public when release of such information might increase vandalism or misuse of a cultural property.

Replace “archaeological” with “cultural”.

USAG-KA RESPONSE: Comment noted. The other cultural resource sites at Kwajalein are Standing Structures and Traditional Use sites. Those are common knowledge. The Standing Structures are visible and often marked with historic markers. We can make this change but in reality only archaeological resources are in potential danger if the sites are known to the public.

DEP Section 5.2(b) is updated to state: *In conjunction with the RMIHPO, location information for cultural resources may be withheld from the public when release of such information might increase vandalism or misuse of a cultural property.*

NCA Section 17.2, last sentence, is updated to state: *In conjunction with the RMIHPO, location information for cultural resources may be withheld from the public when release of such information might increase vandalism or misuse of a cultural property.*

COMMENT 15:

DEP Section 5.3(a) states: Cultural resource surveys and inventory reports, reports generated as a result of archaeological monitoring and accidental discoveries, work plans for the rehabilitation or renovation of cultural resources, and other documentation that will enhance the knowledge base of USAG-KA cultural resources shall be maintained indefinitely.

NCA Section 17.3, first sentence states: Cultural resource surveys and inventory reports, reports generated as a result of archaeological monitoring and accidental discoveries, work plans for the rehabilitation or renovation of cultural resources, and other documentation that will enhance the knowledge base of USAG-KA cultural resources will be maintained indefinitely.

Needs to be rewritten. Statement is confusing.

USAG-KA RESPONSE: Comment noted.

DEP Section 5.3(a) is updated to state:

The following documentation shall be maintained indefinitely:

- (1) Cultural Resource Surveys and Inventory Reports*
- (2) Reports generated as a result of archaeological monitoring and accidental discoveries*
- (3) Work Plans for the rehabilitation or renovation of cultural resources*

(4) Other documentation that will enhance the knowledge based of USAG-KA cultural resources

NCA Section 17.3, first sentence is updated to state: *The following documentation will be maintained indefinitely: cultural resource surveys and inventory reports, reports generated as a result of archaeological monitoring and accidental discoveries, work plans for the rehabilitation or renovation of cultural resources, and other documentation that will enhance the knowledge based of USAG-KA cultural resources.*

COMMENT 15:

DEP Section 5.3(c) states: Consultation correspondence with outside agencies concerning undertakings shall be maintained for the life of the project plus 10 years. Records shall be maintained at USAG-KA.

Conflicts with 5.3a.

USAG-KA RESPONSE: Comment noted. DEP Section 5.3(c) is updated to state: *Consultation correspondence, with the exception of those documents listed in Section 5.3(a), with outside agencies concerning undertakings shall be maintained for the life of the project plus 10 years. Records shall be maintained at USAG-KA.*

Republic of the Marshall Islands Environmental Protection Authority

COMMENT:

See comment letter below.



**REPUBLIC OF THE MARSHALL ISLANDS
ENVIRONMENTAL PROTECTION AUTHORITY**

P.O. Box 1322
Majuro, Marshall Islands 96960
Phone: (692) 625-3035/5203 *Fax: (692) 625-5202

August 24, 2016

To: Sharon Mitchell
U.S Army Space and Missile Defense Command/Army Forces Strategic Command
SMDC-ENE

From: Moriana Phillip
RMI Environmental Protection Authority

Subject: Cultural Resources DEP

Dear Sharon,

Thank you, apologies for the delay in response.

Our comments concern pages 22-23 of the DEP relaying comments received on the 2010 Draft DEP and USAGKA's responses in which USAGKA stated that NHPA and other US Environmental Laws do not apply, and that "there is no statutory or regulatory authority for the application of the NHPA to US activities at USAKA." Pursuant to Section 161 (a) (2) of the Compact of Free Association that "the Government of the United States shall apply the National Environmental Policy Act 1969...to its activities under the Compact, as amended and its related agreement as if the Republic of the Marshall Islands were the United States."

Further, Section 161 (a) (3) states that "the Government of the United States shall comply also in the conduct of any activity requiring the preparation of an Environmental Impact Statement (EIS) under Section 161 (a) (2) with standards substantively similar to those required by the following laws of the United States, taking into account the particular environment of the Republic of the Marshall Islands." The section includes the Endangered Species Act, Clean Air Act, Clean Water Act, and other US environmental laws.

We wish to draw to your attention to resources at Kwajalein which are designated as US National Historic Landmarks under the US National US Historic Preservation Act (NHPA) Section 110 (f) of the NHPA outlines specific actions that an agency must take when National Historic Landmarks (NHL) maybe directly or adversely affected, which establishes a higher threshold of consideration then that applied to national register properties. Section 402 of the National Historic Preservation Act applies to \US Agencies undertakings on foreign properties. Section 301(2) of the National Historic Preservation Act provides the related definition of the states and includes the Republic of the Marshall Islands.

US 36 CFR 800.14 addresses Federal Agency alternatives which would include direct involvement by the US Advisory Council on Historic Preservation as well as public participation, which is emphasized for NHLs. We also note the role of the Secretary of Interior regarding consultation on designated NHLs.

As you may be aware, the Ambassador of the Republic of the Marshall Islands has raised this issue to the attention of the US Advisory Council on Historic Preservation, which is charged under NHPA with interpretation of that law.

We wish this communication to be referenced in the final Cultural Resources DEP. In consultation with the RMI HPO, we have no further comments on the draft DEP and look forward to continued consultation regarding cultural resource issues, including through the UES and associated instruments such as the DEP.

Sincerely,



Ms. Moriana Phillip
General Manager
Environmental Protection Authority
Republic of the Marshall Islands

USAKA RESPONSE: Comment noted.

9.0 COMMENTS RECEIVED ON THE 2010 DRAFT DEP AND USAKA'S RESPONSES

National Oceanic and Atmospheric Administration, Pacific Islands Regional Office

COMMENT: Draft DEP may affect resources within the jurisdiction of this agency. Agree with proposed environmental controls. No comments provided.

USAKA RESPONSE: Comment noted.

U.S. Environmental Protection Agency

COMMENT: Draft DEP may affect resources within the jurisdiction of this agency. Agree with proposed environmental controls. No comments provided.

USAKA RESPONSE: Comment noted.

U.S. Army Corps of Engineers, Honolulu District

COMMENT: Draft DEP does not affect resources within the jurisdiction of this agency. No comments provided.

USAKA RESPONSE: Comment noted.

U.S. Fish and Wildlife Service

COMMENT: Draft DEP may affect resources within the jurisdiction of this agency. Agree with proposed environmental controls. No comments provided.

RESPONSE: Comment noted.

Republic of the Marshall Islands Environmental Protection Authority

COMMENT 1:

DEP Section: Compliance Status

Comment M1: Need to establish governance by the National Historic Preservation Act Section 110 and 106 per the Secretary's request.

USAKA RESPONSE:

Comment noted. Reference email dated November 30, 2010 from Ms. Cindy Van Rassen.

The NHPA much like the Endangered Species Act, Marine Mammal Protection Act, Clean Water Act, Clean Air Act, and other US environmental laws does not apply to activities covered under section 161 of the Compact of Free Association, as Amended. Specifically US environmental laws do not apply to US Government (USG) activities controlled by the U.S. Army at Kwajalein Atoll and in the Mid-Atoll Corridor and for U.S. Army Kwajalein Atoll activities in the Republic of the Marshall Islands.

There is no statutory or regulatory authority for the application of the NHPA to US activities at USAKA.

Instead, as set out in section 161 of the Compact, as Amended, the US and RMI Governments have agreed to apply the Environmental Standards and Procedures for United States Army

Kwajalein Atoll Activities in the Republic of the Marshall Islands. These standards are also called the US Army Kwajalein Atoll Environmental Standards or UES.

Since 1995 the US and RMI Governments have agreed that the UES are the final governing standards for USG activities at US Army Kwajalein Atoll, in the Mid-Atoll Corridor and for USAKA Activities in the RMI. In 2010 Minister Zackhras reaffirmed the US and RMI Governments 20 year commitment to the UES as the final governing standard for US activities at USAKA.

COMMENT 2:

DEP Section 1.1b:

b. The USAKA Commander shall designate a Cultural Resource Manager (CRM) to coordinate the installation's cultural resources management program, and to provide professionally sound recommendations, advice, and service to the Commander to assist in fulfilling the requirements of the UES and Cultural Resources DEP. The CRM and any other person performing cultural resource related actions under this DEP shall be qualified as a Historic Preservation Professional in accordance with the Secretary of the Interior's Professional Qualification Standards. Maximum use shall be made of archaeologists with experience in the Pacific basin, and preferably in the Republic of the Marshall Islands (RMI).

Comment M2: Is this the position currently occupied by Leslie Mead? Let's get specific about the positions...is the programmatic agreement also intending to cover contracted work and contracted archaeologists? The USAKA CRM should be in a definitive role monitoring all of the undertakings and events in this document. As the CRM, the professional qualifications needed to perform the tasks of culture resource manager in this document are that of a professional archaeologist, according to the Secretary of the Interior's Standards. If the DEP is supposed to also cover routine contracted work and could include contracted archaeologists, please be specific about the CRM's role in oversight of these individuals and which tasks the contracted archaeologist may be performing (such as monitoring).

USAKA RESPONSE:

Comment noted. The CRM is responsible for coordinating compliance with the UES, administering the Historic Preservation Plan, and overseeing compliance with historic preservation laws and regulations on behalf of and in consultation with the USAG-KA Commander. Per UES Section 3-7.5.1 the CRM and any other person performing cultural resource related actions for USAG-KA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the *United States (U.S.) Secretary of the Interior's Professional Qualification Standards*. . Specific roles and responsibilities of the CRM are delineated in the Historic Preservation Plan. DEP Section 1.1(b) is updated to state: *The USAG-KA Commander shall designate a Cultural Resource Manager (CRM) to coordinate the installation's cultural resources management program and to provide sound recommendations, advice, and service to the Commander to assist in fulfilling the requirements of the UES and the Cultural Resources DEP. The CRM and any other person performing cultural resource related actions for USAG-KA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the United States (U.S.) Secretary of the Interior's Professional Qualification Standards. Maximum use shall be made of archaeologists with experience in the Pacific basin, and preferably in the Republic of the Marshall Islands (RMI).*

COMMENT 3:

DEP Section 1.1b:

b. The USAKA Commander shall designate a Cultural Resource Manager (CRM) to coordinate the installation's cultural resources management program, and to provide professionally sound recommendations, advice, and service to the Commander to assist in fulfilling the requirements of the UES and Cultural Resources DEP. The CRM and any **other person performing cultural resource related actions** under this DEP shall be qualified as a Historic Preservation Professional in accordance with the Secretary of the Interior's Professional Qualification Standards. Maximum use shall be made of archaeologists with experience in the Pacific basin, and preferably in the Republic of the Marshall Islands (RMI).

Comment M3: ? Clarification

USAKA RESPONSE:

Comment noted. Per UES Section 3-7.5.1, the CRM and any other person performing cultural resource related actions for USAG-KA under the UES or any cultural resource agreement shall have access to an appropriate qualified Historic Preservation Professional in accordance with the *U. S. Secretary of the Interior's Professional Qualification Standards* (U.S. Department of the Interior, June 1997). DEP Section 1.1(b) is updated to state: *The USAG-KA Commander shall designate a Cultural Resource Manager (CRM) to coordinate the installation's cultural resources management program and to provide sound recommendations, advice, and service to the Commander to assist in fulfilling the requirements of the UES and the Cultural Resources DEP. The CRM and any other person performing cultural resource related actions for USAG-KA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the United States (U.S.) Secretary of the Interior's Professional Qualification Standards. Maximum use shall be made of archaeologists with experience in the Pacific basin, and preferably in the Republic of the Marshall Islands (RMI).*

COMMENT 4:

DEP Section 1.1b:

b. The USAKA Commander shall designate a Cultural Resource Manager (CRM) to coordinate the installation's cultural resources management program, and to provide professionally sound recommendations, advice, and service to the Commander to assist in fulfilling the requirements of the UES and Cultural Resources DEP. The CRM and any other person performing cultural resource related actions under this DEP shall be qualified as a **Historic Preservation Professional** in accordance with the Secretary of the Interior's Professional Qualification Standards. Maximum use shall be made of archaeologists with experience in the Pacific basin, and preferably in the Republic of the Marshall Islands (RMI).

Comment M4: Professional Archaeologist

USAKA RESPONSE:

Comment noted. An Archaeologist does fall under the broader term of a Historic Preservation Professional as identified in the *U.S. Secretary of the Interior's Professional Qualification Standards* (U.S. Department of the Interior, June 1997). There will be other qualified Historic Preservation Professionals, other than Archaeologists, who may do work at USAG-KA. DEP Section 1.1(b) is updated to state: *The USAG-KA Commander shall designate a Cultural Resource Manager (CRM) to coordinate the installation's cultural resources management program and to provide sound recommendations, advice, and service to the Commander to assist in fulfilling the requirements of the UES and the Cultural Resources DEP. The CRM and any other person performing cultural resource related actions for USAG-KA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the United States (U.S.) Secretary of the Interior's Professional Qualification Standards. Maximum use shall be made of archaeologists with experience in the Pacific basin, and preferably in the Republic of the Marshall Islands (RMI).*

COMMENT 5:

DEP Sections 1.2(a) and 1.2(b):

- a. The UES defines an undertaking as “a project, an activity, or a program that can result in changes in the character or use of cultural resources, if any such resources are located in the area of potential effects. The project, activity, or program must be under the direct or indirect jurisdiction of USAKA or must be licensed, assisted, or funded by a U.S. Federal agency. Undertakings include new and continuing projects, activities, and programs and any of their elements not previously considered.”
- b. Following a determination by USAKA that a proposed project, activity, or program constitutes an undertaking that may result in changes in the character or use of cultural resources located in the area of potential effect, USAKA shall:

Comment M5: Has the potential to affect? Which is used elsewhere in this document...changes in character or use is abstract yet does not encompass the range of potential effects.

USAKA RESPONSE:

Comment noted. The UES defines an undertaking as “a project, an activity, or a program that can result in changes in the character or use of cultural resources, if any such resources are located in the area of potential effects. The project, activity, or program must be under the direct or indirect jurisdiction of USAKA or must be licensed, assisted, or funded by a U.S. Federal agency. Undertakings include new and continuing projects, activities, and programs and any of their elements not previously considered.” In the event the RMIHPO determines that this definition requires revision, the UES mandates periodic review of the standards (UES Section 2-22). Any proposed revisions to the Standards resulting from the reviews must be formally approved by the U.S. and RMI Governments through formal consultations before they become effective.

COMMENT 6:

DEP Section 1.2(b)(2):

b. Following a determination by USAKA that a proposed project, activity, or program constitutes an undertaking that may result in changes in the character or use of cultural resources located in the area of potential effect, USAKA shall:

2. Notify the RMIHPO of the planned undertaking, providing the RMIHPO with a detailed map clearly illustrated the undertaking, nature of planned work, proposed schedule of construction/development, and consulting with the RMIHPO concerning the undertaking.

Comment M6: This sentence needs to be re-written, doesn't make sense?

USAKA RESPONSE:

Comment noted. DEP Section 1.2(b)(2) is updated to state: *Notify, as early as possible in the planning process, the RMIHPO of the planned undertaking; provide the RMIHPO with a detailed map clearly illustrating the undertaking, the nature of planned work, a proposed schedule of construction/development work, and consult with the RMIHPO concerning the undertaking.*

COMMENT 7:

DEP Section 1.3(a):

a. In consultation with the RMIHPO, USAKA, the CRM, and United States Army Space and Missile Defense Command/Army Forces Strategic Command (USASMDC/ARSTRAT) shall make a reasonable and good faith effort to identify properties that may be affected by the undertaking, and gather sufficient information to evaluate their significance and potential eligibility for the RMI National Register of Historic Places (RMINRHP).

Comment M7: Who, exactly is responsible for this step?

USAKA RESPONSE:

Comment noted. DEP Section 1.3(a) is updated to state: *In consultation with the RMIHPO, the USAG-KA CRM shall make a reasonable and good faith effort to identify properties that may be affected by the undertaking, and gather sufficient information to evaluate their significance and potential eligibility for the RMINRHP.*

COMMENT 8:

DEP Section 1.4(a):

a. All building refurbishment and rehabilitation of structures identified in environmental documentation and cultural resource surveys as having the potential to be eligible for the RMINRHP shall be performed in accordance with the *Secretary of the Interior's Standards for Treatment of Historic Properties* (U.S. Department of the Interior, 1995).

Comment M8: previously identified

USAKA RESPONSE:

Comment noted. DEP Section 1.4(a) is updated to state: *All building refurbishment and rehabilitation of structures previously identified in environmental documentation and cultural resource surveys as having the potential to be eligible for the RMINRHP shall be performed in accordance with the Secretary of the Interior's Standards for Treatment of Historic Properties (U.S. Department of the Interior, 1995).*

COMMENT 9:

DEP Section 1.4(b):

b. For all maintenance activities **associated** with infrastructure and building repair, refurbishment, and rehabilitation [e.g., window replacement (in kind), painting, electrical and plumbing work not requiring excavations of previously undisturbed areas, roof maintenance, road resurfacing, and utility repair and maintenance not requiring excavations of previously undisturbed areas], such individual activities may proceed without consultation with the RMIHPO.

Comment M9: On non-historic structures

USAKA RESPONSE:

Comment noted. Consultation is not necessary for maintenance activities involving replacing or repairing existing features on historic or non-historic structures. DEP Section 1.4(b) is updated to state: *For all routine maintenance activities associated with infrastructure and building repair, refurbishment, and rehabilitation [e.g., window replacement (in kind); painting; electrical, plumbing, and other utility work not requiring excavations of previously undisturbed areas; roof maintenance, and road resurfacing,], such individual activities may proceed without consultation with the RMIHPO.*

COMMENT 10:

DEP Section 1.4(c):

c. USAKA shall, **to the greatest extent practical**, ensure that all ground disturbance or construction activities at USAKA are sited to avoid known cultural resources considered eligible for inclusion in the RMINRHP, as identified in environmental documentation and cultural resource surveys.

Comment M10: Subjective – who decides what is practical?

USAKA RESPONSE:

Comment noted. The USAG-KA CRM will decide what's practical. DEP Section 1.4(c) is updated to state: *To the greatest extent practical, ensure that all ground disturbance or*

construction activities at USAG-KA are sited to avoid known cultural resources considered eligible for inclusion in the RMINRHP, as identified in environmental documentation and cultural resource surveys.

COMMENT 11:

DEP Section 1.5(b):

b. USAKA shall ensure that a qualified CRM monitors excavation activities covered by this subsection.

Comment M11: See other comments. Archaeologist.

USAKA RESPONSE:

Comment noted. DEP Section 1.5(b) is updated to state: *The USAG-KA CRM shall ensure that a qualified historic preservation professional monitors excavation activities covered by this subsection.*

COMMENT 12:

DEP Section 1.5(d):

d. Areas of USAKA are exempt from the procedures in Section 1.5 under the following circumstances:

Comment M12: Exempt locations are to be determined by the professional archaeologist, no military staff.

USAKA RESPONSE:

Comment noted. DEP Section 1.5(d) is deleted. Exempted activities can be found in DEP Section 1.9. All excavation activities are performed under the advisement of the USAG-KA CRM. Per the UES, Section 3-7.5.1, the CRM and any other person performing cultural resource related actions for USAG-KA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the *U.S. Secretary of the Interior's Professional Qualification Standards*.

COMMENT 13:

DEP Section 1.6(d):

d. The USAKA Environmental Engineer, with assistance from the CRM shall make an initial determination concerning the significance of the site and any artifacts it may include. Archaeological analysis shall be conducted in accordance with accepted professional standards.

Comment M13: Environmental engineers are not qualified to make site significance determinations, just as archaeologists are not qualified to do environmental engineering...the last sentence in this section is unclear – Whose professional standards?

USAKA RESPONSE:

Comment noted. All excavation activities are performed under the advisement of the USAG-KA CRM. DEP Section 1.6(d) is updated to state: *The USAG-KA CRM, with assistance from the Historic Preservation Professional, shall make an initial determination concerning the significance of the site and any artifacts it may include. Archaeological analysis shall be conducted in accordance with accepted professional standards.* Per the UES, Section 3-7.5.1, the CRM and any other person performing cultural resource related actions for USAG-KA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the *U.S. Secretary of the Interior's Professional Qualification Standards*. .

COMMENT 14:

DEP Section 1.6(e):

e. If **artifact content** indicates that the site is not significant, the undertaking shall proceed. The RMIHPO shall be informed of such findings.

Comment M14: Artifact content does not establish site significance. This section needs to be rewritten.

USAKA RESPONSE:

Comment noted. DEP Section 1.6(e) is updated to state: *If artifact content indicates that the site is not significant, the undertaking shall proceed. The RMIHPO shall be informed of such findings.*

COMMENT 15:

DEP Section 1.6(f):

f. If the site is determined to be potentially significant, activities potentially affecting the site shall be halted or redirected, as appropriate, until mitigation measures are developed to minimize effects on the resource. USAKA shall contact the RMIHPO, who will indicate whether an on-site visit is desired, and if so, the visit shall occur within 16 days of notification. The USAKA Environmental Engineer, in consultation with the CRM, and the RMIHPO representative shall jointly determine appropriate mitigation measures for the site and disposition of the artifact(s). This disposition may include the following procedures:

Comment M15: Who determines what activities are affecting the potentially significant site? Delete this section and halt activities until a professional archaeologist determines the mitigation measures. Allowing some activities to proceed at a potentially significant site may alter the context of the site and result in the destruction of important information.

USAKA RESPONSE:

Comment noted. All excavations are monitored by a qualified Historic Preservation Professional. Per the UES, Section 3-7.5.1, the CRM and any other person performing cultural resource related actions for USAG-KA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the *United States (U.S.) Secretary of the Interior's Professional Qualification Standards*. DEP Section 1.6(f) is updated to state: *If the site is determined to be potentially significant, activities potentially affecting the site shall be halted or redirected, as appropriate, until mitigation measures are developed to minimize effects on the resource. Within 24 hours of determining if the site is significant, the USAG-KA CRM shall contact the RMIHPO, who will indicate whether an on-site visit is desired, and if so, the visit shall occur within ten calendar*

days of notification. The USAG-KA CRM, in consultation with the Historic Preservation Professional, and the RMIHPO representative, shall jointly determine appropriate mitigation measures for the site and disposition of significant cultural resource(s). This disposition may include the following procedures:

COMMENT 16:

DEP Section 1.6(f)(2)

f. If the site is determined to be potentially significant, activities potentially affecting the site shall be halted or redirected, as appropriate, until mitigation measures are developed to minimize effects on the resource. USAKA shall contact the RMIHPO, who will indicate whether an on-site visit is desired, and if so, the visit shall occur within 16 days of notification. The USAKA Environmental Engineer, in consultation with the CRM, and the RMIHPO representative shall jointly determine appropriate mitigation measures for the site and disposition of the artifact(s). This disposition may include the following procedures:

2. Removing the artifact(s) for subsequent curation and study and allowing the undertaking to proceed

Comment M16: After recording its location.

USAKA RESPONSE:

Comment noted. DEP Section 1.6(f)(2) is updated to state: *Recording the location of the cultural resource(s), removing the cultural resource(s) for subsequent curation and study and allowing the undertaking to proceed.*

COMMENT 17:

DEP Section 1.6(g):

g. Except in unusual circumstances or as agreed to by USAKA, if the RMIHPO does not visit the site, the USAKA Environmental Engineer shall make the above determination in consultation with the CRM and the RMIHPO; and complete all desired documentation, removal, or other actions; and inform the RMIHPO of all actions taken.

Comment M17: Again, the environmental engineer is not qualified to make these types of determinations. The USAKA archaeologist is qualified and is the correct professional.

USAKA RESPONSE:

Comment noted. The Government is ultimately responsible for the final decision regarding discovery of archaeological resources. DEP Section 1.6(g) is updated to state: *Except in unusual circumstances or as agreed to by USAG-KA, if the RMIHPO does not visit the site, the USAG-KA CRM shall make the above determination in consultation with the Historic Preservation Professional and the RMIHPO; and complete all desired documentation, removal, or other actions; and inform the RMIHPO of all actions taken.* Per the UES, Section 3-7.5.1, the CRM and any other person performing cultural resource related actions for USAG-KA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the *United States (U.S.) Secretary of the Interior's Professional Qualification Standards.* .

COMMENT 18:

DEP Section 1.7: **Discovery of Human Remains**

Comment M18: There is some question whether this section should be included in a DEP – I would like to discuss this with the Secretary and further review the process.

USAKA RESPONSE:

Comment noted. The discovery of human remains at USAKA has been a large issue. DEP Section 1.7, Discovery of Human Remains, should remain a part of this DEP.

COMMENT 19:

DEP Section 1.7(d):

d. **If the remains are human**, the above officials shall determine if the remains involve a relatively recent death, in which case the USAKA Provost Marshal shall take charge of the site and subsequent investigation. In such cases, the procedures below do not apply.

Comment M19: ...shall contact the RMI HPO and the USAKA professional archaeologist.

USAKA RESPONSE:

Comment noted. Notifications will occur as applicable based on DEP Section 1.7 and DEP Section 1.6.

COMMENT 20:

DEP Section 1.7(e)(1):

e. If it is determined that the remains are part of an archaeological site or are a World War II battle casualty, the following procedures apply.

(1) The USAKA Environmental Engineer, in consultation with the CRM, shall make an initial determination of the historical significance of the remains, applying accepted professional practices, including determining whether the remains involve an intact burial or are fragmentary and disturbed.

Comment M20: The USAKA Environmental Engineer is not an archaeologist – this is not an appropriate task.

USAKA RESPONSE:

All activities are monitored by a qualified Historic Preservation Professional. DEP Section 1.7(e)(1) is updated to state: *The USAG-KA CRM, in consultation with the Historic Preservation Professional, shall make an initial determination of the significance of the remains, applying accepted professional practices, including determining whether the remains involve an intact burial or are fragmentary and disturbed.* Per the UES, Section 3-7.5.1, the CRM and any other person performing cultural resource related actions for USAG-KA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the *United States (U.S.) Secretary of the Interior's Professional Qualification Standards*.

COMMENT 21:

DEP Section 1.7(e)(2):

e. If it is determined that the remains are part of an archaeological site or are a World War II battle casualty, the following procedures apply.

2. Following initial determination that a relatively intact burial has been discovered, the RMIHPO will be notified and may visit the site within 16 days of notification. If the RMIHPO does not visit the site, and has not indicated preferred disposition of the remains, the USAKA Environmental Engineer, in consultation with the CRM shall determine disposition of the remains and inform the RMIHPO of the disposition. Appropriate mitigation measures shall be developed in consultation with the RMIHPO under such circumstances.

Comment M21: The HPO should be notified regardless, as human remains are involved, regardless of how intact the burial is.

Comment M22: Within 30 days.

Comment M23: Professional archaeologist for Kwajalein military base.

USAKA RESPONSE:

Comment (M21) noted.

Comment (M22) noted. Per UES Section 3-7.5.4, the RMIHPO has a maximum of 90 days to respond.

Comment (M23) noted. All activities are monitored by a qualified Historic Preservation Professional. All excavations are monitored by a qualified Historic Preservation Professional. Per the UES, Section 3-7.5.1, the CRM and any other person performing cultural resource related actions for USAG-KA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the *United States (U.S.) Secretary of the Interior's Professional Qualification Standards*. Section 1.7(e)(2) is updated to state: *Within 24 hours following initial determination that a relatively intact burial or significant human remains have been discovered, the RMIHPO shall be notified, and may visit the site within ten calendar days of notification. If the RMIHPO does not visit the site, and has not indicated preferred disposition of the remains, the USAG-KA CRM, in consultation with the Historic Preservation Professional shall determine disposition of the remains and inform the RMIHPO of the disposition.*

COMMENT 22:

DEP Section 1.7(f) and 1.7(g):

f. If the remains are determined to be significant, the USAKA Environmental Engineer and the RMIHPO shall jointly determine appropriate disposition of the remains.

g. Disposition may be by any one of the following approaches:

Comment M24 (DEP Section 1.7(f)): I've never heard of determinations of significance on human remains...are we referring to burials of historically important people? See the Historic Preservation Legislation RMI), Regulations Governing the Disposition of Archaeologically Recovered Remains, Part II, Section 5.1.

Comment M25 (DEP Section 1.7(g)): Disposition should be informed by a formal consultation process.

USAKA RESPONSE:

Comment M24 and M25 noted. DEP Section 1.7(f) is updated to state: *If the remains are determined to be significant, the USAG-KA CRM, with assistance from the Historic Preservation Professional, and the RMIHPO shall jointly determine appropriate disposition of the remains.*

COMMENT 23:

DEP Section 1.8: Protection of Cultural Resources from Theft and Destruction

Comment M26: This section is incomplete and must be fully developed. As there are known cases of looting and export of artifacts at Kwajalein, the HPO requires specific actions relative to prevention of looting and export, monitoring of diving activities and behavior, reporting procedures and consequences within the military and to the HPO.

USAKA RESPONSE:

Comment noted. The protection of cultural resources from theft and destruction is a law enforcement issue and not an issue that should be addressed beyond what's already stated in the DEP. Specific guidance will be documented in USAG-KA 200-4 which is currently being updated.

COMMENT 24:

DEP Section 1.9:

In addition to Section 1.5(d), a project, activity, or program is not considered an undertaking, and shall be exempted from consultation, if one or more of the following exceptions apply:

Comment M27: Still an undertaking – it may be determined to have no adverse effect, or no effect, but many of these actions are still undertakings.

USAKA RESPONSE:

Comment noted. An activity is not considered an undertaking if it has no potential to have an effect on resources listed or eligible for the National Register. The UES defines an undertaking as “a project, an activity, or a program that can result in changes in the character or use of cultural resources, if any such resources are located in the area of potential effects. The project, activity, or program must be under the direct or indirect jurisdiction of USAKA or must be licensed, assisted, or funded by a U.S. Federal agency. Undertakings include new and continuing projects, activities, and programs and any of their elements not previously considered.” In the event the RMIHPO determines that this definition requires revision, the UES mandates periodic review of the standards (UES Section 2-22). Any proposed revisions to the Standards resulting from the reviews must be formally approved by the U.S. and RMI Governments through formal consultations before they become effective.

COMMENT 25:

DEP Section 1.9(a):

a. Ground-disturbing activities in areas where significant and extensive ground disturbance has already occurred

Comment M28: Too subjective – isn't most of Kwajalein ground-disturbed?

USAKA RESPONSE:

Comment noted. There are many areas on Kwajalein that are undisturbed at depth.

COMMENT 26:

DEP Section 2.0(a):

- a. For any type of excavation that will occur in areas that have been determined to be, by archaeological and historic investigations, or the HPP, sensitive for the discovery of subsurface cultural resources, an archaeologist qualified under the *Secretary of the Interior's Historic Preservation Professional Qualification Standards* (US Department of the Interior, 1997) will monitor all digging.

Comment M29: This also required the oversight of the cultural resource manager.

USAKA RESPONSE:

Comment noted. DEP Section 2.0(a) is updated to state: *For any type of excavation that will occur in areas that have been determined to be, by the USAG-KA CRM, archaeological and historic investigations, or the HPP; sensitive for the discovery of subsurface cultural resources, a Historic Preservation Professional qualified under the Secretary of the Interior's Professional Qualification Standards (US Department of the Interior, 1997) shall monitor all digging.* Per the UES, Section 3-7.5.1, the CRM and any other person performing cultural resource related actions for USAG-KA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the *United States (U.S.) Secretary of the Interior's Professional Qualification Standards*.

COMMENT 27:

DEP Section 2.0(b):

- b. The monitor will ensure that the procedures in Sections 1.5, 1.6, and 1.7 are followed whenever cultural resources are encountered during the excavation.

Comment M30: Professional archaeologist.

USAKA RESPONSE:

Comment noted. All excavations are monitored by a qualified Historic Preservation Professional. DEP Section 2.0(b) is updated to state: *The Historic Preservation Professional*

shall ensure that the procedures in Sections 1.5, 1.6, and 1.7 are followed whenever cultural resources are encountered during the excavation. Per the UES, Section 3-7.5.1, the CRM and any other person performing cultural resource related actions for USAG-KA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the United States (U.S.) Secretary of the Interior's Professional Qualification Standards.

COMMENT 28:

DEP Section 2.0(c):

c. **The need for archaeological monitoring** will be determined by the nature and location of the specific project, and through consultation with the USAKA Environmental Engineer and the CRM.

Comment M31: The need for archaeological monitoring should be determined by the cultural resource manager.

USAKA RESPONSE:

Comment noted. DEP Section 2.0(c) is updated to state: *The need for archaeological monitoring will be determined by the nature and location of the specific project, and through consultation with the USAG-KA CRM.*

10.0 COMMENTS RECEIVED ON THE NCA AND USAKA'S RESPONSES

U.S. Fish and Wildlife Service

COMMENT: NCA may affect resources within the jurisdiction of this agency. Agree with proposed environmental controls. No comments provided.

USAKA RESPONSE: Comment noted.

National Oceanic and Atmospheric Administration, Pacific Islands Regional Office

COMMENT: NCA may affect resources within the jurisdiction of this agency. Agree with proposed environmental controls. No comments provided.

RESPONSE: Comment noted.

U.S. Army Corps of Engineers Honolulu District

COMMENT: NCA does not affect resources within the jurisdiction of this agency. No comments provided.

USAKA RESPONSE: Comment noted.

Republic of the Marshall Islands Environmental Protection Authority

COMMENT 1:

The References section needs to be updated to reference the most recent pending twelfth edition of the UES should that edition be approved prior to finalization of the NCA/DEP.

USAKA RESPONSE:

Comment noted and reference updated, UES 13th Edition, October 2014. See NCA and DEP Reference Sections.

COMMENT 2:

The RMIHPO requests that the language in proposed DEP-10-001 in the section headed "Location of Activity" include the words "and waters" as it did in DEP-04-001 so the sentence reads "The activity is located on eleven islands at Kwajalein Atoll, including the islands *and waters* of Eniwetak, 6 acres of Ennugarret, 71 acres of Ennylabegan, Gagan, Gellinam, Illeginni, Kwajalein, Legan, Meck, Omelek and Roi-Namur and other islands/atolls as identified for future activities." According to the UES Section 3-7.5.3 (b) (1) "In consultation with the RMIHPO, the Commander, USAKA, shall apply RMI National Register of Historic Places eligibility criteria (Section 3-7.6.4) to cultural resources that may be affected by the undertaking and have not been evaluated previously." The corresponding UES Section 3-7.6.4 states "The criteria apply to districts, sites, building, structures, objects, oral traditions, submerged resources, and geographic locations that are characterized by integrity of location, design, setting, materials, workmanship, feeling, and association." Many properties and sites that are eligible for listing on the RMI National Register are in the waters of Kwajalein Atoll, including submerged resources from

World War II, and traditional sites affiliated with underwater natural features. These eligible resources, properties and sites should be covered by these guidelines for their protection.

USAKA RESPONSE:

Comment noted and incorporated in document. DEP Section “Location of Activity” page ii states: *The activity is located on eleven islands at Kwajalein Atoll, including the islands and waters of Eniwetak, 6 acres of Ennugarret, 71 acres of Ennylabegan, Gagan, Gellinam, Illeginni, Kwajalein, Legan, Meck, Omelek and Roi-Namur and other islands/atolls as identified for future activities.*

COMMENT 3:

Per the Discussion Paper No. 735 at the UES Review Meeting regarding concurrent notification in UES §3-7.3, NCA/DEP Section 1.2 should note that all correspondence with the RMIHPO and/or the RMI Advisory Council on Historic Preservation (RMIACHP) should be made directly and concurrently with the RMIEPA.

USAKA RESPONSE:

Comment noted and incorporated in document.

DEP Section 1.1(c) states: *All consultation, coordination, communication, and notification between USAG-KA and the RMI Historic Preservation Office (RMIHPO) and the RMI Advisory Council on Historic Preservation (RMIACHP) shall be made directly and concurrently with the RMI Environmental Protection Authority (RMIEPA) [UES Section 3-7.3].*

NCA Section 1.2 (2nd sentence) is updated to state: *All consultation, coordination, communication, and notification between USAG-KA and the RMI Historic Preservation Office (RMIHPO) and the RMI Advisory Council on Historic Preservation (RMIACHP) will be made directly and concurrently with the RMI Environmental Protection Authority (RMIEPA), as per requirements of UES Section 3-7.3.*

COMMENT 4:

The following deletion, which was present in DEP-04-001 at Section 1.1b Required Procedures, has been deleted from DEP-10-001: "The USAKA Commander shall designate a Cultural

Resource Manager (CRM) to coordinate the installation's cultural resources management program, and to provide professionally sound recommendations, advice, and service to the Commander to assist in fulfilling the requirements of the UES and Cultural Resources DEP. The presence of a dedicated CRM is vital to the protection of cultural and historic properties at USAKA, and to RMIHPO's faith that this mission is being carried out with appropriate care and expertise. The RMIHPO requests this language be re-inserted into Section 1.

USAKA RESPONSE:

Comment noted and incorporated in document.

DEP Section 1.1(b) states: *The USAG-KA Commander shall designate a Cultural Resource Manager (CRM) to coordinate the installation's cultural resources management program and to provide sound recommendations, advice, and service to the Commander to assist in fulfilling the requirements of the UES and the Cultural Resources DEP. The CRM and any other person performing cultural resource related actions for USAKA under the UES, this DEP, or any cultural resource agreement, shall have access to an appropriate qualified Historic Preservation Professional in accordance with the United States (U.S.) Secretary of the Interior's Professional Qualification Standards. Maximum use shall be made of archaeologists with experience in the Pacific basin, and preferably in the Republic of the Marshall Islands (RMI).*

NCA Section 1.2 (paragraph 2) is updated to state: *All ongoing operations, maintenance, construction, and mission activities that may affect cultural resources at USAG-KA and that have the potential to affect any resource which could be eligible for the RMI National Register of Historic Places (RMINRHP) under the criteria documented in UES Section 3-7.6.4 shall be managed in accordance with the following procedures presented below. These procedures are also incorporated into the USAKA Historic Preservation Plan (HPP). The USAG-KA Commander will designate a Cultural Resource Manager (CRM) to coordinate the installation's cultural resources management program and to provide sound recommendations, advice, and serve to the Commander to assist in fulfilling the requirements of the UES and the Cultural Resources DEP. The CRM and any person performing cultural resource related actions under the UES, this NCA and companion DEP will have access to an appropriate qualified Historic*

Preservation Professional in accordance with the U.S. Secretary of the Interior's Professional Qualification Standards (see NCA Section 2.0)

COMMENT 5:

The last paragraph of Section 1.4 "Locate Historic Properties" should reference UES Section 3-7.5.3, not 3-7.6.4 as listed. Section 3-7.6.4 enumerates eligibility criteria, not procedures. Further, this section should refer to "Cultural and Historic Properties" as they are referred to in the RMI Historic Preservation Legislation of 1992, not simply "Historic Properties." RMIHPO requests that the Section Title be changed to "Locate Cultural and Historic Properties" and that all usages of the term "historic properties" in the NCA and DEP be changed to "cultural and historic properties."

USAKA RESPONSE:

Comment noted and incorporated in document.

DEP Section 1.3 states:

1.3 Locate Cultural and Historic Properties

a. In consultation with the RMIHPO, the USAG-KA CRM shall make a reasonable and good faith effort to identify properties that may be affected by the undertaking, and gather sufficient information to evaluate their significance and potential eligibility for the RMINRHP.

b. Efforts to identify cultural and historic properties shall follow the procedures in UES Section 3-7.5.3.

NCA Section 1.4 is updated to state:

1.4 Locate Cultural and Historic Properties

In consultation with the RMIHPO, the USAG-KA CRM will make a reasonable and good faith effort to identify properties that may be affected by the undertaking, and gather sufficient information to evaluate their significance and potential eligibility for the RMINRHP. Efforts to identify cultural and historic properties eligible for the RMINRHP will follow the procedures in UES Section 3-7.5.3.

Note: “Historic properties” is changed to “cultural and historic properties” throughout NCA and DEP.

COMMENT 6:

In section 1.7(f), the RMIHPO is given 10 days to make a site visit after notification. Considering that clearance for access onto Kwajalein requires a minimum of 14 days, the RMIHPO requests the time limit to be changed to 16 days after notification. The same change should be made for section 1.8 (e) (2).

USAKA RESPONSE:

Comment noted. USAG-KA will approve entry within five working days. .

DEP Section 1.6(f) states: *If the site is determined to be potentially significant, activities potentially affecting the site shall be halted or redirected, as appropriate, until mitigation measures are developed to minimize effects on the resource. Within 24 hours of determining if the site is significant, the USAG-KA CRM shall contact the RMIHPO, who will indicate whether an on-site visit is desired, and if so, the visit shall occur within ten calendar days of notification. The USAG-KA CRM, in consultation with the Historic Preservation Professional, and the RMIHPO representative, shall jointly determine appropriate mitigation measures for the site and disposition of the significant cultural resource(s). This disposition may include the following procedures:*

NCA Section 1.7(f) is updated to state: *If the site is determined to be potentially significant, activities potentially affecting the site will be halted or redirected, as appropriate, until appropriate mitigation measures are developed to minimize affects on the resource. Within 24 hours of determining if the site is significant, the USAG-KA CRM will contact the RMIHPO, who will indicate whether an on-site visit is desired, and if so, the RMIHPO may visit the site within ten calendar days of notification. . The USAG-KA CRM, in consultation with the Historic Preservation Professional, and the RMIHPO representative, will jointly determine appropriate mitigation measures for the site and disposition of the significant cultural resource(s). This disposition process may include the following procedures:*

DEP Section 1.7(e)(2) states: *Within 24 hours following initial determination that a relatively intact burial or significant human remains have been discovered, the RMIHPO shall be notified and may visit the site within ten calendar days of notification. If the RMIHPO does not visit the site, and has not indicated preferred disposition of the remains, the USAG-KA CRM, in consultation with the Historic Preservation Professional shall determine disposition of the remains and inform the RMIHPO of the disposition.*

NCA Section 1.8(e)(2) is updated to state: *Within 24 hours following initial determination that a relatively intact burial or significant human remains have been discovered, the RMIHPO will be notified and may visit the site within ten calendar days of notification. If the RMIHPO does not visit the site, and has not indicated preferred disposition of the remains, the USAG-KA CRM, in consultation with the Historic Preservation Professional, will determine disposition of the remains and inform the RMIHPO of the disposition.*

COMMENT 7:

In section 1.8 (e) (2), the RMIHPO requests that the text from the corresponding section of the 2004 DEP be utilized (section 1.7 (e) (2)) instead of the proposed NCA-10-001.0 wording. Specifically, RMIHPO requests the following sentences deleted, in regards to the treatment of intact human burials: “In the event that the delay would have financial or mission-related implications, USAKA may proceed with a data recovery program, applying standard archaeological procedures. USAKA will make the decision only after exhausting reasonable measures to expedite the visit.” Appropriate mitigation measures should be developed in consultation with the RMIHPO under such circumstances.

USAKA RESPONSE:

Comment noted and sentences deleted as requested.

DEP Section 1.7(e)(2) states: *Within 24 hours following initial determination that a relatively intact burial or significant human remains have been discovered, the RMIHPO will be notified and may visit the site within ten calendar days of notification. If the RMIHPO does not visit the site, and has not indicated preferred disposition of the remains, the USAG-KA CRM, in*

consultation with the Historic Preservation Professional shall determine disposition of the remains and inform the RMIHPO of the disposition.

NCA Section 1.8(e)(2) is updated to state: *Within 24 hours following initial determination that a relatively intact burial or significant human remains have been discovered, the RMIHPO will be notified and may visit the site within ten calendar days of notification. If the RMIHPO does not visit the site, and has not indicated preferred disposition of the remains, the USAG-KA CRM, in consultation with the Historic Preservation Professional, will determine disposition of the remains and inform the RMIHPO of the disposition.*

COMMENT 8:

In Monitoring Procedures section 1.10, the last sentence should include the CRM in addition to the USAKA Environmental Engineer in determining the need for archaeological monitoring.

USAKA RESPONSE:

Comment noted. DEP Section 2(c) states: *The need for archaeological monitoring will be determined by the nature and location of the specific project, and through consultation with the USAG-KA CRM.*

NCA Section 1.10 (last sentence) is updated to state: *The need for archaeological monitoring will be determined by the nature and location of the specific project, and through consultation with the USAG-KA CRM.*

COMMENT 9:

The RMIHPO requests that extant utility line corridors from Section 1.11 (a) not be included as an Exempted Activity. Past activities at USAKA have shown that the exact location of preexisting utilities are not accurately known, mapped or recorded. These activities should undergo evaluation by the CRM to determine the likelihood of encountering cultural resources nearby.

USAKA RESPONSE:

Comment noted and the “extant utility line corridors” has been deleted.

DEP Section 1.9(a) states: *Ground-disturbing activities in areas where significant and extensive ground disturbance has already occurred.*NCA Section 1.11(a) is updated to state: *Ground-disturbing activities in areas where significant and extensive ground disturbance has already occurred.*

COMMENT 10:

Additionally, the RMIHPO requests that 1.11(b) “Ground-disturbing activities in areas of islands that were created by dredging and filling after 1945” not be automatically considered Exempted Activities. Large portions of Kwajalein and Roi-Namur Island are post-1945 fill which may have cultural and historic properties on them that are eligible for listing on the RMI National Register for their value after 1945, for example properties related to the Nuclear Testing program at the Pacific Proving Ground and the Cold War Era. A determination of eligibility should be considered for all properties 50 years or older.

USAKA RESPONSE:

Resources from any of the Cold War historic contexts (Nuclear Testing, Anti-ballistic Missile Testing etc) will be standing structures or buildings. There are no sub-surface archaeological deposits associated with a Cold War historic context.

DEP Section 1.9(b) states: *Ground-disturbing activities in areas of islands that were created by dredging and filling after 1944.*

NCA Section 1.11(b) is updated to state: *Ground-disturbing activities in areas of islands that were created by dredging and filling after 1944.*

COMMENT 11:

Professional standards reference *Secretary of the Interior’s Professional Qualifications Standards* listed in Section 2.0 should be the latest edition from 1997.

USAKA RESPONSE:

Comment noted and reference updated throughout DEP and NCA as applicable.

COMMENT 12:

In the section "Compliance Status" on page ii and Section 18.0 "Resolution of Noncompliant Areas," the DEP states that cultural resource protection on USAKA/RTS is currently in full compliance with the UES. The RMIHPO has recently raised some concerns (letter to Anthony Hoover dated June 15, 2010) regarding three incidents that reflect potential adverse effects on cultural resources, in possible violation of UES section 3-7.5.5 (a). Further, the RMIHPO has concerns regarding vandalism and looting of cultural and historic properties. These incidents need to be investigated and considered in terms of compliance status. Further information may be provided by the RMIHPO, upon request.

USAKA RESPONSE:

Comment Noted.

COMMENT 13:

The RMIHPO requests an update on the "potential compliance problem" of the encroachment of vegetation. This compliance issue has been listed in both DEP-04-001 and the proposed DEP-10-001 editions, with no report or update. The RMIHPO requests a report on the deterioration of structures and a report on recent efforts undertaken under the program to clear historic structures of vegetation.

USAKA RESPONSE:

Comment noted. Compliance status is updated to state: *An ongoing issue of low-growing vegetation does exist with regard to Section 3-7.5.5(a)(4) of the UES, "Neglect of a resource that results in its deterioration or destruction." USAKA is not required to restore or rehabilitate cultural resources, but ensure that they are protected, as practicable, from further deterioration. Time and the harsh salt environment are taking their toll on the historic Japanese concrete structures at USAKA. Annual surveys/inspections are conducted on all USAG-KA historical structures. If issues are found, the appropriate action is taken to remedy the problem. Work orders are submitted and processed as funding is available.*

U.S. Environmental Protection Agency

COMMENT: NCA may affect resources within the jurisdiction of this agency. Agree with proposed environmental controls. No comments provided.

USAKA RESPONSE: Comment noted.

APPENDIX A

**PROTECTION OF CULTURAL
RESOURCES**

NOTICE OF PROPOSED ACTIVITY

THIS PAGE LEFT BLANK INTENTIONALLY

NOTICE OF CONTINUING ACTIVITY

ACTIVITY:

PROTECTION OF CULTURAL RESOURCES

CONTROL NUMBER NCA-10-001.0

Revised July 2015

U.S. ARMY KWAJALEIN ATOLL

**PREPARED BY TELEDYNE BROWN ENGINEERING
HUNTSVILLE, ALABAMA**

THIS PAGE INTENTIONALLY LEFT BLANK

NOTICE OF CONTINUING ACTIVITY (NCA)

ACTIVITY: **PROGRAMMATIC - PROTECTION OF CULTURAL RESOURCES**

DATE SUBMITTED: July 2015

REFERENCES:

- U.S. Army. Army Regulation 200-1, *Environmental Protection and Enhancement*, 13 December 2007.
- U.S. Army Kwajalein Atoll. Document of Environmental Protection: Dredging and Filling; DEP-10-002. February 2011.
- U.S. Army Kwajalein Atoll. *Historic Preservation Plan, United States Army Kwajalein Atoll*, August 2006.
- U.S. Army Kwajalein Atoll. Document of Environmental Protection (DEP): *Protection of Cultural Resources*, November 2004.
- U.S. Army Space and Missile Defense Command *Environmental Standards and Procedures for United States Army Kwajalein Atoll (USAKA) Activities in the Republic of the Marshall Islands*, Thirteenth Edition, October 2014.
- U.S. Army Space and Strategic Defense Command. *Final Supplemental Environmental Impact Statement, Proposed Actions at U.S. Army Kwajalein Atoll*, December 1993.
- U.S. Army Space and Strategic Defense Command. *Final Environmental Impact Statement, Proposed Actions at U.S. Army Kwajalein Atoll*, October 1989.
- U.S. Department of the Interior. *Secretary of the Interior's Professional Qualification Standards*, September 1997.
- U.S. Department of the Interior. *Secretary of the Interior's Standards for Treatment of Historic Properties*, 1995.

TYPE OF ACTIVITY:

This NCA provides guidelines for cultural resource protection during ongoing operations, maintenance, construction, and mission activities at U.S. Army Garrison – Kwajalein Atoll

(USAG-KA). This document focuses on guidelines for cultural resource consultation procedures. This NCA does not cover specific projects that affect cultural resources, or cultural resource recoveries or investigations.

LOCATION OF ACTIVITY:

The activity is located on eleven islands at Kwajalein Atoll, including the islands of Eniwetak, 6 acres of Ennugarret, 71 acres of Ennylabegan, Gagan, Gellinam, Illeginni, Kwajalein, Legan, Meck, Omelek and Roi-Namur and other islands/atolls as identified for future activities.

COMPLIANCE STATUS:

Cultural resource protection on USAKA is currently in compliance with the UES.

TABLE OF CONTENTS

	Page
1.0 Technical Description of the Activity.....	1
1.1 Background.....	1
1.2 Purpose.....	1
1.3 Assess Information.....	2
1.4 Locate Cultural and Historic Properties.....	3
1.5 Procedures for Activities Affecting Identified Historic Properties.....	3
1.6 Excavation Procedures.....	4
1.7 Discovery of Archaeological Resources.....	4
1.8 Discovery of Human Remains.....	6
1.9 Protection of Cultural Resources from Theft and Destruction.....	8
1.10 Monitoring Procedures.....	8
1.11 Exempted Activities.....	8
2.0 Professional Standards.....	9
3.0 Technical Drawings of the Activity.....	10
4.0 Description of the Historical Context of the Activity.....	10
5.0 Environmental Areas Potentially Affected by the Activity.....	11
6.0 Analysis of the Effect of the Activity on the Environmental Area in the Absence of Environmental Controls.....	11
7.0 Technical Description and Analysis of the Environmental Controls Used in the Activity.....	12
8.0 Dispersion Model for Modeling Air Sources.....	12
9.0 Analysis of Waste Discharge for Point-Source Waste Discharges to Water.....	12
10.0 Information for Hazardous Waste Treatment, Storage, or Disposal Facilities.....	12
11.0 Biological Assessment if Endangered Resources May Be Affected.....	12
12.0 Information on Receiving Water Quality for Water Discharges.....	13
13.0 Information on Marine Life, Currents, and Other Characteristics of Ocean Disposal Site.....	13
14.0 Information on Marine Life and Environment in Dredging or Filling Areas.....	13
15.0 Action to Be Taken to Protect Migratory Birds and Other Wildlife Resources During Cultural Resource Preservation Activities.....	13

TABLE OF CONTENTS (Concluded)

	Page
16.0 Notification Procedures	14
17.0 Records Keeping	14
17.1 Documentation	14
17.2 Distribution	15
17.3 Record Retention	15
18.0 Resolution of Noncompliant Areas.....	15

ABBREVIATIONS AND ACRONYMS

ABM	Anti-Ballistic Missile
AHPA	Archaeological and Historic Preservation Act
ARSTRAT	Army Forces Strategic Command
CRM	Cultural Resource Manager
CRP	Cultural Resource Plan
DEP	Document of Environmental Protection
DPW	Directorate of Public Works
EIS	Environmental Impact Statement
HPP	Historic Preservation Plan
NCA	Notice of Continuing Activity
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
RMI	Republic of the Marshall Islands
RMIACHP	Republic of the Marshall Islands Advisory Council on Historic Preservation
RMIEPA	Republic of the Marshall Islands Environmental Protection Authority
RMIHPO	Republic of the Marshall Islands Historic Preservation Officer
RMINRHP	Republic of the Marshall Islands National Register of Historic Places
RTS	Ronald Reagan Ballistic Missile Defense Test Site
SEIS	Supplemental Environmental Impact Statement
UES	USAKA Environmental Standards
U.S.	United States
USAG-KA	United States Army Garrison – Kwajalein Atoll
USAKA	U.S. Army Kwajalein Atoll
USASMDC	U.S. Army Space and Missile Defense Command
USFWS	U.S. Fish and Wildlife Service

THIS PAGE INTENTIONALLY LEFT BLANK

1.0 TECHNICAL DESCRIPTION OF THE ACTIVITY

1.1 Background

A Programmatic Agreement between the U.S. Army Space and Missile Defense Command (USASMDC)/Army Forces Strategic Command (ARSTRAT), the U. S. Army Garrison – Kwajalein Atoll (USAG-KA), the Advisory Council on Historic Preservation, and the Republic of the Marshall Islands (RMI) was adopted in February 1996, for the ongoing maintenance, mission activities and management of cultural resources at USAKA. This agreement was derived from the National Historic Preservation Act (NHPA), U. S. Archaeological and Historic Preservation Act (AHPA), and the USAKA Environmental Standards (UES). The first DEP for protection of cultural resources became effective in July 1997.

Undertakings that are not a part of operations, maintenance, construction, and mission activities addressed in this NCA and companion DEP require a separate DEP for the activity.

1.2 Purpose

This NCA provides procedures for compliance with UES Section 3-7, with a focus on consultation procedures with the RMI Historic Preservation Officer (RMIHPO). All consultation, coordination, communication, and notification between USAG-KA and the RMI Historic Preservation Office (RMIHPO) and the RMI Advisory Council on Historic Preservation (RMIACHP) will be made directly and concurrently with the RMI Environmental Protection Authority (RMIEPA), as per requirements of UES Section 3-7.3. Additionally, the NCA lists maintenance activities that are exempt from RMIHPO consultation. The DEP initiated by this NCA will replace and update the November 2004 *DEP for Protection of Cultural Resources*.

All ongoing operations, maintenance, construction, and mission activities that may affect cultural resources at USAG-KA and that have the potential to affect any resource which could be eligible for the RMI National Register of Historic Places (RMINRHP) under the criteria documented in UES Section 3-7.6.4 shall be managed in accordance with the

following procedures presented below. These procedures are also incorporated into the *USAKA Historic Preservation Plan (HPP)*. The USAG-KA Commander will designate a Cultural Resource Manager (CRM) to coordinate the installation's cultural resources management program and to provide sound recommendations, advice, and serve to the Commander to assist in fulfilling the requirements of the UES and the Cultural Resources DEP. The CRM and any person performing cultural resource related actions under the UES, this NCA and companion DEP will have access to an appropriate qualified Historic Preservation Professional in accordance with the *United States (U.S.) Secretary of the Interior's Professional Qualification Standards* (see NCA Section 2.0)

1.3 Assess Information

The UES defines an undertaking as “a project, an activity, or a program that can result in changes in the character or use of cultural resources, if any such resources are located in the area of potential effects. The project, activity, or program must be under the direct or indirect jurisdiction of USAG-KA or must be licensed, assisted, or funded by a U.S. federal agency. Undertakings include new and continuing projects, activities, and programs and any of their elements not previously considered.” Following a determination by the USAG-KA CRM that a proposed project, activity, or program constitutes an undertaking that may result in changes in the character or use of cultural resources located in the area of potential effect, USAG-KA will:

- a. Review existing information (including undertaking-specific documents prepared by installation personnel and project proponents) on historic properties potentially affected by the undertaking, utilizing the 1989 USAKA Environmental Impact Statement (EIS), 1993 USAKA Supplemental EIS (SEIS), Historic Preservation Plan (current version), and other existing surveys and monitoring reports, including any data concerning the likelihood that unidentified historic properties exist in the area of potential effect; and,
- b. Notify, as early as possible in the planning process, the RMIHPO of the planned undertaking, provide the RMIHPO with a detailed map clearly illustrating the undertaking, the nature of planned work, a proposed schedule of

construction/development work, and consult with the RMIHPO concerning the undertaking.

1.4 Locate Cultural and Historic Properties

In consultation with the RMIHPO, the USAG-KA CRM will make a reasonable and good faith effort to identify properties that may be affected by the undertaking, and gather sufficient information to evaluate their significance and potential eligibility for the RMINRHP. Efforts to identify cultural and historic properties eligible for the RMINRHP will follow the procedures in UES Section 3-7.5.3.

1.5 Procedures for Activities Affecting Identified Cultural and Historic Properties

The USAG-KA CRM will ensure compliance with the procedures outlined below for identified cultural and historic properties.

- a. All building refurbishment and rehabilitation of structures identified in environmental documentation and cultural resource surveys as having the potential to be eligible for the RMINRHP will be performed in accordance with the *Secretary of the Interior's Standards for Treatment of Historic Properties* (U.S. Department of the Interior, 1995).
- b. For all maintenance activities associated with infrastructure and building repair, refurbishment, and rehabilitation [e.g., window replacement (in kind); painting; electrical, plumbing, and other utility work not requiring excavations of previously undisturbed areas; roof maintenance; and road resurfacing], such individual activities may proceed without consultation with RMIHPO as described in the USAKA Protection of Cultural Resources DEP.
- c. To the greatest extent practical, ensure that all ground disturbance or construction activities at USAG-KA are sited to avoid known cultural resources considered eligible for inclusion in the RMINRHP, as identified in environmental documentation and cultural resources surveys.

1.6 Excavation Procedures

The following procedures will apply to all ground disturbing or construction activities involving excavations performed, to a depth of greater than six inches below existing grade, in those areas of USAG-KA identified as having a potential for significant subsurface deposits.

- a. Prior to any excavation greater than six inches below grade, a review of the proposed excavation will be conducted to determine if the activity is part of an existing completed consultation; is not an undertaking; or is exempt from considerations as an undertaking. If archaeological inspection or monitoring is required, the project lead or supervisor will be notified and the requirement integrated into planning for the activity. The plans for proposed monitoring or inspections will be documented, in advance, in a Cultural Resource Plan (CRP).
- b. The USAG-KA CRM will ensure that a qualified Historic Preservation Professional monitors excavation activities covered by this subsection.
- c. Prior to excavation, the USAG-KACRM, will ensure that all construction personnel involved in excavation activities are apprised of:
 - (1) Procedures to follow if unexploded ordnance is encountered during construction excavation
 - (2) The significance and importance of potential historical resources that might be encountered during construction excavation
 - (3) Procedures to be followed if archaeological resources or human remains are discovered.

1.7 Discovery of Archaeological Resources

In areas that have a potential for significant subsurface deposits, a qualified Historic Preservation Professional will monitor all excavations. The following procedures will apply to the discovery of artifacts or subsurface features of potential archaeological or historic value in excavations on any part of USAG-KA.

- a. If discovery occurs during excavation activities, the equipment operators will immediately suspend operations surrounding the discovery.
- b. Personnel, or the contractor making the discovery, will secure the site and take necessary steps, including notification and use of USAKA Provost Marshal resources if necessary, to provide protection to the site or artifacts.
- c. The subsurface resources will be left undisturbed and the USAG-KA CRM will be immediately notified of the discovery and location of the site. If this individual is not available, notification will be made to the Chief of Directorate of Public Works (DPW).
- d. The USAG-KA CRM, with assistance from the Historic Preservation Professional, will make an initial determination concerning the significance of the site and any artifacts it may include. Archaeological analysis will be conducted in accordance with accepted professional standards.
- e. If the affected site is not significant, the undertaking will proceed. The RMIHPO will be informed of such findings.
- f. If the site is determined to be potentially significant, activities potentially affecting the site will be suspended or redirected, as appropriate, until appropriate mitigation measures are developed to minimize affects on the resource. Within 24 hours of determining if the site is significant, the USAG-KA CRM will contact the RMIHPO, who will indicate whether an on-site visit is desired, and if so, the RMIHPO may visit the site within ten calendar days of notification. The USAG-KA CRM, in consultation with the Historic Preservation Professional, and the RMIHPO representative, will jointly determine appropriate mitigation measures for the site and disposition of the significant cultural resource(s). This disposition process may include the following procedures:
 - (1) Maintaining the cultural resource(s) in place and proceeding with the undertaking after desired communication has been completed.

- (2) Recording the location of the cultural resource(s), removing the cultural resource(s) for subsequent curation and study, and allowing the undertaking to proceed.
 - (3) In the case of historically significant finds, maintaining the cultural resource(s) in place and altering the project to avoid the undertaking, stopping the undertaking, or delaying the undertaking until a data recovery plan for the resource(s) can be designed and implemented at the site.
- g. If the RMIHPO does not visit the site, the USAG-KA CRM will make a determination on the disposition in consultation with the Historic Preservation Professional and the RMIHPO. The USAG-KA CRM shall inform the RMIHPO of all actions taken.

1.8 Discovery of Human Remains

The procedures outlined below will apply to the discovery of human remains.

- a. If discovery occurs during excavation activities, the equipment operators will immediately suspend operations within the affected area.
- b. Personnel responsible for the activity leading to the discovery will notify the USAG-KA Hospital, USAG-KA Provost Marshal and the USAG-KA CRM. Pending arrival of these personnel, all necessary steps will be taken to secure the remains.
- c. The USAG-KA Hospital personnel or an appropriately qualified Historic Preservation Professional will determine if the remains are human.
- d. If the remains are human, the above officials will determine if the remains involve a relatively recent death, in which case the USAG-KA Provost Marshal will take charge of the site and subsequent investigation. In such cases, the procedures below do not apply.
- e. If it is determined that the remains are part of an archaeological site or are a World War II battle casualty, the following procedures apply.

- (1) The USAG-KA CRM, in consultation with the Historic Preservation Professional, will make an initial determination of the significance of the remains, applying accepted professional practices, including determining whether the remains involve an intact burial or are fragmentary and disturbed.
 - (2) Within 24 hours following initial determination that a relatively intact burial or significant human remains have been discovered, the RMIHPO will be notified and may visit the site within ten calendar days of notification. If the RMIHPO does not visit the site, and has not indicated preferred disposition of the remains, the USAG-KA CRM, in consultation with the Historic Preservation Professional, will determine disposition of the remains and inform the RMIHPO of the disposition.
- f. If the remains are determined to be significant, the USAG-KA CRM, with assistance from the Historic Preservation Professional, and the RMIHPO will jointly determine appropriate disposition of the remains.
- g. Disposition may be by any one of the following approaches:
- (1) Document the remains, re-inter them where they were discovered, and allow the undertaking to proceed.
 - (2) Document the remains, re-inter them in another agreed-upon location, and allow the undertaking to proceed.
 - (3) Document the remains, remove them for subsequent study and curation, and allow the undertaking to proceed.
 - (4) Document the remains and alter or stop the undertaking to avoid further disturbance of the remains or associated site.
 - (5) Document the remains and delay the undertaking to allow further archaeological fieldwork and research.

1.9 Protection of Cultural Resources from Theft and Destruction

USAG-KA will advise all personnel, contractors, representatives, visitors and resident dependents against collection and destruction of cultural materials at USAG-KA, per UES Section 3-7.6.3. Appropriate measures will be developed, by the USAG-KA CRM, for the protection of historic and archaeological resources from looting and vandalism.

1.10 Monitoring Procedures

Excavations in areas determined to be sensitive for the discovery of subsurface cultural resources (as determined by the USAG-KA CRM, archaeological and historic, or the HPP), will be monitored by a Historic Preservation Professional qualified under the *U.S. Secretary of the Interior's Professional Qualification Standards* (US Department of the Interior, 1997). The Historic Preservation Professional will ensure that the procedures in Sections 1.6, 1.7, and 1.8 are followed whenever cultural resources are encountered during the excavation. The need for archaeological monitoring will be determined by the nature and location of the specific project, and through consultation with the USAG-KA CRM.

1.11 Exempted Activities

A project, activity, or program is not considered an undertaking, and will be exempted from consultation, if one or more of the following exceptions apply:

- a. Ground-disturbing activities in areas where significant and extensive ground disturbance has already occurred.
- b. Ground-disturbing activities in areas of islands that were created by dredging and filling after 1944.
- c. Ground-disturbing activities in areas that have been determined to be non-sensitive by the USAG-KA CRM, in consultation with the Historic Preservation Professional, based on previous surveys, archaeological testing, data recovery, and monitoring records.

- d. Installation maintenance activities associated with infrastructure and non-historic building repair, refurbishment, and rehabilitation.
- e. In-kind window replacement.
- f. Painting.
- g. Utility (Electrical, High Voltage, Water (potable & non-potable), and Communications) installation repair, and maintenance which does not require excavation of previously undisturbed areas.
- h. Roof maintenance.
- i. Road resurfacing including grading of existing unpaved roads.
- j. Repair, refurbishment and rehabilitation activities associated with facilities constructed after 1945 and not identified as eligible for the RMINRHP. Such repairs, refurbishment, and rehabilitation can include:
 - (1) Replacement/repair/alternation of architectural elements (e.g. roofs, doors, porches, partition walls, trim, brick/CMU work, windows, and doors) which are not original to the building, and are not elements considered characteristic, distinctive, or unique, or which may have acquired significance over time
 - (2) Replacement/repair/alternation of interior utilities and infrastructure not requiring removal, demolition, or alteration of historic/original fabric either to install or access the said utility or infrastructure. This would include plumbing, communications, electrical, ventilation, and air conditioning infrastructure.

2.0 PROFESSIONAL STANDARDS

The CRM and any other person performing cultural resource related actions under this NCA will have access to an appropriate qualified Historic Preservation Professional in accordance with the *U.S. Secretary of the Interior's Professional Qualification Standards* (US Department of the Interior, 1997). Because of the specialized training required, subsurface excavations will be conducted only by qualified Archaeologists.

3.0 TECHNICAL DRAWINGS OF THE ACTIVITY

This NCA is for the protection of cultural resources during the conduct of ongoing operations, maintenance, construction, and mission activities at USAG-KA. In many cases, technical drawings will not be generated for these activities. Drawings will be provided for those activities that are extensive.

4.0 DESCRIPTION OF THE HISTORICAL CONTEXT OF THE ACTIVITY

Archaeological investigations on Kwajalein suggest that the atoll has been continuously inhabited for about 2,000 years. The prehistoric remains present on USAKA have contributed significantly towards determining the length of time humans have inhabited eastern Micronesia, as well as illustrating the probable settlement patterns employed by prehistoric Marshallese society. The cumulative results of these few investigations have led anthropologists to question and reformulate theories of western Pacific pioneer settlement.

During the late 1930's and early 1940's, Kwajalein Atoll was heavily fortified by Japanese Imperial naval and air forces, as forward elements in the Japanese-mandated islands of Micronesia. With the initiation of hostilities by Japan in late 1941, the naval and air bases at Kwajalein Atoll assumed a major role in Japanese military planning and support, to include support of a portion of the Pearl Harbor attack force which was staged from Kwajalein. In 1944, a U.S. land, air, and sea operation, "Operation Flintlock," seized Kwajalein Atoll from the Japanese forces through heavy fighting and massive naval and air bombardment. The American operation was significant for new methods and techniques in amphibious warfare. Throughout the remainder of World War II, Kwajalein served as a major U.S. combat and supply base for operations in Micronesia and the central Pacific. The battles on Roi-Namur and Kwajalein Islands were so significant that the islands were designated U.S. National Historic Landmarks in 1985 by the U.S. Department of the Interior. The World War II resources at USAKA meet the criteria for listing on the RMI National Register and therefore receive the same protection.

Following the surrender of Japan at the close of World War II, Kwajalein was initially used by the United States as the logistic support facility for weapons testing at various locations in the South Pacific. During the Korean War, the Atoll resumed its World War II role as a major United States logistical and transportation base. However, with the emergence of a ballistic missile threat to the United States, Kwajalein assumed the role that it continues to the present. Ronald Reagan Ballistic Missile Defense Test Site (RTS) is one of two national ranges at which anti-ballistic missile (ABM) testing is authorized. RTS has been the focal point of ABM testing activities since the inception of such activities in 1960. Testing and development for deployment of the Nike-Zeus, Nike-X, and Safeguard ABM systems, and research and development tests such as the Homing Overlay Experiment, have been performed at USAKA. Technical tests have been performed at RTS which have not been replicated anywhere else in the non-communist world. Additionally, major tracking and instrumentation facilities in support of the American space program and various defense testing activities have been established at USAKA. Many of these activities continue to the present. The RTS role during the Cold War period is significant not only for the technical activities which took place at the installation, but for their illustrative social role, indicative of the American and global culture during the period following World War II.

5.0 ENVIRONMENTAL AREAS POTENTIALLY AFFECTED BY THE ACTIVITY

This NCA focuses on guidelines for the protection of cultural resources during continuing operation, maintenance, construction, and mission activities. Environmental areas (e.g., air quality, endangered species) affected by undertakings will be evaluated on a case-by-case basis.

6.0 ANALYSIS OF THE EFFECT OF THE ACTIVITY ON THE ENVIRONMENTAL AREA IN THE ABSENCE OF ENVIRONMENTAL CONTROLS

Cultural resources at USAG-KA could be damaged or destroyed during operation, maintenance, construction, and mission activities if the guidelines of this NCA and companion DEP are not implemented. Subsurface (prehistoric, historic, and

Micronesian) and surface (historic and Micronesian) resources risk damage or elimination without the requirements of this NCA.

7.0 TECHNICAL DESCRIPTION AND ANALYSIS OF THE ENVIRONMENTAL CONTROLS USED IN THE ACTIVITY

The nature of the activity in this NCA is that of an environmental control. As a result, control measures for the protection of cultural resources are described in Section 1.0. Those controls include: identification of cultural and historic properties, determining the effect that operations and maintenance activities will have on cultural resources, requirement for consultation with the RMIHPO, excavation procedures, and the protection and disposition of human remains.

8.0 DISPERSION MODEL FOR MODELING AIR SOURCES

Protection of cultural resources will not contribute regulated continuous air emissions, and thus will not require air dispersion modeling.

9.0 ANALYSIS OF WASTE DISCHARGE FOR POINT-SOURCE WASTE DISCHARGES TO WATER

Protection of cultural resources will not have associated point-source waste discharges under this NCA and companion DEP, and thus will not require analysis.

10.0 INFORMATION FOR HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES

The protection of cultural resources will not generate hazardous waste under this NCA and companion DEP, and thus treatment, storage or disposal facilities for hazardous waste are not required for this activity.

11.0 BIOLOGICAL ASSESSMENT IF ENDANGERED RESOURCES MAY BE AFFECTED

In an instance where an undertaking may potentially affect an endangered resource the consultation or coordination procedures of UES Section 3-4, Endangered Species and Wildlife Resources, will be followed.

12.0 INFORMATION ON RECEIVING WATER QUALITY FOR WATER DISCHARGES

Water discharges will not be generated because of the protection of cultural resources under this NCA and companion DEP.

13.0 INFORMATION ON MARINE LIFE, CURRENTS, AND OTHER CHARACTERISTICS OF OCEAN DISPOSAL SITE

The protection of cultural resources will not employ ocean disposal under this NCA and companion DEP.

14.0 INFORMATION ON MARINE LIFE AND ENVIRONMENT IN DREDGING OR FILLING AREAS

Neither dredging nor filling will be conducted under this NCA and companion DEP for the protection of cultural resources. To minimize adverse impacts to fish and wildlife, and the degradation of their habitats, conservation measures identified in the current Dredge and Fill DEP will be taken during excavation of cultural and historic properties on the shore.

15.0 ACTION TO BE TAKEN TO PROTECT MIGRATORY BIRDS AND OTHER WILDLIFE RESOURCES DURING CULTURAL RESOURCE PRESERVATION ACTIVITIES

No wildlife habitat or resources will be intentionally taken as part of this activity. Should preservation efforts, vegetation clearing, or sediment excavation become necessary on cultural and historic properties that are located in potential habitation and nesting areas of migratory birds or other endangered resources, a site survey will be conducted to ensure that the activity will not disturb those resources. If the site survey reveals a potential impact to birds or sea turtles or their habitat, the U.S. Fish and Wildlife Service (USFWS) will be notified, as early as possible in the planning process, of the planned undertaking and will be provided with a detailed map clearly illustrating the project, the nature of the planned work, and a proposed schedule. Consultation with the USFWS and/or the National Marine Fisheries Service (NMFS) will be conducted in accordance with the latest version of the UES.

Dredging or filling will not be conducted as part of this activity. Should preservation efforts become necessary for cultural and historic properties that are located in potential marine-life habitat a site survey will be conducted to ensure that the activity will not disturb those resources. If marine life resources should be discovered, the NMFS and/or USFWS will be consulted before the activities proceed.

In order to minimize adverse impacts to fish and wildlife, and the degradation of their habitats, conservation measures identified in the current Dredge and Fill DEP will be taken during sediment excavation of cultural and historic properties on the shore.

16.0 NOTIFICATION PROCEDURES

Many of the activities in this NCA require notification and consultation between USAG-KA and the RMIHPO. These notification requirements are detailed in Table 16.0 below.

Table 16.0 NOTIFICATIONS

Event	Timeframe	To Be Notified	Notified By
An Undertaking NCA Section 1.3	As early as possible in the planning process	RMIHPO	USAG-KA CRM
Discovery of Archaeological Resources NCA Section 1.7	Within 24 hours of determining if the site is significant	RMIHPO	USAG-KA CRM
Discovery of Human Remains NCA Section 1.8	Within 24 hours following initial determination	RMIHPO	USAG-KA CRM
Marine Life Resources NCA Section 15.0	As early as possible in the planning process	USFWS NMFS	USAG-KA CRM

17.0 RECORDS KEEPING

Consultations, plans, and reports generated in accordance with this NCA will be prepared as required in UES Section 3-7.5, and will be provided to the RMIHPO, by the USAG-KA CRM, for review and comment.

17.1 Documentation

Documentation may include copies of all site survey forms, photographs, topographic maps indicating areas actually surveyed and precise location information of all recorded

resources, and any other relevant maps or documents. Specific areas requiring surveys that have not been conducted will be identified.

A report detailing the results of each monitoring activity will be prepared. Monitoring reports (including drawings, photos and soil descriptions) will assist in determining and/or verifying the location of sensitive and non-sensitive areas of the islands.

17.2 Distribution

The USAG-KA CRM will furnish a copy of final survey or monitoring reports that describe previously unrecorded cultural resources to the RMIHPO and concurrently with the RMIEPA. In conjunction with the RMIHPO, location information for cultural resources may be withheld from the public when release of such information might increase vandalism or misuse of a cultural property.

17.3 Record Retention

The following documentation will be maintained indefinitely: cultural resource surveys and inventory reports, reports generated as a result of archaeological monitoring and accidental discoveries, work plans for the rehabilitation or renovation of cultural resources, and other documentation that will enhance the knowledge base of USAG-KA cultural resources. Detailed records of monitoring activities will be maintained to provide data for the updating of archaeologically sensitive area records at USAG-KA. Consultation correspondence with outside agencies concerning undertakings will be maintained for the life of the project plus 10 years. Records will be maintained at USAG-KA.

18.0 RESOLUTION OF NONCOMPLIANT AREAS

Annual surveys/inspections will continue to be conducted on all USAG-KA historical structures. If issues are found, the appropriate action will be taken to remedy the problem. Work orders will be submitted and processed as funding is available.