
Appendix C: Agency Correspondence

**Supplemental Environmental Impact Statement/
Overseas Environmental Impact Statement
Mariana Islands Training and Testing**

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APPENDIX C AGENCY CORRESPONDENCE

This appendix contains correspondence between the Navy and government agencies with respect to cooperating agency status, the Coastal Zone Management Act, the Endangered Species Act, the Essential Fish Habitat Assessment, and the National Historic Preservation Act.

C.1 COOPERATING AGENCY STATUS

C.1.1 NAVY REQUEST LETTER TO THE U.S. COAST GUARD



DEPARTMENT OF THE NAVY

COMMANDER
UNITED STATES PACIFIC FLEET
260 MAKALAPA DRIVE
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:
5090
Ser N465/1489
December 13, 2019

RADM Kevin Lunday
Commander, Fourteenth Coast Guard District
300 Ala Moana Blvd FL 9-204
Honolulu, HI 96850-4982

Dear RADM Lunday:

SUBJECT: MARIANA ISLANDS TRAINING AND TESTING SUPPLEMENTAL
ENVIRONMENTAL IMPACT STATEMENT/OVERSEAS ENVIRONMENTAL
IMPACT STATEMENT - COOPERATING AGENCY REQUEST

In accordance with the National Environmental Policy Act (NEPA) of 1969 and Executive Order (EO) 12114, the United States (U.S.) Department of the Navy (Navy) is preparing a Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) to assess the potential environmental impacts associated with the continuation of military readiness activities, which consist of training as well as research, development, testing and evaluation (RDT&E, hereinafter referred to as "testing") activities that include the use of active sonar and explosives in the Mariana Islands Training and Testing (MITT) Study Area. The Navy's purpose of the Proposed Action is to conduct training and testing activities to ensure that the Navy and other Services meet their respective missions, which, for the Navy under Title 10 United States Code (U.S.C.) Section 8062, is to maintain, train, and equip combat-ready military forces capable of winning wars, deterring aggression, and maintaining freedom of the seas.

This MITT Supplemental EIS/OEIS represents the third phase (Phase III) of ongoing NEPA and EO 12114 compliance for continuation of at-sea training and testing. It will evaluate the conduct of military readiness activities from 2020 into the reasonably foreseeable future and accommodate evolving mission requirements associated with force structure changes, including those resulting from the development, testing, and ultimate introduction of new platforms (vessels, aircraft, and weapon systems) into the Fleet.

The Phase III MITT Study Area remains consistent with the area studied in the Phase II MITT EIS/OEIS completed in 2015 and consists of the established at sea ranges, operating areas and special use airspace in the region of the Mariana Islands that are part of the Mariana Islands Range Complex (MIRC) and its surrounding seas, and includes a transit corridor. The transit corridor is outside the geographic boundaries of the MIRC and is a direct route across the high seas for Navy ships in transit between the MIRC and the Hawaii Range Complex. The Proposed

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December 13, 2019

Action also includes pierside sonar maintenance and testing alongside Navy piers located in Inner Apra Harbor.

The MITT Phase III Supplemental EIS/OEIS is intended to serve as a basis for the renewal of current regulatory permits and authorizations and the analysis of emerging and future force structure changes and training and testing requirements. An important aspect of the MITT Supplemental EIS/OEIS will be the analysis of the potential effects to marine species protected under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA) and habitats protected under the Magnuson-Stevens Fishery Conservation and Management Act. The existing MMPA Final Rule and Letters of Authorization for Phase II MITT activities will expire in August 2020.

Pursuant to 40 CFR Section 1501.6, the Navy requests the U.S. Coast Guard's participation in the NEPA process as a cooperating agency.

We appreciate your consideration of our request and look forward to your response. If you require additional information or have questions regarding this project, my points of contact for this matter are Mr. John Van Name, john.vanname@navy.mil, (808) 471-1714 and Ms. Suzanne Smith, suzanne.smith3@navy.mil, (808) 471-4696.

Sincerely,



DANIEL McNAIR
Director, Fleet Environmental Readiness
By direction of the Commander

Copy to:
ASN (EI&E)
DASN (E)
OAGC (EI&E)
CNIC (N45)
COMMANDER, JOINT REGION MARIANAS
NAVFAC PACIFIC
NAVFAC MARIANAS
CNO (N45)

C.1.2 U.S. COAST GUARD RESPONSE LETTER

U.S. Department of
Homeland Security

United States
Coast Guard



Commander
Fourteenth Coast Guard District

300 Ala Moana Blvd
Honolulu, HI 96850-4982
Staff Symbol: (d)
Phone: (808) 535-3201
Email: Kevin.E.Lunday@uscg.mil

5090
April 1, 2020

United States Pacific Fleet
Attn: Mr. Daniel McNair
Director, Fleet Environmental Readiness
250 Makalapa Drive
Pearl Harbor, Hawaii 96860-3131

Dear Mr. McNair:

Subject: MARIANA ISLANDS TRAINING AND TESTING SUPPLEMENTAL
ENVIRONMENTAL IMPACT STATEMENT/OVERSEA ENVIRONMENTAL
IMPACT STATEMENT – COAST GUARD COOPERATING AGENCY
ACCEPTANCE

Ref: (a) National Environmental Policy Act (NEPA), 42 U.S.C 4321, et seq.
(b) Council on Environmental Quality Regulations for Implementing the Procedural
Provisions of the National Environmental Policy Act, 40 C.F.R. § 1500–1508
(c) Environmental Effects Abroad of Major Federal Actions, Executive Order 12114
(d) U.S. Coast Guard Environmental Planning Policy, COMDTINST 5090.1

The United States Coast Guard (Coast Guard), in response to your letter of 13 December 2019, and in accordance with references (a), (b), and (c), is pleased to accept cooperating agency status with the United States Navy (Navy) as part of the Mariana Islands Training and Testing (MITT) Supplemental Environmental Impact Statement (SEIS)/Overseas Supplemental Environmental Impact Statement (OSEIS). The Coast Guard acknowledges that the Navy is the lead federal agency for SEIS/OSEIS and is primarily responsible for the scope and content of the document. The Coast Guard will participate in the Navy NEPA process as a cooperating agency in order to provide special expertise for Coast Guard training and testing activities analyzed in the SEIS/OSEIS in the MITT study area. The SEIS/OSEIS assesses the potential environmental impacts associated with the continuation of these military readiness activities, which consist of training as well as research, development, testing, and evaluation (RDT&E, hereinafter referred to as "testing") activities that include the use of active sonar and explosives in the MITT study area.

The Coast Guard's actions in the MITT will include surface-to-surface gunnery exercises with small to medium caliber weapons that may include firearms and shoulder line-throwing guns, maritime security operations and civilian port defense using helicopters and vessels to simulate visiting, boarding, and seizing vessels, search and rescue exercises, and precision anchoring training. The purpose of the Coast Guard's actions in the MITT is to ensure effective, close coordination and mission execution between the Navy, Air Force, and Coast Guard operators and assets during actual emergencies and security operations. Joint exercises allow for Navy, Air Force, and Coast Guard commands, operators, and assets to more quickly and effectively respond to threats in the maritime environment and/or prevent such threats.

Subject: MARIANA ISLANDS TRAINING AND TESTING SUPPLEMENTAL
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ENVIRONMENTAL IMPACT STATEMENT – COAST GUARD
COOPERATING AGENCY ACCEPTANCE

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April 1, 2020

As previously discussed between the Navy and Coast Guard, the Coast Guard intends to adopt the final Navy MITT SEIS/OSEIS (and by SEIS/OSEIS reference the 2015 Navy MITT EIS/OEIS) to provide NEPA compliance coverage for Coast Guard training and testing activities conducted in the MITT and analyzed jointly in the SEIS/OSEIS with Navy and Air Force training and testing activities. The Coast Guard is required by reference (d) to issue and publish a Coast Guard Record of Decision (ROD)/Overseas Decision (OD) when adopting another federal agency's final EIS/OEIS. This Coast Guard policy is based on a similar policy found in the current Department of Homeland Security's NEPA policy.

As a cooperating agency in the MITT SEIS/OSEIS, the Coast Guard agrees to:

- a. Participate in the MITT NEPA process;
- b. Provide data to the Navy on Coast Guard testing and training activities that take place in the MITT SEIS/OSEIS study area;
- c. Assume, on request of the Navy, responsibility for developing information and preparing portions of the SEIS/OSEIS, for which the Coast Guard has special expertise;
- d. Provide staff support at the Navy's request to fulfill environmental compliance, consistent with operational and mitigation requirements;
- e. Participate, as necessary, in the biweekly meetings hosted by the Navy for discussion of issues related to the SEIS/OSEIS;
- f. Provide the draft Coast Guard ROD/OD to Navy for review and comment for a minimum of 10 working days; and
- g. Coordinate with Navy on the timing and release of Coast Guard's ROD/OD so that it is synchronized with Navy's ROD release.

The Coast Guard understands that the Navy agrees to:

- a. Provide the Coast Guard with a draft final Navy ROD as early as possible in its NEPA process to assist the Coast Guard in the preparation of its own ROD/OD and to facilitate, to the extent appropriate, consistency between the Navy and Coast Guard versions;
- b. Provide Coast Guard with comments to Coast Guard's draft ROD/OD within 10 working days of when the Coast Guard submits its draft ROD/OD to Navy;
- c. Coordinate with Coast Guard on the timing and publication of Navy's ROD so that Coast Guard can synchronize the publication of its ROD/OD; and
- d. Provide the Coast Guard with a copy of the final SEIS/OSEIS.

Subject: MARIANA ISLANDS TRAINING AND TESTING SUPPLEMENTAL
ENVIRONMENTAL IMPACT STATEMENT/OVERSEA
ENVIRONMENTAL IMPACT STATEMENT – COAST GUARD
COOPERATING AGENCY ACCEPTANCE

5090

April 1, 2020

We look forward to working with the Navy to successfully complete the MITT SEIS/OEIS process. The main Coast Guard point of contact for this matter is Ms. Maile Norman. Ms. Norman's contact information is:

Ms. Maile Norman
Coast Guard District Fourteen Enforcement
300 Ala Moana BLVD, FL 9 RM 232
Honolulu, Hawaii 96850
(808) 535-3264
Maile.C.Norman@uscg.mil

Sincerely,



K. E. LUNDAY
Rear Admiral, U. S. Coast Guard
Commander, Fourteenth Coast Guard District

Copy: Commandant, U.S. Coast Guard (CG-DCMS, CG-LMI-E, CG-4, CG-47, CG-7)
Commander, Coast Guard Pacific Area (PAC-00)
Commander, Coast Guard Sector Guam (s)
CNO (N45 – Dawn Schroeder)

C.1.3 NAVY REQUEST LETTER TO THE NATIONAL MARINE FISHERIES SERVICE



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

5090
Ser N45/17U132422
September 27, 2017

Ms. Donna S. Wieting
Director, Office of Protected Resources
National Marine Fisheries Service
1315 East West Highway
Silver Spring, MD 20910

SUBJECT: MARIANA ISLANDS TRAINING AND TESTING SUPPLEMENTAL
ENVIRONMENTAL IMPACT STATEMENT/OVERSEAS ENVIRONMENTAL
IMPACT STATEMENT - COOPERATING AGENCY REQUEST

Dear Ms. Wieting:

In accordance with the National Environmental Policy Act (NEPA) of 1969 and Executive Order (EO) 12114, the United States (U.S.) Department of the Navy (Navy) is preparing a Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) to assess the potential environmental impacts associated with the continuation of military readiness activities, which consist of training as well as research, development, testing, and evaluation (RDT&E, hereinafter referred to as "testing") activities that include the use of active sonar and explosives in the Mariana Islands Training and Testing (MITT) Study Area. The proposed training and testing activities within the MITT Study Area supports the Navy's Title 10 of the U.S. Code requirements to achieve and maintain military readiness by ensuring the Navy can provide trained and equipped combat-ready forces capable of winning wars, deterring aggression, and maintaining freedom of the seas.

This MITT Supplemental EIS/OEIS represents the third phase (Phase III) of ongoing NEPA and EO 12114 compliance for continuation of at-sea training and testing. It will evaluate the conduct of military readiness activities from 2020 into the reasonably foreseeable future and accommodate evolving mission requirements associated with force structure changes, including those resulting from the development, testing, and ultimate introduction of new platforms (vessels, aircraft, and weapon systems) into the Fleet.

The Phase III MITT Study Area remains consistent with the area studied in the Phase II MITT EIS/OEIS completed in 2015 and consists of the established at sea ranges, operating areas, and special use airspace in the region of the Mariana Islands that are part of the Mariana Islands Range Complex (MIRC) and its surrounding seas, and includes a transit corridor. The transit corridor is outside the geographic boundaries of the MIRC and is a direct route across the high seas for Navy ships in transit between the MIRC and the Hawaii Range Complex. The Proposed Action also includes pierside sonar maintenance and testing alongside Navy piers located in Inner Apra Harbor.

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Ser N45/17U132422
September 27, 2017

The MITT Phase III Supplemental EIS/OEIS is intended to serve as a basis for the renewal of current regulatory permits and authorizations and the analysis of emerging and future force structure changes and training and testing requirements. An important aspect of the MITT Supplemental EIS/OEIS will be the analysis of the potential effects to marine species protected under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA) and habitats protected under the Magnuson-Stevens Fishery Conservation and Management Act. The existing MMPA Final Rule and Letters of Authorization for Phase II MITT activities will expire in August 2020.

To complete the analysis required by the permitting and consultation process pursuant to MMPA and ESA in an efficient and effective way, the Navy believes that participation by the National Marine Fisheries Service (NMFS) is needed. Therefore, in accordance with the Council on Environmental Quality's (CEQ) regulations implementing NEPA (specifically 40 CFR Part 1501) and CEQ's 2002 guidance on cooperating agencies, the Navy requests that the NMFS serve as a cooperating agency for the development of the Phase III MITT Supplemental EIS/OEIS.

Consistent with 40 CFR 1501.6, the Navy is requesting NMFS' participation as early in the planning process as possible. As the lead agency, the Navy will:

- a. Gather all necessary background information and prepare the Phase III Supplemental EIS/OEIS and all necessary permit applications associated with acoustic issues within the Study Area;
- b. Work with NMFS personnel to determine the method of estimating potential effects to protected marine species, including threatened and endangered species;
- c. Determine the scope of the Phase III MITT Supplemental EIS/OEIS, including the alternatives evaluated;
- d. Circulate the NEPA document to the general public and any other interested parties;
- e. Schedule and supervise meetings held in support of the NEPA process and compile comments received; and
- f. Maintain an administrative record and respond to Freedom of Information Act (FOIA) requests relating to the Phase III Supplemental EIS/OEIS.

Navy respectfully requests that NMFS, in its role as a cooperating agency, provide the following support:

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September 27, 2017

- a. Participate in the NEPA process, to include public participation efforts pertaining to the Phase III Supplemental EIS/OEIS, and fund such support through its own sources to the maximum extent possible;
- b. Provide timely comments on working drafts of the Phase III Supplemental EIS/OEIS in accordance with the approved project schedule and commenting protocols, and provide minutes of any agency information meeting that have been adjudicated within the agency;
- c. Adhere to the overall schedule as set forth by the Navy in coordination with NMFS;
- d. Respond to Navy requests for information, in particular, those related to review of the acoustic effects analysis and evaluation of the effectiveness of protection and mitigation measures;
- e. Coordinate, to the maximum extent practicable, any public comment periods that are necessary in the MMPA permitting process with the Navy's NEPA public comment periods;
- f. Make available staff support at Navy's request to enhance the Navy's interdisciplinary capability;
- g. Participate, as necessary, in meetings hosted by the Navy for discussion of issues related to the Phase III Supplemental EIS/OEIS;
- h. Utilize NMFS resources, including funding where appropriate, in support of executing its cooperating agency responsibilities.;
- i. Prepare any NMFS-specific documents required to support the NMFS decision-making process;
- j. Maintain an administrative record and respond to FOIA requests relating to the Phase III Supplemental EIS/OEIS; and
- k. Provide a formal, written response to this request.

The Navy views this agreement as important to the successful completion of the environmental planning process for the Phase III MITT Supplemental EIS/OEIS. It is the Navy's goal to complete the analysis as expeditiously as possible, while using the best scientific information available. NMFS assistance is invaluable to this endeavor.

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Ser N45/17U132422
September 27, 2017

We appreciate your consideration of our request and look forward to your response. The point of contact for this action is Ms. Dawn Schroeder, (703) 695-5219, email: dawn.schroeder@navy.mil.

Sincerely,



C. A. LAHTI
Director, Energy and Environmental
Readiness Division

Copy to:
ASN (EI&E)
DASN (E)
OAGC (EI&E)
OPNAV (N9I, N83)
Commander, U.S. Fleet Forces Command (N46)
Commander, U.S. Pacific Fleet (N465)
Commander, Navy Installations Command (N45)
Commander, Naval Sea Systems Command
Commander, Naval Air Systems Command
Commander, Joint Region Marianas
Commander, Naval Facilities Engineering Command, (N45)

C.1.4 NATIONAL MARINE FISHERIES SERVICE RESPONSE LETTER



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

Captain C.A. Lahti
Director, Energy and
Environmental and Readiness Division
Department of the Navy
2000 Navy Pentagon
Washington, DC 20350-2000

Dear Captain Lahti:

Thank you for your letter requesting the National Marine Fisheries Service (NOAA Fisheries) be a cooperating agency in the preparation of a Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) to evaluate potential environmental effects in the Department of the Navy's (Navy) Mariana Islands Training and Testing (MITT) Study Area. Activities conducted in the MITT Study Area will achieve and maintain military readiness and include current, emerging, and future training activities and research, development, test and evaluation events (Phase III). We support the Navy's decision to prepare a Supplemental EIS/OEIS on this activity and agree to be a cooperating agency, due, in part, to our responsibilities under section 101(a)(5)(A) of the Marine Mammal Protection Act and under section 7 of the Endangered Species Act. NOAA Fisheries will make every effort to support the Navy in the development of a Supplemental EIS/OEIS, including:

- Participating, as necessary, in meetings hosted by the Navy for the discussion of issues related to the Phase III Supplemental EIS/OEIS;
- Providing timely comments on working drafts of the Phase III Supplemental EIS/OEIS in accordance with the approved project schedule and commenting protocols;
- Responding to Navy requests for information, in particular, those related to review of the acoustic effects analysis and evaluation of the effectiveness of protection and mitigation measures; and
- Adhering to the overall schedule as set forth by the Navy in coordination with NMFS.

If you need any additional information, please contact Jolie Harrison at (301) 427-8420.

Sincerely,

Samuel D. Rauch III
Deputy Assistant Administrator for
Regulatory Programs
National Marine Fisheries Service

cc: Michael Tosatto, NMFS PIRO
Vicki Wedell, NMFS HQ NMS
Steve Leathery, NMFS HQ NEPA
Dawn Schroeder, Navy



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C.2 COASTAL ZONE MANAGEMENT ACT

C.2.1 NAVY CONSISTENCY DETERMINATION LETTERS – COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



DEPARTMENT OF THE NAVY

COMMANDER
UNITED STATES PACIFIC FLEET
250 MAKALAPA DRIVE
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:
5090
Ser N465/1491
December 16, 2019

Mr. Arthur Charsauros
Director
Division of Coastal Resources Management
Bureau of Environmental and Coastal Quality
P.O. Box 501304, Saipan, MP 96950

Dear Mr. Charsauros:

SUBJECT: CONSISTENCY DETERMINATION FOR MILITARY TRAINING AND TESTING
WITHIN THE COASTAL ZONE OF THE COMMONWEALTH OF THE NORTHERN
MARIANA ISLANDS

In accordance with the Federal Coastal Zone Management Act and 15 C.F.R. § 930, the U.S. Navy submits the enclosed Federal Consistency Determination (CD) for proposed activities in the Mariana Islands Training and Testing (MITT) Study Area that have reasonably foreseeable coastal effects on the coastal zone of the Commonwealth of the Northern Mariana Islands (CNMI).

Based on the enclosed consistency assessment and the activities and analysis contained in the enclosed Draft Supplemental Environmental Impact Statement/Overseas Impact Statement (DSEIS/OEIS), the Navy finds that the proposed military training and testing activities presented in Alternative 2 are consistent to the maximum extent practicable with the enforceable policies of the CNMI Coastal Resource Management Program.

If you have any questions, please contact Mr. John Van Name at (808) 471-1714 or john.vannname@navy.mil or Ms. Suzanne Smith at (808) 471-4696 or suzanne.smith3@navy.mil.

Sincerely,

DANIEL McNAIR
Director, Fleet Environmental Readiness
By direction of the Commander

Enclosures: 1. CD for the CNMI
2. CDROM – MITT DSEIS/OEIS

Copy to:
COMNAVREGMARIANAS (w/o enclosure)
OPNAV N45 (w/o enclosure)
MS. GLENNA SP REYES, DIRECTOR, BUREAU OF MILITARY AFFAIRS, OFFICE OF THE
GOVERNOR COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, JUAN A.
SABLAN MEMORIAL BUILDING, CALLER BOX 10007, SAIPAN, MP 96950 (w/enclosures)



DEPARTMENT OF THE NAVY

COMMANDER
UNITED STATES PACIFIC FLEET
250 MAKALAPA DRIVE
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:
5090
Ser N465/1492
December 16, 2019

Ms. Glenna SP Reyes
Director, Bureau of Military Affairs
Office of the Governor
Commonwealth of the Northern Mariana Islands
Juan A. Sablan Memorial Building
Caller Box 10007
Saipan, MP 96950

Dear Ms. Reyes:

SUBJECT: CONSISTENCY DETERMINATION FOR MILITARY TRAINING AND TESTING
WITHIN THE COASTAL ZONE OF THE COMMONWEALTH OF THE NORTHERN
MARIANA ISLANDS

In accordance with the Federal Coastal Zone Management Act and 15 C.F.R. § 930, the U.S. Navy submits the enclosed Federal Consistency Determination (CD) for proposed activities in the Mariana Islands Training and Testing (MITT) Study Area that have reasonably foreseeable coastal effects on the coastal zone of the Commonwealth of the Northern Mariana Islands (CNMI).

Based on the enclosed consistency assessment and the activities and analysis contained in the enclosed Draft Supplemental Environmental Impact Statement/Overseas Impact Statement (DSEIS/OEIS), the Navy finds that the proposed military training and testing activities presented in Alternative 2 are consistent to the maximum extent practicable with the enforceable policies of the CNMI Coastal Resource Management Program.

If you have any questions, please contact Mr. John Van Name at (808) 471-1714 or john.vanname@navy.mil or Ms. Suzanne Smith at (808) 471-4696 or suzanne.smith3@navy.mil.

Sincerely,

DANIEL McNAIR
Director, Fleet Environmental Readiness
By direction of the Commander

Enclosures: 1. CD for the CNMI
2. CDROM – MITT DSEIS/OEIS

Copy to:
COMNAVREGMARIANAS (w/o enclosure)
OPNAV N45 (w/o enclosure)
MR. ARTHUR CHARSAUROS, DIRECTOR, DIVISION OF COASTAL RESOURCES MANAGEMENT
BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY, P.O. BOX 501304, SAIPAN, MP 96950
(w/enclosures)

C.2.2 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS RESPONSE LETTERS



Eli D. Cabrera
Administrator

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
Tel: (670) 664-8300; Fax: (670) 664-8315
www.dcrm.gov.mp



Janice E. Castro
Director, DCRM

March 9, 2020

Mr. John Van Name & Ms. Suzanne Smith
Environmental Program Manager, United States Pacific Fleet
Department of the Navy
250 Makalapa Drive
Pearl Harbor, HI 96860-3131

Re: Consistency Determination for Military Training and Testing Within the Coastal Zone of the Commonwealth of the Northern Marianas Islands (CNMI)

Dear Mr. Van Name and Ms. Smith,

The Commonwealth of the Northern Mariana Islands' (CNMI) Division of Coastal Resources Management (DCRM) has reviewed the U.S. Department of the Navy's Federal Consistency Determination (CD) submitted and received by our office on December 17, 2019 for the proposed activities in the Marianas Islands Training and Testing (MITT) Study Area within the Coastal Zone of the CNMI.

After carefully reviewing this CD, and as outlined further herein, DCRM finds that the proposed MITT activities as reflected in Alternative 2 of the Draft Supplemental Environmental Impact Statement / Overseas Impact Statement (DSEIS/OEIS) are not consistent with the enforceable policies of the CNMI Coastal Management Program. Therefore, DCRM recommends the Department of the Navy revise its CD to address data gaps, including inconsistencies and lack of up-to-date data, as well as detail and include further mitigation of potential effects on the CNMI's coastal resources.

To support DCRM's CD response, comments from both divisions under the Bureau of Environmental and Coastal Quality (BECQ) as well as the public comments received during the extended public commenting period of 30 days are enclosed and incorporated by reference here. Comments raised concerns that DCRM shares regarding the lack of inclusion of land-based training activities in this CD as it appears from the draft Environmental Impact Statement (DEIS) that changes in land-based training are indeed proposed.

The government of the CNMI recognizes the important training needs of the U.S. Military and hopes to accommodate those needs in a manner that is consistent with the federally approved coastal management policies of the CNMI Coastal Management Program. We look forward to the opportunity to discuss our concerns and how consistency with the policies of the CNMI Coastal Management Program can be achieved to the greatest extent practicable.

As detailed further herein, DCRM finds that the current DEIS/OEIS MITT proposal is not consistent with the enforceable policies of the CNMI Coastal Management Program as the submitted information is not sufficient for a complete and adequate analysis. In fact, it is not entirely evident from current submissions what mitigation measures are being proposed for review. Although Section 930.37 of Federal Consistency regulations provide for use of a DEIS to support a consistency determination, "a Federal agency's federal consistency obligations under the Act are independent of those required under NEPA and are not necessarily fulfilled by the NEPA document." As such, references to mitigation measures or conservation recommendations that will be implemented as results from initiated Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) consultations cannot be considered as part of this CD as they have not yet been completed.

In order for MITT activities to achieve consistency with CNMI's enforceable policies, it is essential that the Navy clearly outline existing conditions, rigorously assess effects, and detail what monitoring and mitigation efforts will be implemented. It is encouraged that critical data gaps including lack of baseline information relating to water quality, species diversity and abundance within the training areas including wildlife populations around Saipan, Farallon de Medinilla (FDM), Tinian, and Rota be addressed through additional studies designed if not implemented in coordination with CNMI and that resulting data be shared in a timely manner to support review. As outlined in the Consistency with Enforceable Policies section of this letter, additional information is needed on the following items in order to assess the consistency of the MITT with the CNMI enforceable policies:

NMIAC § 15-10

- **Part 300 - Standards for CRM Permit Issuance**
 - § 15-10-301, General Standards for all CRM Permits
 - § 15-10-305, Standards for DCRM Permit Issuance General Criteria
 - § 15-10-315, Specific Criteria; Areas of Particular Concern; Lagoons and Reefs
 - § 15-10-325, Specific Criteria; Areas of Particular Concern; Coral Reefs
 - § 15-10-335, Specific Criteria; Areas of Particular Concern; Shorelines
 - § 15-10-340, Specific Criteria; Areas of Particular Concern; Ports and Industrial Areas:

Provide substantial details as to why each of these Areas of Particular Concern (APC) will not be affected by the direct, indirect, or cumulative effects from the proposed activities including analysis of potential spillover impacts.

- **Part 500 - Standards for Determining Major Siting**
 - § 15-10-501, Determination of Major Siting
 - § 15-10-505, Specific Criteria for Major Siting

Part 600 - CRM Permit Conditions

Provide substantial details as to why the Navy's Proposed Action does not meet the criteria for a Major Siting, and analysis regarding how the Proposed Action would

otherwise not have the potential to directly and significantly impact CNMI coastal resources with the potential for significant adverse effects .

Division of Environmental Quality (DEQ) Water Quality Standards: Classification and Establishment of Water Use Areas and Specific Water Quality Criteria

Data has not been provided to confirm baseline water quality in areas of proposed activities or to substantiate statements that there are no reasonably foreseeable effects. To achieve consistency please provide literature cited in the CD as well as any recent scientific studies which contain current and accurate scientific data and clear impacts criteria for direct and cumulative impacts incorporated into the CD analysis on water quality. If such data is lacking for activities in the study area, reasonable efforts to conduct such data collection and assessments to demonstrate that CNMI waters are kept “shall be free from toxic pollutants in concentrations that are lethal to, or that produce detrimental physiological responses in human, plant, or animal life” should be undertaken.

CNMI Public Law No. 3-47; Policy Elements 4, 10, 11, 12, 13, 15, 16, 17 & 21:

Provide a timeline, detailed analysis, and sufficient data for the discussion of mitigation measures outlined throughout these policy elements. To be consistent with enforceable policies of the CNMI, the Navy needs to specify monitoring and mitigation – including providing reasonable details regarding *how and when* impacts will be mitigated – and provide implementation timelines to ensure impacts of these activities are in fact being avoided, minimized, and mitigated to the greatest extent practicable.

Provide current detailed analysis and sufficient data for all applicable coastal resources, particularly coral and algae diversity, cover, and structural complexity; especially for ESA-listed corals in critical areas such as those listed in MITT Draft Supplemental EIS/OEIS Vol. 2 sites on Tinian (Unai Babui, Unai Dankulu, and Unai Chulu), and where training areas will overlap with nearshore habitats.

Provide current data or modeling that determines that emissions from the proposed activity will not lead to a violation of National Ambient Air Quality standards (NAAQS) in the coastal zones of Saipan, Tinian, and Rota. Please see attached BECQ comments for an in-depth description of these policy elements.

It is also critical that the Navy takes steps to provide meaningful analysis of data and standards of DCRM’s enforceable policies. Details and analysis deficiencies noted in received comments that DCRM hopes the Navy can remedy include the following:

- **Policy Element 4** – “Plan for and manage any use or activity with the potential for causing a direct and significant impact on coastal resources. Significant adverse impacts shall be mitigated to the extent practicable.”

The Coastal Zone Management Act broadly defines the environment. Instead of considering impacts of increased activities to the people of the CNMI and the coastal

resources that comprise our home, the CD narrowly discusses potential impacts to marine mammals, coral, and fishes in water and does not reassess impacts of land-based activities on Saipan, Tinian, and Rota or FDM, stating that no changes in these activities are proposed. As previously mentioned, FDM activities appear to be significantly increasing, and mitigation measures proposed by DCRM to ensure consistency with land-based operations in the 2015 MITT do not appear to have been implemented regularly – particularly as they pertain to early coordination and data sharing with CNMI. It is unclear why the Navy states that mitigation measures are outside of the scope of this SEIS/OEIS (CD enclosure pg. 23), especially given the fact that the 2014 CD correspondence from DCRM noted that “[i]n order to comply with the enforceable policies of the CNMI, further measures are needed to protect the wildlife and habitats of the CNMI.”

Similarly, in this CD request like the 2014 submission, the basis for finding that the MITT is consistent to the maximum extent practicable has not been established. The Navy must show how its proposed actions are fully consistent by providing data, not speculative conclusions such as that potential effects to endangered species will be addressed through pending biological opinions. As also noted previously, the statement that the “Navy’s Proposed Action provides special protection to coastal resources and mitigates adverse impacts” is inadequate to demonstrate consistency as the SEIS/OEIS does not actually commit to mitigation measures or timelines for implementation of mitigation, making these assurances rather hollow and unenforceable. If the Navy plans to rely on the suite of mitigation options discussed in the Draft SEIS/OEIS to demonstrate compliance with CNMI’s enforceable policies including the requirement of mitigation of adverse impacts, meaningful and enforceable commitments and timelines for implementation should be developed as part of this CD correspondence.

- **Policy Element 10** – “Maintain or improve coastal water quality through control of erosion, sedimentation, runoff, siltation, sewage and other discharges.”

Assessment of this policy element and supporting regulations is inadequate and this analysis should be revised to support DCRM’s review of this CD request.

- **Policy Elements 11 and 12** – Impacts to cultural resources.

Although Section 106 consultations are ongoing to support the reissuance of the expired Programmatic Agreement, the analysis of impacts to cultural resources referenced in Section 3.11 of the draft SEIS/OEIS does not include sufficient data to make any determination regarding likely significant impacts to cultural resources within CNMI waters and on FDM. Absence of evidence is not evidence of absence and the DoD has an obligation to implement reasonable assessment of resources that are likely to be impacted by MITT activities. Lacking that data, there is therefore no basis for the Navy’s conclusion that this proposed action is consistent with these policy elements. Data gaps should be remedied to ensure consistency with these policies and the CNMI’s significant and compelling interest to protect and preserve our cultural resources.

- **Policy Element 13** – “Require compliance with all local air and water quality laws and regulations and any applicable federal air and water quality standards.”

Data must be provided to support the conclusory statements that air emissions will be minimal on Saipan and Rota and will be “intermittent and short term, resulting in minimal impact on the air quality of Tinian”. Models are available to assess these activities for compliance with local and federal air quality standards and should be included for review in this submission. Comments regarding water quality standards are incorporated by reference here.

- **Policy Elements 15 and 16** – Management of marine resources and consistency with other policies.

As noted in the response to Policy Element 4, the Navy’s analysis of impacts to coastal resources is overly narrow and does not meaningfully address impacts to the human environment. This is especially true regarding impacts to the integrity of our reefs and wildlife habitat (Policy 15) and the management and development of our local subsistence, sport, and commercial fisheries (Policy 16). The draft SEIS/OEIS contains insufficient assessment of the potential impacts to these resources and the “analysis” under Policy Element 4 does not address potential impacts to human uses such as fishing and traditional access to important fishing areas. Thus, it is unclear how the Navy can conclude their proposed actions are consistent when analysis is completely lacking. An updated CD should address this gap, preferably through a revised SEIS that provides meaningful analysis of impacts to these important coastal resources.

- **Policy Element 17** – “Protect all coastal resources, particularly sand, coral and fish from taking beyond sustainable levels and in the case of marine mammals and any species on the Commonwealth endangered species list, from any taking whatsoever.”

The Navy explains that “the Proposed Action has the potential to take marine mammals and species on the Commonwealth endangered species list” and that “[a]ny take occurring as a result of the Proposed Action would be incidental to, and not the purpose of, the Navy’s otherwise lawful training and testing activities” and notes that protective measures intended to avoid and minimize the “take” of endangered species will be updated as appropriate upon completion of the Section 7 consultation. As noted previously, past promises of mitigation and monitoring have not been executed, or, if they have been, have not been shared with the CNMI, therefore, it is encouraged that any monitoring and mitigation agreements that are the basis for a consistency determination include timebound deliverables so that consistency can be demonstrated.

- **Policy Element 21** – “Encourage the preservation of traditional rights of public access to and along the shorelines consistent with the rights of private property owners.”

Contrary to the Navy’s statement that the “MITT Draft Supplemental EIS/OEIS does not propose any change to the public access normally allowed on federally leased lands including FDM, which would remain restricted for security and safety reasons” and that

the “MITT Draft Supplemental EIS/OEIS does not propose a change to the ocean areas currently used by both the Navy and the public”, increases in the intensity and use of CNMI lands and waters is more likely than not to have significant impacts to public access of shorelines and traditional fishing areas. Already, three nautical miles (nm) surrounding the abundant fishery surrounding FDM is periodically restricted and this SEIS proposes to extend that “danger zone” to 12 nm and increase the frequency of restricted use in this area. These restrictions can have direct and significant impacts to boaters and the fishing community by increasing travel time and forcing seagoing vessels to travel well out of their traditional navigation routes. Similarly, periodic exercises on Tinian significantly restrict community access to forests and shorelines that have been traditionally used for subsistence and commercial activities. The frequency and timing of these restrictions should be discussed further with the CNMI in order to maximize access for users of these ocean resources while ensuring the Navy can meet its training objectives. Given that assessment of impacts and commitment to reasonable mitigation measures are lacking in the SEIS/OEIS, meaningful commitments should be articulated in supplemental analysis in a revised CD in order to ensure consistency with this enforceable policy.

Consistency with Enforceable Policies

The CNMI has determined the MITT is inconsistent with the enforceable policies of the CNMI Coastal Management Program in the following ways:

NMIAC § 15-10 Part 300 - Standards for CRM Permit Issuance

§ 15-10-301, General Standards for all CRM Permits

§ 15-10- 305, Standards for DCRM Permit Issuance General Criteria

As stated in the CD, “Not Applicable. The Navy’s Proposed Action does not include applying for permits with the CNMI”. However, if these sections are not applicable, further details explaining why these proposed actions do not apply should be outlined to frame discussion regarding their applicability to DCRMs enforceable policies.

NMIAC § 15-10 Part 300 - Standards for CRM Permit Issuance

§ 15-10-315, Specific Criteria; Areas of Particular Concern; Lagoons and Reefs

§ 15-10-325, Specific Criteria; Areas of Particular Concern; Coral Reefs

§ 15-10-335, Specific Criteria; Areas of Particular Concern; Shorelines

§ 15-10-340, Specific Criteria; Areas of Particular Concern; Ports and Industrial Areas

The information stated in the CD does not provide substantial details as to why these Areas of Particular Concern (APC) will not be affected by the direct, indirect, or cumulative effects from the proposed action. DCRM has previously commented on portions of the Draft Supplemental Environmental Impact Statement/Overseas Impact Statement (DSEIS/OEIS), requesting best available scientific data and clear impacts criteria for direct, indirect and cumulative impact analysis. The current data outlined in the CD does not support meaningful analysis of the impacts and possible mitigation of these impacts.

NMIAC § 15-10 Part 500 - Standards for Determining Major Siting
§ 15-10-501: Determination of Major Siting
§ 15-10-505: Specific Criteria for Major Sitings

NMIAC § 15-10 Part 600 - CRM Permit Conditions

As stated in the CD, “Not Applicable. The Navy’s Proposed Action does not meet the criteria for a major siting.” Under the CNMI’s enforceable policies, a “major siting” is defined as “any proposed project which has the potential to directly and significantly impact coastal resources” including “proposed projects with potential for significant adverse effects on submerged lands,...reefs, wetlands, beaches and lakes...and endangered or threatened species or marine mammal habitats” (§15-10-020(uu)(4)). Consistency with major siting standards of §15-10-505 should be assessed, especially in terms of how training and testing activities will affect the broadly defined coastal environment including fish and wildlife habitat, cultural resources, and the natural integrity of CNMI water bodies and what mitigation responses will be implement to ensure impacts are avoided, minimized, and mitigated. Moreover, based on the lack of data, substantive details, and meaningful analysis in the CD regarding the impacts to these coastal resources, DCRM believes the proposed MITT activities are likely to have significant adverse effects on the CNMI’s coastal resources. Meaningful analysis of data and standards of enforceable policies are necessary to support a review of proposed activities to ensure consistency and should be included in revised documentation to facilitate this effort.

DEQ Water Quality Standards: Classification and Establishment of Water Use Areas and Specific Water Quality Criteria

The information stated in the CD does not provide critical details to adequately address DEQ Water Quality Standards. The literature cited is not included in full detail in the CD, and it appears that DoD has collected no water quality sampling, monitoring, or analysis within the Marianas Islands Range Complex. Additionally, information cited from the previous MITT does not provide current and accurate scientific data and clear impacts criteria for direct and cumulative impacts related to water quality. To ensure consistency, it is recommended that the Navy develop and implement a monitoring plan to ensure water quality stays within CNMI standards. To provide baseline data necessary to substantiate the conclusion that activities have had and will continue to have “no effects” on water quality, it is strongly encouraged that the Navy take reasonable steps to provide additional data on bio-accumulation of toxins associated with ordinance in marine life and localized effects within the monitoring plan, including assessment of fish and filter-feeding invertebrates around Saipan, FDM, Tinian, and Rota.

CNMI Public Law No. 3-47; Policy Elements 4, 10, 11, 12, 13, 15, 16, 17 & 21:

The information stated in the CD does not provide substantial details and data to adequately address Policy Elements 4, 10, 11, 12, 13, 15, 16, 17 & 21. Currently the CD does not look at the combined impacts of the MITT with other military activities in the study area and therefore does not present adequate information on direct, indirect, or cumulative impacts. There is also limited information regarding the duration, temporal, and spatial context of proposed activities, and

whether activities will occur in separate or simultaneous locations and times – critical details when discussing the context and intensity and therefore the “significance” of a proposed action and its effects. DCRM holds that additional information regarding proposed activities and mitigation measures are needed in order to comply with the enforceable policies of the CNMI.

Review Standards for Federal Consistency

Under the Coastal Zone Management Act (CZMA) of 1972, 16 USC § § 1451-1465, § 1456(c)(1), and Federal Consistency regulations, 15 CFR § § 930.30-930.46, Federal agency activities with reasonably foreseeable effects on the State’s coastal zone must be consistent to the maximum extent practicable with the enforceable policies of the States’ federally approved CZMA programs. Under 15 CFR §930.32(a)(1), the standard for “consistent to the maximum extent practicable” means fully consistent with the enforceable policies of the CNMI’s management programs unless full consistency is prohibited by existing law applicable to the Federal agency. Thus, the Navy must show how existing law prohibits full consistency with the CNMI’s Coastal Management Program. However, the Navy has not provided any description of any statutory provisions, legislative history, or other legal authority which limits the Navy’s discretion to be fully consistent with the enforceable policies of CNMI’s management program.

Furthermore, 15 CFR §930.32(a)(2) details that 16 USC § 1456(e), “construction with other laws”, or “Section 307(e) of the Act does not relieve Federal agencies of the consistency requirements under the Act. The Act was intended to cause substantive changes in Federal agency decision making within the context of the discretionary powers residing in such agencies. Accordingly, *whenever legally permissible, Federal agencies shall consider the enforceable policies of management programs as requirements to be adhered to in addition to existing Federal agency statutory mandates*. If a Federal agency asserts that full consistency with the management program is prohibited, it shall clearly describe, in writing, to the State agency the statutory provisions, legislative history, or other legal authority which limits the Federal agency’s discretion to be fully consistent with the enforceable policies of the management program” (emphasis added).

As such, if there are impediments to achieving consistency as outlined here, DCRM encourages the Navy to work with the CNMI through the Bureau of Military Affairs and our office to discuss and remedy these challenges. Lacking such restraints, CNMI encourages the Navy to provide the requisite details to demonstrate full consistency with all applicable DCRM enforceable policies including:

- Full consistency with local permitting considerations;
- Application of CD analysis to all relevant enforceable policies;
- Reasonable collection and analysis of relevant data and standards to support assessment of impacts; and
- Time-bound commitments to proposed mitigation measures that will be implemented to ensure consistency to the maximum extent practicable.

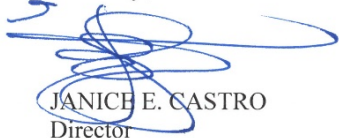
In conclusion, insufficient information has been provided in this CD for DCRM to agree that the MITT activities are consistent with the CNMI’s rules and regulations. Given these challenges, it would seem prudent that the Navy consider coordinating with the CNMI to address data gaps

further and submitting a revised Consistency Determination Request after an updated Final Supplemental EIS has been circulated and comments have been received and reviewed. The Coastal Zone Management Act does provide for flexibility in timelines to support robust review of impacts to coastal resources, and DCRM would welcome the opportunity to discuss a mutually agreeable timeline for revisions or resubmission of this determination request when a preferred alternative has been selected.

To achieve consistency with CNMI's enforceable policies, the Department of the Navy will need to modify its MITT proposal to provide reasonably sufficient details to support analysis as to why each of these sets of proposed actions will not cause significant direct, indirect, and/or cumulative effects including spillover impacts on the CNMI's coastal resources. Additionally, DCRM would welcome further clarification and discussion of specific mitigation measures and alternatives proposed by the Navy to support your timelines and ensure adverse impacts are being appropriately mitigated. The CNMI recognizes the critical mission and ongoing training needs of the U.S. Military and looks forward to discussing ways the MITT can become consistent with the CNMI's enforceable policies.

Please note the included comments from CNMI Bureau of Environmental and Coastal Quality, as well as public comments which are attached to this consistency determination. Should you have any questions or require further information, please contact (670) 664-8308 or fedcon@dcrm.gov.mp.

Sincerely,



JANICE E. CASTRO
Director
Division of Coastal Resources Management

Enclosures: Comments from BECQ-DCRM
Comments from BECQ-DEQ
Comments from Kathy Yuknavage
Comments from the CNMI Office of the Governor

cc: Jeffrey L. Payne, Director, Office for Coastal Management, NOAA
Ralph DLG. Torres, Governor, CNMI
Arnold I. Palacios, Lieutenant Governor, CNMI
Glenna SP Reyes, Special Assistant, Commonwealth Bureau of Military Affairs
Eliceo D. Cabrera, Administrator, BECQ
Kodep Ogumoro-Uludong, Director, Office of Planning and Development
CRM Agency Board

CONSISTENCY DETERMINATION FOR COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

PUBLIC LAW No. 3-47

Policy Element 4. *Plan for and manage any use or activity with the potential for causing a direct and significant impact on coastal resources. Significant adverse impacts shall be mitigated to the extent practicable.*

Policy Element 15. *Manage ecologically significant resource areas for their contribution to marine productivity and value as wildlife habitats, and preserve the functions and integrity of reefs, marine meadows, salt ponds, mangroves and other significant natural areas.*

Policy Element 17. *Protect all coastal resources, particularly sand, coral and fish from taking beyond sustainable levels and in the case of marine mammals and any species on the Commonwealth endangered species list, from any taking whatsoever.*

Comment:

In regards to Public Law No.3-47, Policy Elements 4, 15, and 17, the impact on coastal resources, specifically coral reefs, is not adequately addressed. Table 1 of the consistency document lists several activities that will occur in the Marianas littorals and Tinian, which will overlap fringing reefs. Section 3.8-11 of the MITT Draft Supplemental EIS/OEIS Vol. 2 lists beaches on Tinian (Unai Babui, Unai Dankulu, and Unai Chulu), where training areas will overlap nearshore habitats and states:

“However, the combined consequences of all physical disturbance and strike stressors could degrade habitat quality at some locations. As stated above, combat swimmers and Marines may be required to walk through nearshore areas and reefs during these activities, potentially causing damage to coral species. As stated in the 2015 MITT Final EIS/OEIS and above, these activities could cause injury or mortality to individuals, but impacts on marine invertebrate populations, including ESA-listed corals, are unlikely.”

Since the distribution of ESA-listed corals in the Marianas has not been mapped out, the statement that impacts to marine invertebrate populations and ESA-listed corals is not supported. We do share many coral species with other Pacific reefs, however, the Marianas region is isolated in terms of genetic connectivity to the rest of Micronesia, where the majority of coral and fish larvae originate from Saipan and Tinian (Kendall & Poti, 2014; Maynard et al., 2015; Randall, 1995). Therefore, any physical disturbance through accidental damage on reef structure can impede recovery for the coral reefs of the CNMI that are still recovering from mass bleaching events, two category 5 typhoons, and multiple crown-of thorns outbreaks.

In addition, assessing species or population level impacts of marine invertebrate populations for shallow coral reefs provides an incomplete analysis on the environmental impacts for our region. Coral and algae diversity, cover, and structural complexity are also important indicators of reef ecosystem function and health. The CNMI has suffered severe coral mortality from back to back bleaching events in 2013, 2014, 2016, and 2017 (Heron et al., 2016; Reynolds et al., 2014). For example, Unai Babui in Tinian is designated as a training area in the MITT EIS, and is one of CRM’s long-term marine monitoring sites since 2001. Since 2009, Unai Babui has had a steady decline in coral cover with a large increase in macroalgae cover, and loss in crustose coralline algae (CCA). CCA is extremely important in

strengthening reef structure and are resistant to ocean acidification (Nash et al., 2013; Nelson, 2009). Coral cover at Unai Babui is hovering at less than 10% and for Unai Dankulu at less than 15% in 2018. Maintaining coral cover above 10% is a critical threshold for sustaining reef function (Darling et al., 2019). The shallow water reefs around Tinian are already vulnerable from past storm and bleaching disturbances, and decline in coral cover is now at a critical threshold where further loss can severely reduce chances of recovery. In addition, any damage to reef structure, whether live or dead coral, will degrade habitat quality by accelerating reef breakage and loss of structural complexity, resulting in loss of habitat for diverse species, potential loss of storm protection, and accelerates erosion of the reef. Therefore, proposed listed actions in Table 1, for the Mariana littoral zone and Tinian are not sustainable and would further put CNMI's coastal resources at risk of further degradation.

References

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December 2019 Consistency Determination
Air Quality Comments – Larry Maurin

COASTAL ZONE MANAGEMENT ACT – CONSISTENCY DETERMINATION FOR COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Public Law No. 3-47

Policy Element 13. Require compliance with all local air and water quality laws and regulations and any applicable federal air and water quality standards.

Page 24: Comments on Air Quality Impacts of the Proposed Action

- Air quality impacts of criteria and hazardous air pollutants from additional activities in the Proposed Action (i.e. Phase III) have not been quantified and included in the consistency determination, so the 2015 MITT Final EIS/OEIS is not representative of cumulative air emissions.
- Emissions of criteria and hazardous air pollutants that may affect the Rota and Saipan Coastal Zones have not been quantified, and no modeling has been done to determine if these emissions will lead to a violation of the National Ambient Air Quality Standards (NAAQS) and CNMI Ambient Air Quality Standards. There must be a basis for the claim that "air quality impacts attributable to the military training and testing activities" to the Saipan and Rota coastal zone "uses and resources would be minimal." No basis for this claim has been presented.
- Additional emissions of criteria and hazardous air pollutants from Phase III activities that may affect the coastal zone of Tinian have not been quantified. There must be a basis for the claim that "combined effects from air quality impacts attributable to the military training and testing activities to the Tinian coastal zone uses and resources would be minimal." No basis for this claim has been presented.
- There must be a basis for the claim that "the Proposed Action complies with all local air quality laws and regulation and any applicable federal air quality standards". No quantification of additional impacts from Phase III has been conducted and no modeling analysis has been submitted to ensure compliance with the NAAQS and CNMI Ambient Air Quality Standards.
- There must be a basis for the statement that "air emissions generated as a result of the Proposed Action would be minimal, intermittent, and short term. Thus, the Proposed Action would not have a significant impact on ambient air quality and is in compliance with local and federal air quality standards." No modeling analysis of the Proposed Action has been submitted to demonstrate that there would be no significant impact on the NAAQS or CNMI Ambient Air Quality Standards.

Comments - Military Training and Testing within the CZ of the CNMI

Kathy Yuknavage

DESCRIPTION OF THE PROPOSED ACTION

Page: 2

Navy states that, "These training and testing activities include the use of active sonar and explosives at sea in the MIRC (the Navy is not proposing to use explosives at sea within the CNMI coastal zone)."

The use of sonar and explosives at sea around the MIRC and the transit corridor between the MIRC and the Hawaii Range Complex is of concern due to potential impacts to Cetacea and other aquatic mammals and organisms. These waters and those of the Marianas Trench Monument are high quality waters of ecological significance that provide an important migration marine corridor and breeding ground for these species. The Department of the Navy states that these 'active sonar and explosives at sea' will not cause harm to these or other aquatic life, without citing specific data from peer reviewed or defensible research studies.

It should also be noted that these marine species are important not only to the CNMI tourist economy, but also to the international community where they are known to migrate to, and from.

The CNMI Water Quality Standards (WQS) antidegradation policy states that, "Tier 3: **High quality waters** which constitute an outstanding Commonwealth resource, such as waters of National Parks, marine sanctuaries, wildlife refuges and **waters of exceptional recreational or ecological significance shall be maintained and protected. Actions which would lower water quality in such waters are prohibited**, with the exception of temporary degradation deemed necessary for the construction of important Park infrastructure, pollution control devices, and BMPs designed to improve water quality."

Pages: 3 - 4

The Navy states that for both the Islands of Tinian and Rota that, "Only those activities that are new and include the use of sonar are analyzed in this Consistency Determination. Other activities that include the use of sonar were previously analyzed in the 2014 Consistency Determination document, which determined the ***Proposed Action was consistent to the maximum extent practicable with applicable enforceable policies.***"

Please define 'maximum extent practicable with applicable enforceable policies.'. Whose policies are these?

Provide evidence that no other alternatives could be used for tracking other than sonar in these waters given that recent studies have found sonar to have serious detrimental impacts on whales feeding modes and behavior. (2016. "Impacts of Sonar on Marine Mammals", SERDP ESTCP.; 2013. Goldbogen, et.al., "Blue whales respond to simulated mid-frequency military sonar": <https://doi.org/10.1098/rspb.2013.0657>; 2000. ECM Parsons, "Impacts of Navy sonar on whales and dolphins: Now beyond a smoking gun?" Env. Sci, and Policy, George Mason Univ. VA).

**DEPARTMENT OF ENVIRONMENTAL QUALITY WATER QUALITY STANDARDS: CLASSIFICATION
AND ESTABLISHMENT OF WATER USE AREAS AND SPECIFIC WATER QUALITY CRITERIA**

Page: 16

The Navy states that, “the majority of concerns regarding bioaccumulation are associated with urban coastal environments with specific point source and non-point source contributors of pollutants. ***The studies concerning military sites suggest that metals exposed to seawater are of less concern because of decreased bioavailability.***”

There are still concerns regarding bioaccumulation of heavy metals and toxins from munition constituents associated with on-going live fire and bombing ranges.

Which studies are being discussed? None are cited to defend this claim. Please provide scientifically defensible research to support this statement.

Page: 17

The Navy states that, “activities occurring beyond the CNMI coastal zone would not affect the land or water use, or natural resource of the coastal zone because **(1) most of the explosives would be consumed during detonation; (2) the frequency of low-order detonations would be low, and therefore the frequency of releases of explosives would be low; (3) the amounts of explosives used would be small relative to the area within which they would be distributed; and (4) the constituents of explosives would be subject to physical, chemical, and biological processes that would render the materials harmless or otherwise disperse them to undetectable levels.**” This section cites the “2015 MITT Final EIS/OEIS as containing a detailed analysis of fate and transport of byproducts produced during military training and testing activities”.

This citation from an EIS, produced five years ago is insufficient to substantiate the above claim. The findings from the MITT analysis that defends claims (1) – (4) should be described herein for new reviewers and to refresh those that took part in reviewing previous EIS and Federal Consistency Determinations. Specifically, to address potential pollution from “inert” munitions constituents, e.g., heavy metals, 2,4,6-Trinitrotoluene (TNT), Volatile Organic Compounds (VOC), Royal Demolition Explosive (RDX), other toxic propellants, and their by-products, and spills, and leaks of other pollutants from being transported and bound into the ocean floor’s benthic habitats where a myriad of aquatic species live and breed.

Given the first EIS was provided to the CNMI in 1997, it is disconcerting to see that the Navy has still not conducted studies to provide defensible evidence that explosives and other munitions and their constituents will NOT become bioavailable. The Navy has had over two decades to conduct meaningful research and yet nothing is provided herein, or cited directly.

Given the evidence of bioaccumulation of heavy metals in biota and invertebrates found at WWII dumps sites around the island of Saipan, substantiates our concern that further accumulation from ongoing exercises may result in cumulative impacts to aquatic organisms. Some of Gary Denton's studies (University of Guam, Water Environmental Research Institute) are cited herein:

Denton, G.R.W., et.al, (2016). *Impact of WWII dumpsites on Saipan (CNMI): heavy metal status of soils and sediments*, Environ Sci Pollut Res, DOI 10.1007/s11356-016-6603-7.

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Denton, G.R.W., Starmer, J.A., Masga, R. (June 2013). *Environmental Impacts of FUDS and Brownfield Sites in Watershed on the Eastern Side of Saipan, (CNMI)*. Phase 2: Impact on Aquatic Resources. WERI Project Synopsis Report.

Denton, G.R.W., Morrison, Bearden, Houk, Starmer, and Wood (2009). *Impact of a coastal dump in a tropical lagoon on trace metal concentrations in surrounding marine biota: A case study from Saipan, Commonwealth of the Northern Mariana Islands (CNMI)*. Marine Pollution Bulletin 25 (2009) 424-455.

Denton, G.R.W., Bearden, B.G., Houk, P., Starmer J.A. & Wood H.R. (2008). *Heavy Metals in Biotic representatives from the Intertidal Zone and Nearshore Waters of Tanapag Lagoon, Saipan, Commonwealth of the Northern Mariana Islands (CNMI)*. WERI Technical Report No. 123: 50 pp.

The Navy also states, "Metals released into the marine environment are not expected to exceed water quality standards in the CNMI coastal zone because corrosion and biological processes (e.g., colonization by marine organisms) would reduce exposure of military expended materials to seawater, decreasing the rate of leaching. Further, **leached metals would bind to sediments and other organic matter, thereby localizing the concentration to the site of deposition.**"

The fact that heavy metals and other munition constituents may not be found in seawater at levels that would exceed the CNMI WQS is because of their octanol/water coefficient. In other words, these constituents instead partition into sediment and other organics. Heavy metal contaminants in the benthic habitat would be bioavailable to the fish and shellfish which results in bioaccumulation. Therein lies the issue. These pollutants would continue to be a source of contamination that may cause harm to aquatic marine life, and subsequently the people of the CNMI that rely heavily on subsistence fishing as significant part of their diet.

It is also the intent of the US Clean Water Act to protect our waters designated uses, which includes the protection and propagation of fish, shellfish and wildlife, and to ensure that fish in these waters are safe for human consumption.

A sediment study conducted in 2008-2009, off Saipan's west coast by Denton et.al., of University of Guam Water Environmental Research Institute found mercury "spikes" accompanied by increased CU, FE, MN and Zn enrichment, "which suggest they were remnant artifacts of the US invasion of Saipan in 1944. Mercury fulminate, for example, was the primary explosive used in primers and detonators of artillery shells and percussion caps of bullets during WWII (US Navy, 1947)."

In addition, this page also states that, "Some expended plastics from military readiness activities are unavoidable because they are used in ordnance or targets. Targets, however, would typically be recovered following training and testing activities. **Chaff fibers are composed of nonreactive metals and glass, and would be dispersed by ocean currents as they float and slowly sink toward the bottom.** The fine, neutrally buoyant chaff streamers would act like particulates in the water, temporarily increasing the turbidity of the ocean's surface. The chaff fibers would quickly disperse, and turbidity readings would return to normal. Because activities would occur in areas outside of the CNMI coastal zone and the rapid settling and non-reactivity of materials not recovered after use, water quality standards in the CNMI coastal zone would not be exceeded."

However, the deposition of these nonrecoverable pollutants would contaminate the ocean bottom, benthic habitat, biota, and add to the growing volume of marine debris found in Pacific gyres, which have created the "Great Pacific Garbage Patch". The Department of the Navy is approaching these contaminants as being acceptable outcomes without explanation.

CNMI WQS stipulates that "all surface waters shall be free of substances attributable to domestic, industrial, or **other controllable sources of pollutants and shall be capable of supporting desirable aquatic life** and be suitable for recreation in and on the water." Waters are "subject to verification by monitoring as may be prescribed by the Administrator to assure freedom from any of the following conditions:**(2) floating debris**, oil, grease, scum, or other **floating materials**..... **(4)** High temperatures; biocides; pathogenic organisms; **toxic, corrosive, or other deleterious substances at levels or in combinations sufficient to be toxic or harmful to human health or aquatic life**, of in amounts sufficient to interfere with any beneficial use of the water." Detrimental responses include **significant alterations in water biota**.

The presence of marine debris has been shown to be harmful to aquatic life in peer reviewed research papers from NOAA, US and European government agencies, and non-government agencies. The accumulation of military exercise contaminants in the habitat where fish and other aquatic life live, feed and breed are also of concern. The CNMI WQS states that, "all waters shall be free from toxic pollutants **in concentrations that are lethal to, or produce detrimental physiological responses in human, plant or animal life.**"

With this in mind, we continue with our concerns with statements made in the following section:

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Adverse physiological responses in marine animals were marginally evaluated. To quote, ***“Acoustic Stressors. Pursuant to the MMPA, *acoustic sources may result in Level A and Level B harassment of certain marine mammals.* The analysis completed by the Navy predicts no mortalities*** and therefore the Navy is not requesting an incidental take under the MMPA for mortality. Pursuant to the ESA, sonar and other transducers, weapons noise, vessel noise, air guns, and aircraft may affect certain ESA-listed marine mammals. herein.”

A similar stance was taken with other stressors discussed in this section. Only mortality is considered, not morbidity that may further weaken marine animals causing a cumulative affect leading to latent mortality from chronic exposure to these and other climate related stressors.

The CNMI has experienced two Super Typhoons in the last five (5) years, and increasing marine water temperatures. These climate related stressors alone have led to marine animal morbidity and death, and wide spread coral reef damage. Stressing marine plants and animals further with acoustic, explosive, physical disturbance from sonar, vessel strikes or near misses, entanglement and ingestion stressors, is indefensible, as morbidity furthers their vulnerability to an avoidable early death.

RALPH DLG. TORRES
Governor



ARNOLD I. PALACIOS
Lieutenant Governor

COMMONWEALTH of the NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

February 7, 2020

Janice E. Castro
Director
Division of Coastal Resources Management
P.O. Box 501304
Saipan, MP 96950

Re: *Comment on Federal Consistency Determination Request for Military Training and Testing (MITT)*
Within the Coastal Zone of the Commonwealth of the Northern Mariana Islands

Dear Director Castro,

Thank you for this opportunity to comment on the Federal Consistency Determination (CD) request currently under consideration by the Bureau of Environmental and Coastal Quality's Division of Coastal Resources Management (DCRM), dated Dec. 19, 2019 and submitted to the Commonwealth of the Northern Mariana Islands (CNMI) Bureau of Military Affairs (BMA). As you know, ensuring consistency of significant federal actions with requirements put in place to protect our coastal resources is a policy matter of utmost importance to the CNMI. For the reasons outlined below, the 2019 CD submission is inadequate and in many aspects in disagreement with land management policies and mandates established by the CNMI Constitution and the Covenant, as well as key enforceable policies of the CNMI's Coastal Zone Management Program. As such, I encourage you to work with the Navy to ensure these concerns are addressed and that a sufficient CD request is submitted to you, with the Commonwealth Bureau of Military Affairs (CBMA) copied as is required, for your review and determination upon this proposal.

Procedural Issues

- **Streamlined submission supports local review.** The Navy's inclusion of the CBMA in their CD request is appreciated, however, the process outlined in **16 U.S.C. § 1456(c)(1)(C)** and reflected on the DCRM website and federal consistency guidance does clearly state that these requests should be provided to the "relevant State agency designated under section 1455(d)(6)" and therefore CDs should be addressed to the DCRM Director. As outlined in Executive Order 2019-09, CBMA is a clearing house and coordinating entity that functions as a custodian to support Department of Defense (DoD) related activities in the Commonwealth, and the Special Assistant acts as a liaison between DoD and CNMI Agencies. As such we believe that a proper CD submission would be addressed to the DCRM Director who reviews such determinations, in care of the CBMA Special Assistant. The CBMA Special Assistant has concurred with this assessment in discussions regarding this submission. We hope that a revised CD might be provided to your office to address the substantive deficiencies outlined here and ensure timely processing, as well as to support meaningful public notice and comment and participation opportunities moving forward.
- **References to obscure supporting documents complicates local review.** Documents referenced in CD should be included in the request itself. Although your DCRM staff have helpfully provided additional background information, the CD from DCRM on record for the MITT was dated January 20, 2015, we do not have a copy of the Navy's original documents. These materials are necessary to support meaningful review of this request, which relies heavily on this past correspondence. Therefore, it is

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requested that DoD provide this document and any other referenced supporting documents as links or digital files in a properly submitted CD request in advance of DCRM's final determination on this contention proposal.

- **Insufficient information is included in the Draft SEIS to support review at this time.** Data relied on in the SEIS is insufficient to assess likely impacts to coastal resources and as such, this CD request is not ripe for review. We encourage DCRM to request that the Navy treat the December 2019 as a draft and properly submit a revised CD request to you, the Director of the CNMI's Coastal Zone Program with the coordinating office of the BMA copied upon release of the updated draft or final SEIS. Where data gaps exist in terms of impacts to limited access, water quality, impacts to cetaceans and other marine life especially during spawning events, and mass wasting at FDM are not properly addressed, we hope DCRM can work with the Navy through this process to provide time bound conditions for execution of compliant activities as well as data sharing and coordination with local resource management agencies in CNMI.

Substantive Issues

- **Impacts to all CNMI lands and waters should be assessed for consistency.** Impacts to all CNMI land and coastal waters should be assessed for consistency with DCRM enforceable policies. The 2019 CD incorrectly excludes land-based activities proposed on FDM and Tinian from analysis based on the fact that "federally controlled lands are excluded from the coastal zone" (2019 CD, pg. 4). While CNMI does not dispute that the federal government has an interest in these lands, these lands have been "*made available to the Government of the United States by lease* to enable it to carry out its defense responsibilities" and thus remain Commonwealth property which will revert to CNMI control when the leases terms expire (CNMI Covenant, Section 802, emphasis added). It is unclear on what basis the Navy states that these lands are not subject to federal consistency review, which should also include consideration of potential spillover effects to all CNMI-owned submerged lands and waters.
- **Details regarding activities and impacts are insufficient for review.** It is unclear from the description provided on page 2 of the 2019 CD what proposed activities would be occurring within three (3) nautical miles of the CNMI's shorelines. Thus, insufficient information has been provided to CNMI for DCRM to assess and determine whether the proposed MITT activities are consistent with applicable regulations as detailed further in discussion of application of specific enforceable policies below.
- **CD does not address direct, indirect, and cumulative impacts to lands and waters of the CNMI.** The CD incorrectly states that there are "no changes in land-based training proposal" (2019 CD, pg. 2). Assessment of activities in the 2019 Draft MITT Supplemental Environmental Impact Statement indicates that "[a]lternative 1 reflects a level of training and testing activities to be conducted at sea *and on FDM*, with adjustments from the 2015 MITT Final EIS/OEIS that account for changes in the types and tempo of activities necessary to meet current and future military readiness requirements beyond 2020" and "Alternative 2 includes the same type of training and testing activities that would occur under Alternative 1. Alternative 2 also considers an increase in tempo of some training and testing activities, including additional Fleet exercises and associated unit-level activities, should unanticipated emergent world events require increased readiness levels" (2019 MITT Draft SEIS, Volume 1, pg. ES-5, emphasis added). In reviewing the "Summary of Impacts" table in the Draft Supplemental EIS/OEIS, additional details are provided indicating that:
 - o Under Alternative 1, "more aircraft would fly over *and land on FDM and more ordnance would be used on FDM*. The total increase, in terms of net explosive weight (NEW) under Alternative 1 would be less than 1 percent compared to ordnance use on FDM described in the 2015 MITT Final EIS/OEIS" and, "the number of training and testing activities under Alternative 2 would increase

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over what is proposed for Alternative 1. However, this increase would be a slight change and would not appreciably change the potential for impacts over what is analyzed for Alternative 1" (Draft SEIS, pg. ES-18, emphasis added). The basis for this statement is unclear, as Table 3.0-19 of the DEIS, *Annual Number of Munitions Used on Farallon de Medinilla* shows greater than 1 percent increases in use explosive missiles (85 missiles authorized in 2015 Final EIS, 115 proposed under Alternatives 1 and 2), explosive grenades and mortars (600 authorized in 2015 Final EIS, 1,000 proposed under Alternatives 1 and 2), as well as increases in use of small-caliber rounds and medium caliber projectiles (see DEIS pg. 3-28). It also appears that annual in-water and in-air explosives munitions detailed in Tables 3.0-7 and 3.0-8 of the DEIS (pg. 3-22 – 23) will include increasing use of "E8", "E9", and "E10" explosives. It is unclear what portion of these munitions are proposed for testing activities in areas around FDM or in proximity to other CNMI lands and territorial waters, however, it appears that the proposed change is rather substantial for some explosive categories (e.g. bombs with net explosive weight between 60 – 500 pounds). The DEIS notes that "[a]s described in the 2015 MTT Final EIS/OEIS, physical disturbance and strike stressors can result from the Navy's proposed use of aircraft and aerial targets, vessels, in-water devices, military expended materials, seafloor devices, and, on the island of FDM, ground disturbance and wildfires" (DEIS, pg. 3-25). It is suggested that the actual proposed changes and likely impacts of these changes be meaningfully discussed in the updated DEIS and corresponding revised CD to ensure consistency with enforceable policies in sea and on land.

- **As currently submitted, the proposed action is not consistent with DCRM Enforceable Policies.** Under the Coastal Zone Management Act (CZMA) of 1972, 16 USC § 1451-1465, § 1456(c)(1), and Federal Consistency regulations, 15 CFR § 930.30-930.46, Federal agency activities with reasonably foreseeable effects on the State's coastal zone must be consistent to the maximum extent practicable with the enforceable policies of the States' federally approved CZMA programs. Under 15 CFR §930.32(a)(1), the standard for "consistent to the maximum extent practicable" means fully consistent with the enforceable policies of the CNMI's management programs unless full consistency is prohibited by existing law applicable to the Federal agency. Thus, the Navy must show how existing law prohibits full consistency with the CNMI's Coastal Management Program. However, the Navy has not provided any description of any statutory provisions, legislative history, or other legal authority which limits the Navy's discretion to be fully consistent with the enforceable policies of CNMI's management program. Furthermore, 15 CFR §930.32(a)(2) details that 16 USC § 1456(e), "construction with other laws", or "Section 307(e) of the Act does not relieve Federal agencies of the consistency requirements under the Act. The Act was intended to cause substantive changes in Federal agency decision making within the context of the discretionary powers residing in such agencies. Accordingly, *whenever legally permissible, Federal agencies shall consider the enforceable policies of management programs as requirements to be adhered to in addition to existing Federal agency statutory mandates.* If a Federal agency asserts that full consistency with the management program is prohibited, it shall clearly describe, in writing, to the State agency the statutory provisions, legislative history, or other legal authority which limits the Federal agency's discretion to be fully consistent with the enforceable policies of the management program" (emphasis added). Accordingly, for the reasons cited below, the proposed MTT is not fully consistent with enforceable policies of the CNMI's approved CZMA program:
 - o **Full consistency with local permitting required.** The 2019 CD incorrectly states that General Provisions (15-10-020, 15-10-025) and Standards for CRM Permit Issuance (15-10-301, 305, 315, 320, 325, 335, 340, 345), Major Siting Standards (15-10-501, 505), and CRM Permit Conditions (15-10-610) and numerous policy elements of Public Law 3-47 do not apply. If the Navy feels that certain sections do not apply, details should be provided to further frame discussion regarding the applicability and extent of the enforceable policies for the CNMI's CZMP. That being said, these provisions have been applied to CD review and should continue to be applied to ensure consistency with CNMI's enforceable policies. Concerns regarding specific subsections are outlined further

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below. However, it is a misconstruction of the intent and letter of the CZMA to state that mandatory conditions and management standards of the CZMA are not applicable. Rather, proposed activities must comply with substantive local permitting requirements as they are incorporated through the DCRM Coastal Management Program. Given the extensive mitigation that should be implemented to address impacts of proposed increases in the activities outlined in Table 1 of the 2019 CD, the Navy should anticipate coordinating with local regulatory agencies to implement required clean up activities. Obtaining local permits, although it may not be required for all potential survey, clearing, and clean-up activities, would demonstrate the Navy's commitment to complying with local requirements and coordinating with our local agencies. This is a best practice that other federal agencies engage in and we encourage you to ask the Navy and other DoD branches to extend this courtesy to our regulatory and resource management partners. At minimum, the 2015 Federal Consistency Determination from DCRM conditioned coordination with local authorities which, to this day, has been insufficient and in some cases as resulted in avoidable losses of or damage to important CNMI assets that DoD has yet to remedy.

- **Application of CD analysis to all relevant enforceable policies is necessary.** Similar to the concerns raised in the Oct. 2014 DCRM response to the Sept. 2014 CD request, it appears that numerous elements of the currently proposed revised and expanded MITT are not consistent with DCRM's enforceable policies. These include:
 - Assessment of impacts for compliance with general standards (15-10-305), Areas of Particular Concern (15-10-315, 325, 335, 340) and specific criteria for major sitings (15-10-505).

As stated in the Office of the Governor's comments on the MITT DEIS, there has been insufficient analysis of direct, indirect, and cumulative impacts of MITT activities. This analysis should include all reasonably foreseeable and related activities including but not limited to activities described in the Guam and CNMI Military Relocation FEIS/OEIS, Divert Activities and Exercises, the MITT expansion, and upcoming CNMI Joint Military Training DEIS/OEIS. If implemented these activities will undoubtedly have cumulative effects on CNMI's coastal resources. Thus far, insufficient information has been provided in supporting documents and in this CD request for CNMI assess consistency with this provision. As outlined in 15-10-305, criteria for development, which is defined to include activities relevant to the MITT "discharge or disposal of ... any gaseous, liquid, solid, or thermal waste" (15-10-020(z)(2)); a "change in the density or intensity of use of land" (15-10-020(z)(4)); a "change in the intensity of use of water, the ecology related thereto, or the access thereto" (15-10-020(z)(5)); or the "removal of a significant amount of vegetation, whether native or non-native" (15-10-020(z)(7)), development criteria must include consideration of cumulative impacts, compatibility, alternatives, conservation, compliance with local and Federal laws, consistency with the CNMI's Constitutional right to a clean and healthful environment, effects on existing public services, adequate public access, setbacks, management measures for control of nonpoint source pollution, and buffers for environmentally sensitive areas (15-10-305). If the Navy feels that consistency with these standards is not legally permissible, they should detail their rationale for this position in their CD request – otherwise the applicable regulations appear to direct that these policies be considered and adhered to. Reasonably foreseeable impacts to Areas of Particular Concern should also be assessed for consistency, especially in terms of potential direct and spillover effects to lagoon and reefs (15-10-315), coral reefs (15-10-325), shorelines (15-10-335) and ports (15-10-345), categories which the CD summarily said were not applicable due to unnecessarily narrow interpretation of these areas and their management standards. Similarly, "major siting" is defined as "any proposed project which has the potential to directly and significantly impact coastal resources" which includes "[p]roposed projects with potential for significant adverse effects on submerged lands, groundwater recharge areas,

cultural areas, historic or archeological sites and properties, designated conservation and pristine areas, or uninhabited islands, sparsely populated islands, mangroves, reefs, wetlands, beaches and lakes, areas of scientific interest, recreational areas, limestone, volcanic and cocos forest, and endangered or threatened species or marine mammal habitats" (15-10-020(uu)(4)). Given that this project clearly qualifies as a major siting, consistency with major siting standards of 15-10-505 should also be assessed.



- **Meaningful analysis of data and standards of enforceable policies is necessary.** In addition to lacking analysis noted above, as outlined herein, the CD analysis is currently inadequate in terms of assessment of impacts and analysis and application of enforceable policies in regards to discussion on water quality, Public Law 3-47 Policy Elements 4, 10, 11, 12, 13, 15, 16, 17, and 21.
 - Assessment of impacts to water quality. The CD states that "military readiness activities that generate stressors to water quality do not occur in the water use areas; rather, they occur outside of the CNMI coastal zone, and are analyzed in the context of their potential to induce reasonably foreseeable effects into Class "AA" or Class "A" water use areas." It goes on to restate conclusory statements that no effects are anticipated from explosives and explosive byproducts (Section 3.1.3.1), metals (Section 3.1.3.2), and other materials (Section 3.1.3.4) based on the analysis that activities would "occur in areas outside of the CNMI coastal zone" and in "rapid settling and non-reactivity of materials not recovered after use". Data has not been provided to confirm baseline water quality in areas of proposed activities or to substantiate these statements. This is especially disconcerting in regards to turbidity and total suspended solids where health and habitat protective standards aim to ensure that "[c]oncentrations of suspended matter at any point shall not be increased from ambient conditions at any time, and should not exceed 5 mg/l except when due to natural conditions" (for TSS) and "[t]urbidity at any point, as measured by NTU, shall not exceed 0.5 NTU over ambient conditions except when due to natural conditions." Additionally, the standard for all CNMI waters is that they "shall be free from toxic pollutants in concentrations that are lethal to, or that produce detrimental physiological responses in human, plant, or animal life. Detrimental responses include, but are not limited to: decreased growth rate and decreased reproductive success of resident or indicator species; or significant alterations in population, community ecology, or receiving water biota." Insufficient data has been provided to demonstrate that proposed increasing uses of weapons that will deposit explosives and explosive byproducts, metals, and other materials into CNMI waters will not violate this standard.
 - Policy Element 4 – "Plan for and manage any use or activity with the potential for causing a direct and significant impact on coastal resources. Significant adverse impacts shall be mitigated to the extent practicable." The Coastal Zone Management Act broadly defines the environment. Instead of considering impacts of increased activities to the people of the CNMI and the coastal resources that comprise our home, the CD narrowly discusses potential impacts to marine mammals, coral, and fishes in water and does not reassess impacts of land-based activities on Saipan, Tinian, and Rota or FDM, stating that no changes in these activities are proposed. As previously mentioned, FDM activities appear to be significantly increasing, and mitigation measures proposed by DCRM to ensure consistency with land-based operations in the 2015 MITT do not appear to have been implemented regularly – particularly as they pertain to early coordination and data sharing with CNMI. It is unclear why the Navy states that mitigation measures are outside of the scope of this SEIS/OEIS (CD enclosure pg. 23), especially given the fact that the 2014 CD correspondence from DCRM noted that "[i]n order to comply with the enforceable policies of the CNMI, further measures are needed to protect the wildlife and habitats of the CNMI". Similarly, in this CD request like the 2014 submission, the basis for finding that the MITT is consistent to the maximum extent practicable has not

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been established. The Navy must show how its proposed actions are fully consistent by providing data, not speculative conclusions such as that potential effects to endangered species will be addressed through pending biological opinions. As also noted previously, the statement that the “Navy’s Proposed Action provides special protection to coastal resources and mitigates adverse impacts” is inadequate to demonstrate consistency as the SEIS/OEIS does not actually commit to mitigation measures or timelines for implementation of mitigation, making these assurances rather hollow and unenforceable. If the Navy plans to rely on the suite of mitigation options discussed in the Draft SEIS/OEIS to demonstrate compliance with CNMI’s enforceable policies including the requirement of mitigation of adverse impacts, meaningful and enforceable commitments and timelines for implementation should be developed as part of this CD correspondence.

- Policy Element 10 – “Maintain or improve coastal water quality through control of erosion, sedimentation, runoff, siltation, sewage and other discharges.” It is unclear how the Navy is able to state that proposed activities will not result in siltation, runoff, and other discharges given the use of munitions on land at FDM and in the CNMI’s coastal waters. Assessment of this policy element and supporting regulations is inadequate and this analysis should be revised to support DCRM’s review of this CD request.
- Policy Elements 11 and 12 – Impacts to cultural resources. Although Section 106 consultations are ongoing to support the reissuance of the expired Programmatic Agreement, the analysis of impacts to cultural resources referenced in Section 3.11 of the draft SEIS/OEIS does not include sufficient data to make any determination regarding likely significant impacts to cultural resources within CNMI waters and on FDM. Absence of evidence is not evidence of absence and the DoD has an obligation to implement reasonable assessment of resources that are likely to be impacted by MITT activities. Lacking that data, there is therefore no basis for the Navy’s conclusion that this proposed action is consistent with these policy elements. Data gaps should be remedied to ensure consistency with these policies and the CNMI’s significant and compelling interest to protect and preserve our cultural resources.
- Policy Element 13 – “Require compliance with all local air and water quality laws and regulations and any applicable federal air and water quality standards.” Data must be provided to support the conclusory statements that air emissions will be minimal on Saipan and Rota and will be “intermittent and short term, resulting in minimal impact on the air quality of Tinian”. Models are available to assess these activities for compliance with local and federal air quality standards and should be included for review in this submission. Comments regarding water quality standards are incorporated by reference here.
- Policy Elements 15 and 16 – Management of marine resources and consistency with other policies. As noted in the response to Policy Element 4, the Navy’s analysis of impacts to coastal resources is overly narrow and does not meaningfully address impacts to the human environment. This is especially true regarding impacts to the integrity of our reefs and wildlife habitat (Policy 15) and the management and development of our local subsistence, sport, and commercial fisheries (Policy 16). The draft SEIS/OEIS contains insufficient assessment of the potential impacts to these resources and the “analysis” under Policy Element 4 does not address potential impacts to human uses such as fishing and traditional access to important fishing areas. Thus, it is unclear how the Navy can conclude their proposed actions are consistent when analysis is completely lacking. An updated CD should address this gap, preferably through a revised SEIS that provides meaningful analysis of impacts to these important coastal resources.

- Policy Element 17 – “Protect all coastal resources, particularly sand, coral and fish from taking beyond sustainable levels and in the case of marine mammals and any species on the Commonwealth endangered species list, from any taking whatsoever.” The Navy explains that “the Proposed Action has the potential to take marine mammals and species on the Commonwealth endangered species list” and that “[a]ny take occurring as a result of the Proposed Action would be incidental to, and not the purpose of, the Navy’s otherwise lawful training and testing activities” and notes that protective measures intended to avoid and minimize the “take” of endangered species will be updated as appropriate upon completion of the Section 7 consultation. As noted previously, past promises of mitigation and monitoring have not been executed, or, if they have been, have not been shared with the CNMI, therefore, it is encouraged that any monitoring and mitigation agreements that are the basis for a consistency determination include timebound deliverables so that consistency can be demonstrated.
- Policy Element 21 – “Encourage the preservation of traditional rights of public access to and along the shorelines consistent with the rights of private property owners.” Contrary to the Navy’s statement that the “MITT Draft Supplemental EIS/OEIS does not propose any change to the public access normally allowed on federally leased lands including FDM, which would remain restricted for security and safety reasons” and that the “MITT Draft Supplemental EIS/OEIS does not propose a change to the ocean areas currently used by both the Navy and the public”, increases in the intensity and use of CNMI lands and waters is more likely than not to have significant impacts to public access of shorelines and traditional fishing areas. Already, three nautical miles (nm) surrounding the abundant fishery surrounding FDM is periodically restricted and this SEIS proposes to extend that “danger zone” to 12 nm and increase the frequency of restricted use in this area. These restrictions can have direct and significant impacts to boaters and the fishing community by increasing travel time and forcing seagoing vessels to travel well out of their traditional navigation routes. Similarly, periodic exercises on Tinian significantly restrict community access to forests and shorelines that have been traditionally used for subsistence and commercial activities. The frequency and timing of these restrictions should be discussed further with the CNMI in order to maximize access for users of these ocean resources while ensuring the Navy can meet its training objectives. Given that assessment of impacts and commitment to reasonable mitigation measures are lacking in the SEIS/OEIS, meaningful commitments should be articulated in supplemental analysis in a revised CD in order to ensure consistency with this enforceable policy.
- **Enforceable commitments to proposed offsets and mitigations needed.** DCRM’s October 2014 response to the September, 2014 CD (letter 5090 Ser N465/0926) outlines numerous mitigation measures that the Navy would need to implement to ensure consistency with CNMI enforceable policies. These include collection of baseline data on impacts to essential fish habitat areas, assessment of impacts to endangered bird, marine mammals, and sea turtle populations, water quality monitoring to ensure water quality stays within CNMI standards, and suggests addressing mass wasting concerns at Farallon de Medinilla as well as the removal of Rota for any activities. It does not appear these data gaps were ever addressed, or, if they were, that data was never shared with the CNMI. Additionally, in recent MITT discussions CNMI was informed that the Navy is unable to commit to mitigation actions or timelines due to lack of advance appropriations for these activities. The result of this procedural issue is ongoing activities with insufficient mitigation measures. Avoidance and minimization of impacts should be the first step in the scoping process, and mitigation actions that are agreed to should be implemented in a timely manner. As it stands, it appears that the majority of mitigation measures outlined in the 2014 CD correspondence have still not been implemented. Without these measures, the 2015 – 2020 MITT activities do not reflect good faith efforts to comply with conditions from the last CD process, let alone establish a record

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of performance that can be relied upon as a basis for ongoing and significantly expanded activities on land and at sea. Direct, indirect, and cumulative impacts must be meaningfully assessed in order to be avoided, minimized, and then actually mitigated. We believe an updated CD and revised draft SEIS will be necessary to address the substantial data gaps identified here and that time bound commitments for key mitigation measures will be needed to support substantive compliance with the federal consistency review process.

For the reasons outlined herein, our office encourages DCRM to work with the Navy to resolve the procedural and substantive concerns raised by the December 2019 CD. We strongly encourage a supplemental submission be considered when data gaps identified in the draft SEIS are resolved.

Thank you for your consideration of these concerns and your ongoing support of this process.

Sincerely,



GILBERT J. BIRNBRICH
Legal Counsel – Office of the Governor

C.2.3 NAVY CONSISTENCY DETERMINATION LETTER – GOVERNMENT OF GUAM



DEPARTMENT OF THE NAVY

COMMANDER
UNITED STATES PACIFIC FLEET
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IN REPLY REFER TO:
5090
Ser N465/1462
December 09, 2019

Mr. Tyrone J. Taitano
Director
Bureau of Statistics and Plans
P.O. Box 2950
Hagatna, Guam 96932

Dear Mr. Taitano:

SUBJECT: CONSISTENCY DETERMINATION FOR MILITARY TRAINING AND
TESTING WITHIN THE GUAM COASTAL ZONE

In accordance with the Federal Coastal Zone Management Act (CZMA) and 15 C.F.R. Part 930, the U.S. Navy submits the enclosed Federal Consistency Determination (CD) for proposed activities in the Mariana Islands Training and Testing (MITT) Study Area that have reasonably foreseeable coastal effects on the coastal use or resources of Guam.

Based on the enclosed consistency determination and the activities and analysis contained in the enclosed Draft Supplemental Environmental Impact Statement/Overseas Impact Statement (DSEIS/OEIS), the Navy finds that the proposed military training and testing activities presented in Alternative 2 are consistent to the maximum extent practicable with the enforceable policies of the Guam Coastal Management Program.

We look forward to your timely review of and concurrence with the Navy's determination. If you have any questions, please contact Mr. John Van Name at (808) 471-1714 or john.vannname@navy.mil or Ms. Suzanne Smith at (808) 471-4696 or suzanne.smith3@navy.mil.

Sincerely,



A handwritten signature in black ink, appearing to read "D. McNair", is written over a horizontal line.

DANIEL McNAIR
Director, Fleet Environmental Readiness
By direction of the Commander

Enclosures: (1) CD for Guam
(2) CDROM – MITT DSEIS/OEIS

Copy to: COMNAVREGMARIANAS (w/o enclosure)
OPNAV N45 (w/o enclosure)

C.2.4 GOVERNMENT OF GUAM RESPONSE LETTER

<p>Lourdes A. Leon Guerrero Governor of Guam</p> <p>Joshua F. Tenorio Lieutenant Governor</p>	 <p>BUREAU OF STATISTICS & PLANS SAGAN PLANU SIHA YAN EMFOTMASION Government of Guam P.O. Box 2950 Hagåtña, Guam 96932 Tel: (671) 472-4201/3 Fax: (671) 477-1812</p>	 <p>Tyrone J. Taitano Director Matthew Santos Deputy Director</p>
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MAR 06 2020

John C. Aquilino
Commander
United States Pacific Fleet
Department of the Navy
250 Makalapa Drive
Pearl Harbor, Hawaii 96860

RE: Coastal Zone Management Act (CZMA) Federal Consistency Review for
Department of the Navy's proposed activities in Mariana Islands Training
and Testing (MITT) Study Area (GCMP FC No. 2020-0001)

Hafa adai! The Guam Coastal Management Program of the Bureau of Statistics and Plans (Bureau) has completed its review of the Federal Consistency Determination by the Department of the Navy received on January 8, 2020. The Department of the Navy ("the federal agency") has submitted its consistency determination relative to its proposed activities in Mariana Islands Training and Testing (MITT) Study Area.

The Bureau coordinated this review with partnering agencies, provided Public Notice, and received comments from Senator Sabina F. Perez, the Guam Environmental Protection Agency (GEPA), the Guam Waterworks Authority, the Department of Agriculture, and the Department of Parks and Recreation. Furthermore, the Bureau hereby concurs with the federal agency's determination that the proposal is consistent with the enforceable policies of the Bureau's Guam Coastal Management Program (GCMP) based upon the following comments and conditions:

Resource Policy. Conservation of Natural Resources—Overall Policy. *The value of Guam's natural resources as recreational areas, critical marine and wildlife habitats, the major source of drinking water, and the foundation of the island's economy shall be protected through policies and programs affecting such resources.*

According to the Draft Supplemental EIS/OEIS, the proposed activity is expected to result in the equivalent of at least 151,918 metric tons of carbon dioxide emissions per year (which would total 759,590 metric tons of carbon dioxide equivalent emissions over 5 years). As climate change is expected to result in sea level rises, potentially more damaging tropical storms, a reduction in the recharge rate of the Northern Guam Lens Aquifer, and other environmental and societal

Guam Coastal Management Program-Land Use Planning-Socio-Economic Planning-Planning Information-Business & Economic Statistics Program

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impacts, substantial increases in greenhouse gas emissions provide impacts in several of the different elements of this policy for the conservation of natural resources.

Pursuant to this resource policy, the federal agency is hereby advised to consider mitigation strategies to reduce the net carbon dioxide equivalent emissions of the proposed action, to the maximum extent practicable, which could include methods of reducing carbon dioxide equivalent emissions or methods of capturing carbon dioxide equivalent emissions through natural or other processes.

Resource Policy 1. Air Quality. *All activities and uses shall comply with all local air pollution regulations and all appropriate Federal air quality standards in order to ensure the maintenance of Guam's relatively high air quality.*

The federal agency's proposed actions are estimated to increase annual emissions from criteria pollutants within the study area of 77 tons per year for nitrogen oxide and 78 tons per year for carbon monoxide under Alternative 1 or 78 tons per year for nitrogen oxide and 79 tons per year for carbon monoxide under Alternative 2, both compared to baseline emissions. These are under the 250 ton per year prevention of significant deterioration (PSD) thresholds. Other criteria pollutants have significantly lower additional output under both alternatives. The federal agency further finds that the quantities of hazardous pollutants released would result in negligible quantities of hazardous air pollutants in localized areas not publicly accessible. According to the Draft Supplemental EIS/OEIS, the proposed activity is expected to result in the equivalent of at least 151,918 metric tons of carbon dioxide emissions per year (which would total 759,590 metric tons of carbon dioxide equivalent emissions over 5 years).

The conclusion based upon the detailed stressor analysis in the Draft Supplemental EIS/OEIS that air pollution is minimal, intermittent and short-term does not adequately address cumulative impacts of repeated exposure of the population to criteria air or hazardous pollutants and the potential health impacts. Moreover, the analysis does not adequately evaluate cascading and cumulative impacts of the deposition of air pollutants on land, water, terrestrial and aquatic organisms and the ecosystem.

Pursuant to Resource Policy 1, Air Quality, the federal agency shall, to the maximum extent practicable:

(1) be advised to establish an empirical baseline for the health of the population which are in or near the most likely areas to experience effects from repeated exposure to air pollution due to the proposed activities in or near the coastal zone and conduct occasional monitoring of the health of the population within the likely affected areas. If findings indicate significant deterioration of the health of the most likely affected populations, the federal agency should coordinate its response with local agencies.

(2) be advised to establish an empirical baseline for the health of terrestrial and aquatic species which are in or near the most likely areas to

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experience effects from repeated exposure to air pollution due to the proposed activities in or near the coastal zone and conduct occasional monitoring of the health of such species within the likely affected areas. If findings indicate significant deterioration of the health of terrestrial or aquatic species, the federal agency should coordinate its response with local agencies.

Resource Policy 2. Water Quality. *Safe drinking water shall be assured and aquatic recreation sites shall be protected through the regulation of uses and discharges that pose a pollution threat to Guam's waters, particularly in estuarine, reef and aquifer areas.*

The federal agency stated in its consistency determination that activities including the use of explosives and explosion byproducts, military materials with metal components, and chemicals other than explosives would occur in federally owned submerged land, or more than 3 NM offshore, thus outside of Guam's coastal zone. Impacted sediments and water quality would only be immediately adjacent to the munitions, hence activities would have no significant effect on sediments and water quality within Guam's coastal zone. Furthermore, the Navy concluded that neither state nor federal standards or guidelines would be violated by the chemical, physical, or biological changes in sediment or water quality measurable at the detonation site.

The federal agency should continue to conduct water quality impact analysis to determine that explosives and explosive byproducts, metals and other materials expended during training and testing described in the MITT Final Supplemental EIS/OEIS would not exceed regulatory thresholds and guidelines [Sediment characterization methods in Guam Water Quality Standards (2017) and USEPA established criteria for concentrations of explosives, explosive byproducts and metal in saltwater] established for measuring impacts on sediment and water quality.

GEPA has expressed its concern that there was no discussion of marine debris cleanup as a result of the MITT activities once completed. The MITT Final EIS/OES 2015 (p. 3.1-55) discusses other materials as follows: Other military expended materials include plastics, marine markers, flares, and chaff. Some expended plastics from training and testing activities are unavoidable because they are used in ordnance or targets. (Although plastics are resistant to degradation, they do gradually break down into smaller particles because of sunlight and mechanical wear [Law et al. 2010]. Thompson et al, [2004] found that microscopic particles were common in marine sediments at 18 beaches around the United Kingdom. They noted that such particles were ingested by small filter and deposit feeders, with unknown effects.) Targets, however, would typically be recovered following training and testing activities. Chaff fibers are composed of nonreactive metals and glass, and would be dispersed by ocean currents as they float and slowly sink toward the bottom. The fine, neutrally buoyant chaff streamers would act like particulates in water, temporarily increasing the turbidity of the ocean's surface. The chaff fibers could quickly disperse, and turbidity readings would return to normal.

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Section 2 of the 2019 MITT Draft Supplemental EIS/OEIS describes the annual Proposed Action and Alternatives. However, the MITT has a five-year term. Cumulative impacts of the Range activities, in terms of the amount of Ordnance (or other expended items, if any) should be considered over five years, on-going versus Alternative 1 and Alternative 2. Tables 2.5-1 and 2.5-2 compare the proposed SEIS/OEIS action alternatives with on-going training and testing activities. Each table describes the activities in terms of the activity name and where in the Study Area the federal agency proposes to conduct it. The next two columns show the annual occurrence and ordnance or other expended items (if any) involved in the activity as is currently ongoing (under the heading "2015 MITT EIS/OEIS Ongoing Activities"). The final two pairs of columns present the same information (annual occurrence and ordnance/items) as the activities are analyzed in the 2019 Supplemental EIS/OEIS for Alternative 1 and Alternative 2, respectively. As an example, page 2-33 has a Surface Warfare range activity located 12 NM from land. Ongoing activities list 242 events per year (1,210 over 5 years) and 48,040 small caliber rounds annually (or 240,200 small caliber rounds over 5 years). The number of rounds increases in the Alternative 1 & 2 scenarios by 128,400 small caliber rounds annually or 642,000 small caliber rounds over 5 years. The narrative in Section 4.4.1, Sediment and Water Quality, concludes that proposed changes in training and testing activities under Alternative 1 or Alternative 2 would be negligible.

In the 2019 Supplemental MITT, Section 3.1.2.3 Other Materials explains that detonations, explosions, and other activities may result in dispersal of glass, carbon fibers, plastics, rubber, steel, iron, concrete, etc. There is no discussion of any effort to clean up the marine debris as a result of the proposed activities.

In the 2019 Supplemental MITT, Section 5.1.2.2.1.1 Adaptive Management states that the adaptive management process is to help the federal agency have better knowledge of ecological systems. The process involves technical review meetings and ongoing discussions between the Department of the Navy, National Marine Fisheries Service, the Marine Mammal Commission, and other experts in the scientific community.

Pursuant to Resource Policy 2, Water Quality, the federal agency shall, to the maximum extent practicable:

- (1) be advised to provide a map delineating the proposed Agat Bay and Piti underwater Mine Warfare detonation sites to the Bureau and Guam Environmental Protection Agency to clarify that those sites are outside of Guam's coastal zone, as represented.

- (2) continue to conduct water quality impact analysis to determine that explosives and explosive byproducts, metals and other materials expended during training and testing described in the MITT Final Supplemental EIS/OEIS would not exceed regulatory thresholds and guidelines [Sediment characterization methods in Guam Water Quality Standards (2017) and USEPA established criteria for concentrations of explosives, explosive byproducts and metal in saltwater] established for measuring impacts on sediment and water quality.

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(3) be advised to provide information on planned cleanup activities, if any, for marine debris to the Bureau and GEPA.

(4) be advised to include local stakeholders or local natural resource managers such as GEPA, Guam Department of Agriculture, and the Bureau.

Resource Policy 3. Fragile Areas. *Development in the following types of fragile areas shall be regulated to protect their unique character.*

- *historical and archeological sites*
- *wildlife habitats*
- *pristine marine and terrestrial communities*

As stated in the 2019 MITT Draft Supplemental EIS/OEIS, activities involving vessels and in-water devices are not intended to contact the seafloor. This would include amphibious and expeditionary events such as Amphibious Assaults, Amphibious Raids, Personnel, Insertion/Extraction/ and Underwater Surveys, which are proposed to continue in this SEIS/OEIS. As is current practice, coral and other hard bottom habitats would continue to be avoided to the greatest extent practical under the Proposed Action (see Section 2.3.3, Standard Operating Procedures and Chapter 5 – Mitigation). However, combat swimmers and Marines may be required to walk through nearshore areas during these activities. For example, as the boat approaches a beach, Marines may be required to exit the boat, stand up, and walk through the shallow water habitats. GEPA noted that in previous assaults on Guam, it has been observed that physical damages, including corals crushed or turned over, from these training activities occurred. As discussed in Section 5.4.1 (Mitigation Areas for Seafloor Resources), the Navy will implement mitigation to avoid or reduce impacts from precision anchoring and military expended materials on seafloor resources in mitigation areas throughout the Study Area.

Portions of the study area include marine communities. The Guam Department of Agriculture's Division of Aquatic and Wildlife Resources (DAWR) is the responsible local agency with the responsibility for protecting aquatic and wildlife resources, including marine preserves and sensitive areas.

Pursuant to Resource Policy 3, Fragile Areas, the federal agency shall, to the maximum extent practicable:

(1) be advised that any and all construction that is related to the proposed activities may be subject to permitting by GEPA and such permitted activity shall meet all relevant requirements of GEPA regulations and permitting by U.S. Army Corps of Engineers and subject to further federal consistency review.

(2) be advised to instruct swimmers and Marines to exercise caution when interacting with sensitive marine environments.

(3) be advised to communicate with DAWR in regards to planned activities involving sensitive areas.

(4) be advised to establish a coral damage response plan, which includes triage, restoration, and subsequent monitoring.

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Resource Policy 4. Living Marine Resources. *All living resources within the territorial waters of Guam, particularly corals and fish, shall be protected from over harvesting and, in the case of marine mammals, from any taking whatsoever.*

GEPA finds that the proposed federal agency activities are consistent with the GCMP resource policies for marine invertebrates. Benthic invertebrates of the reef crest or flat, such as crabs, clams, and polychaete worms, within the disturbed area could be displaced, injured, or killed during amphibious operations. GEPA notes that the federal agency notifies local regulatory agencies of upcoming underwater Mine Detonation activities within Outer Apra Harbor and Agat Bay. Neither the public nor the regulatory agencies receive any form of after-action reporting on the outcome of these activities, specifically if any environmental damages occurred. There is not a current mechanism to evaluate whether the activities, quantities, and reported impacts met or exceeded the anticipated levels.

The Department of Agriculture finds that the presence of ESA-listed sperm whales is well-documented within 3-5 NM offshore in the Agat area. Recently there have been multiple instances of whale strandings, raising the concern that additional explosive impacts or sonar activities may result in an intensification of similar occurrences. Increased boat activity greatly increases the potential for boat strike of sperm whales. Navy lookouts undergo extensive training in order to qualify as a watch stander. The effectiveness of watch standers should be evaluated.

The Department of Agriculture is concerned about the impact of landing craft exercises on the dolphins that reside in Agat Bay. The federal agency has contended that there are unavoidable impacts and recognizes the common occurrence of spinner dolphins within Agat Bay and developed mitigation measures in consultation with the National Marine Fisheries Service under provisions of the Marine Mammal Protection Act. Beachmasters are shore-based observers with binoculars whose sole purpose is to ensure the safety of craft including avoidance of marine and terrestrial animals. Beachmasters are to work with environmental monitors and natural resource managers. The effectiveness of beachmasters should be evaluated.

While there is discussion of metals which will be introduced into the natural aquatic environment as a result of activities as well as bioaccumulation of pollutants in aquatic species, the possibility of biomagnification is not introduced into the discussion of potential impacts. Bioaccumulation is the accumulation of toxic chemicals in the tissues of an organism, while biomagnification is the increasing concentration of toxic chemicals for animals which are higher on the "food chain." This tends to mean that the highest concentrations of toxic chemicals which are capable of bioaccumulation may occur in aquatic animals that are apex predators. For this reason, one may expect that where bioaccumulation occurs that higher concentrations might be found in predatory fish such as mahi, various species of tuna, etc.

Pursuant to Resource Policy 4, Living Marine Resources, the federal agency shall, to the maximum extent practicable:

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(1) be advised to provide some form of report outlining Mine Detonation activities and highlighting any issues regarding water quality, fish kills, protected species sightings, and marine debris to the public and/or local regulatory agencies.

(2) be advised to establish a standard operating procedure to resume, at least biannually, pre-coordination meetings on Mine Detonation activities with regulatory agencies.

(3) be advised to produce an annual report summarizing activities identified in the MITT to indicate whether activities and quantities reported in the MITT are met or exceeded and reporting on environmental impacts of such activities.

(4) refrain from taking any non-pelagic fishes within the Piti Marine Preserve Area.

(5) be advised to clarify and analyze the potential effects to marine animals and habitats from underwater demolition, including habitat mapping in a more detailed manner, identification of the cetacean species that utilize the proposed area, and include impacts to sea turtles.

(6) not engage in any takings of endangered species.

(7) be advised to evaluate the effectiveness of watch standers and beachmasters in their ability to detect marine mammals, such as sperm whales.

(8) be advised to investigate whether there is a connection between military training activities conducted in or near Guam and whale strandings. If there is found to be a likely connection between training and whale strandings, then the federal agency is advised to adjust its standard operating procedures to reduce the likelihood of continued adverse impacts to whales in the waters around Guam.

(9) be advised to establish an empirical baseline for the health of aquatic species for which biomagnification cause higher concentrations of toxic chemicals, especially those which are commonly used for fishing purposes. If findings indicate significant increases in toxic chemicals in the species of aquatic species, the federal agency should coordinate its response with local agencies.

Resource Policy 7. Public Access. *The public's right of unrestricted access shall be ensured to all non-federally owned beach areas and all territorial recreation areas, parks, scenic overlooks, designated conservation areas and their public lands; and agreements shall be encouraged with the owners of private and federal property for the provision of releasable access to and use of resources of public nature located on such land.*

Previous proposed military activities have indicated the closure of fishing areas such as Ritidian and Pati Point. Further restrictions on access to fishing areas within territorial waters, whether by actions inside or outside of the coastal zone, due to training activities within territorial waters must be mitigated. Other boaters, including divers and other recreational users frequent many areas within the MITT study area. There is no clear indication of how extensive closures will be.

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Access to reefs and seashore areas can sometimes be accomplished merely by passage within the coastal zone, but sometimes passage over federally owned submerged lands, including surface danger zones, may be required due to the freeflowing nature of the coastal marine environment and the impracticality of passage outside of the 3 or more NM contour, as the case may be, in order to access territorial waters for the purpose or recreation, fishing, or for other reasons.

Pursuant to Resource Policy 7, Public Access, the federal agency shall, to the maximum extent practicable:

- (1) clarify the period lengths of time for which closure of access to territorial waters may occur and to propose mitigation to compensate for loss of access.
- (2) establish standard operating procedures that will avoid, where possible, or minimize, where unavoidable, disruption of public access to reefs and seashore areas.
- (3) propose one or more mitigation measures to compensate for unavoidable disruption of public access to reefs and seashore areas, whether for fishing or for other purposes.

Therefore, based on the conditional concurrence stated above and the Bureau's review of all other information submitted, we find the application to be consistent with the approved development and resource policies of the Guam Coastal Management Program (GCMP), in accordance with the Coastal Zone Management Act of 1972, (P.L. 92-583) as amended, (P.L. 94-370). The Federal Consistency concurrence, however, does not preclude the need for securing other federal and Government of Guam permits, clearances and approvals prior to the start of this project.

Per 15 CFR §930.4(b), if the requirements for conditional concurrences specified in 15 CFR §930.4(a), (1) through (3), are not met, then all parties shall treat this conditional concurrence letter as an objection pursuant to 15 CFR Part 930 subpart D. Furthermore, if an objection is determined, you are hereby notified that, pursuant to 15 CFR §930.63(e) and 15 CFR Part 930, subpart H, you have the opportunity to appeal an objection resulting from not meeting the requirements of 15 CFR §930.4(a), (1) through (3), to the Secretary of Commerce within 30 days after receiving this conditional concurrence letter, or 30 days after receiving notice from the Federal agency that your application will not be approved as amended by the conditions required by this concurrence.

The proposed action shall be operated and completed as represented in the Coastal Zone Management (CZM) federal consistency determination. Significant changes to the subject proposal shall be submitted to the Bureau for review and approval and may require a full CZM federal consistency review, including publication of a public notice and provision for public review and comment. This condition is necessary to ensure that the proposed actions are implemented as reviewed for consistency with the enforceable policies of GCMP. Guam Land Use

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policies (E.O. 78-37), are the federally approved enforceable policies of GCMP that applies to this condition.

Please do not hesitate to contact Mr. Julian Janssen, Federal Consistency Coordinator at 475-9664 or email julian.janssen@bsp.guam.gov or Mr. Edwin Reyes, Coastal Program Administrator at 475-9672 or email edwin.reyes@bsp.guam.gov. *Si Yu'os Ma'åse'.*

Sincerely,


TYRONE TAITANO
Director

Attachments

Cc: NOAA-OCM
GEPA
GWA
DoAgr-DAWR
DLM
DPR-SHPO
DPW



OFFICE OF SENATOR SABINA FLORES PEREZ
I MINA'TRENTAI SINGKO NA LHESLATURAN GUÁHAN
35TH GUAM LEGISLATURE

March 5, 2020

Tyrone Taitano
Director
Bureau of Statistics and Plans (BSP)
P.O. Box 2950
Hagåtña, Guam 96932

SUBJECT: Comments

Reference: Federal Consistency Review GCMP FC2020-0001 Memorandum and Consistency Determination for the Department of the Navy's proposed activities in Mariana Islands Training and Testing (MITT) Study Area

Håfa Adai Mr. Taitano,

After careful review, I find the Department of the Navy's GCMP application for Federal Consistency determination, referenced above, does not sufficiently and thoroughly address the cumulative impacts of the MITT, and other federal actions taken by the Department of Defense, to the integrity of our island's environmental and cultural resources; and to terrestrial and aquatic species and habits. Further, the referenced federal action is inconsistent with Government of Guam commitments to mitigating the effects of climate change, and our responsibility as environmental stewards of the land, air, and water.

I am therefore urging a review of the referenced federal action which, per 40 CFR § 1508.7, takes into consideration the incremental impacts of this federal action when added to other past, present, and reasonably foreseeable future actions taken by federal agencies operating in and around Guam.

The military buildup is one of the most pressing social, political, and environmental issues of our time; and its effects will undoubtedly be felt for decades. In making your determination, I ask that you consider the effects of the ongoing construction of the five live-fire training ranges at Northwest Field, which impact our sacred sites and irreplaceable natural and cultural resources.

RP 1. Air Quality

The Department of the Navy asserts, although most of the training and testing is offshore, where the Clean Air Act National Ambient Air Quality Standards do not apply, air quality of adjacent onshore areas may be impacted depending on the direction of the wind. The Department of the Navy states that "the reasonably foreseeable direct and indirect effect of military training and testing activities on Guam's air quality as a resource of the Guam coastal zone is an increase in air pollutants." The pollutants include regulated or hazardous chemicals derived from detonation of targets, expenditure of fuels that power various vessels, leaks of petroleum from mechanical devices, and use of flares, propellants, projectiles, explosives, and other devices. However, the

Department of the Navy argues that the impact would be minimal due to the distance of most of the activity from shore, “strong ventilation from regional meteorological conditions,” and because testing and training activities will not occur simultaneously and continuously. The conclusion based on detailed stressor analysis in the MITT Draft Supplemental EIS that air pollution is minimal, intermittent and short-term does not adequately address cumulative impacts of repeated exposure of the population to criteria air or hazardous pollutants and the resulting health impacts. Moreover, the analysis does not adequately evaluate cascading and cumulative impacts of deposition of air pollutants on land, water, terrestrial and aquatic organisms, and the ecosystem as a whole. Further, my office urges that baseline health conditions of the population and the environment, pertaining to impacts of air pollution, are established at this time to adequately monitor future cumulative impacts.

Additionally, studies of proposed action at sites within the coastal zone of Guam outside of the non-attainment zone for sulfur dioxide and other criteria pollutants due to proposed activities were not addressed in the application. The methodology for determining *de minimus* needs to be clarified. I would highly recommend a determination based on bioaccumulation of pollutants as a means of determining cumulative impacts of air pollutants.

RP 2. Water Quality

This section lacks evidence to support the claim that impact would be in compliance with existing federal statutes and regulations in the context of Guam. The narrative provided focuses on limited studies conducted in non-jurisdictional locations that may or may not be applicable to local conditions. I recommend that local studies be conducted by different researches using different approaches and that results are shared for proper evaluation of the impacts to water quality.

RP 3. Fragile Areas

More than seventy-nine (79) ancestral and historic sites will be adversely impacted at or near *Litekyan*, fourteen (14) historic sites have already been destroyed, and eighteen (18) inadvertent discoveries of human remains have been found since 2018 in the course of the military buildup on Guam. Further, the construction of a fifth firing range requires the clearing of primary limestone forest that is habitat for at least eleven (11) endangered or threatened species, some of which are found nowhere else in the world—effectively jeopardizing the survival of these species.

RP 4. Living Marine Resources

The Department of the Navy lists stressors to marine mammals from the Proposed Action “include acoustic (sonar and other transducers, vessel noise, aircraft noise, weapons noise), explosives (in-water explosions), energy (in-water electromagnetic devices and high-energy lasers), physical disturbance and strike (vessels and in-water devices, military expended materials, seafloor devices), entanglement (wires and cables, decelerators/parachutes), ingestion (military expended materials - munitions, and military expended materials - other), and secondary (impacts on habitat, impacts on prey availability)” which will affect ESA-listed marine mammals. Despite recent studies indicating strandings of marine mammals in the Marianas occurring within six (6) days of Navy sonar operations, the Department of the Navy concludes that “no mortalities” will occur from the Proposed Action. This is highly questionable, as is their assertion that the “maximum extent practicable” can sincerely provide protection for living marine resources in our waters.

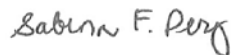
194 Hernan Cortes Avenue, Terlaje Professional Building, 1st Floor, Hagåtña, Guam 96910
671.989.2968•office@senatorperez.org•

RP 7. Public Access

The Department of the Navy deems RP 7 “not applicable” to the Proposed Action. However, bearing in mind once more that such actions should be reviewed in context to cumulative impacts, I must object to this assertion and refer again to *Litekyan*, which is adjacent to the live-fire training ranges and designated as critical habitat for three protected species. The ranges, when fully operational, will limit public access to the area for up to 39 weeks of the year. As well, the Surface Danger Zone of the range extends beyond the land and up to five (5) miles from the shore, restricting access to the waters by Guam fishermen. With this in mind, I find the Department of the Navy’s application insufficient.


With these comments in mind, I respectfully urge the Bureau of Statistics and Plans to review the Department of the Navy’s GCMP application for Federal Consistency determination in context with the cumulative impacts of all past, present, and foreseeable federal actions.

Sincerely,



Sabina F. Perez
Senator, 35th Guam Legislature

194 Hernan Cortes Avenue, Terlaje Professional Building, 1st Floor, *Hagåtña*, Guam 96910
671.989.2968•office@senatorperez.org•



GUAM ENVIRONMENTAL PROTECTION AGENCY • AHENSIAN PRUTEKSIÓN LINA'LA' GUÁHAN
LOURDES A. LEON GUERRERO • GOVERNOR OF GUAM | JOSHUA E. TENORIO • LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO • ADMINISTRATOR | MICHELLE C. R. LASTIMOZA • DEPUTY ADMINISTRATOR

Rec'd. 2/11/20
MJE

FEB 07 2020

MEMORANDUM

TO: Director, Bureau of Statistics and Plans (BSP)

FROM: Administrator

SUBJECT: Comments

Reference: Federal Consistency Review GCMP FC2020-0001 Memorandum and Consistency Determination for the Department of the Navy's proposed activities in Mariana Islands Training and Testing (MITT) Study Area

Hafa Adai Mr. Taitano,

The Guam Environmental Protection Agency has reviewed the Navy's GCMP application for Federal Consistency determination, referenced above, and provides the following comments:


RESOURCES POLICIES (RP):

RP 2. Water Quality

Reference is made to the comprehensive water quality impact analysis of the Proposed Action presented in Section 3.1 (Sediments and Water Quality) of the MITT Draft Supplemental EIS/OEIS. Additional supporting information regarding the water quality assessment is summarized in the application on pages 7-9. These cited research and case studies are used to demonstrate that the Proposed Action would be fully consistent with the GCMP enforceable policy to ensure safe drinking water and protection of aquatic recreation sites from uses and discharges that pose a pollution threat to Guam's waters, particularly in estuaries, reefs, and aquifer areas.

The Navy stated in its application that activities including the use of explosives and explosion byproducts, military materials with metal components, and chemicals other than explosives would occur in federally owned submerged land, or more than 3 NM off shore, thus outside of Guam's coastal zone. Impacted sediments and water quality would only be immediately adjacent to the munition, hence activities would have no significant effect on sediments and water quality within Guam's coastal zone. Furthermore, the Navy concluded that neither state nor federal standards or guidelines would be violated by the chemical, physical, or biological changes in sediment or water quality measureable at the detonation site. The Navy

GUAM EPA | 17 3304 Mariner Avenue Tiyan Barrigada, Guam 96913-1617 | Tel: (671) 300.4751/2 | Fax: (671) 300.4531 | epa.guam.gov
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2 Federal Consistency Review GCMP FC2020-0001
GEPA Input February 2020

should provide a map delineating the Agat Bay and Piti underwater Mine Warfare detonation sites which it states are outside of Guam's coastal zone.

The Navy should continue to conduct water quality impact analysis to demonstrate that explosives and explosive byproducts, metals and other materials expended during training and testing described in the MITT Final Supplemental EIS/OEIS would not exceed regulatory thresholds and guidelines [Sediment chemical characterization methods in Guam Water Quality Standards (2017) and USEPA established criteria for concentrations of explosives, explosive byproducts and metal in saltwater] established for measuring impacts on sediment and water quality.

Guam EPA is concerned that there was no discussion of marine debris cleanup as a result of the MITT activities once completed. The MITT Final EIS/OEIS 2015 (p. 3.1-55) discusses other materials as follows: Other military expended materials include plastics, marine markers, flares, and chaff. Some expended plastics from training and testing activities are unavoidable because they are used in ordnance or targets. (Although plastics are resistant to degradation, they do gradually break down into smaller particles because of sunlight and mechanical wear (Law et al. 2010). Thompson et al. (2004) found that microscopic particles were common in marine sediments at 18 beaches around the United Kingdom. They noted that such particles were ingested by small filter and deposit feeders, with unknown effects.) Targets, however, would typically be recovered following training and testing activities. Chaff fibers are composed of nonreactive metals and glass, and would be dispersed by ocean currents as they float and slowly sink toward the bottom. The fine, neutrally buoyant chaff streamers would act like particulates in the water, temporarily increasing the turbidity of the ocean's surface. The chaff fibers would quickly disperse, and turbidity readings would return to normal.

Section 2 of the 2019 MITT Draft Supplemental EIS/OEIS describes the *annual* Proposed Action and Alternatives. However, the MITT has a five year term. Cumulative impacts of the Range activities, in terms of the number of Ordnances (or other expended items, if any) should be considered **over 5 years**, On-going versus Alternative 1 and Alternative 2. Tables 2.5-1 and 2.5-2 (beginning on page 2-26) compare the proposed SEIS/OEIS action alternatives (Alternative 1 and Alternative 2) with on-going training and testing activities. Each table describes the activities in terms of the activity name and where in the Study Area the Navy proposes to conduct it (first two columns). The next two columns show the annual occurrence and ordnance or other expended items (if any) involved in the activity as is currently ongoing (under the heading "2015 MITT EIS/OEIS Ongoing Activities".) The final two pairs of columns present the same information (annual occurrence and ordnance/items) as the activities are analyzed in the 2019 Supplemental EIS/OEIS for Alternative 1 and Alternative 2, respectively. As an example, page 2-33 has a Surface Warfare range activity located 12 NM from land. Ongoing activities list 242 events per year (1,210 over 5 years) and ~~48,040 small caliber rounds annually (or 240,200 small caliber rounds over 5 years)~~. The number of rounds increases in the Alternative 1 & 2 scenarios to **128,400 small caliber rounds annually** or **642,000 small caliber rounds over 5 years**. The narrative in Section 4.4.1, Sediment and Water Quality, concludes that proposed changes in training and testing activities under Alternative 1 or Alternative 2 would be *negligible*.

GUAM EPA | 17 3304 Mariner Avenue Tiyan Barrigada, Guam 96913 1617 | Tel: (671) 300.4751/2 | Fax: (671) 300.4531 | epa.guam.gov
ALL LIVING THINGS OF THE EARTH ARE ONE • MANTUNU' TO DU I MANTALALA

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MEMORANDUM

TO: The Honorable Lourdes A. Leon Guerrero, Maga'hågan Guåhån

FROM: Acting Administrator, Guam EPA

SUBJECT: Agency's Comments to the 2019 Mariana Islands Training and Testing Supplemental EIS/OEIS (MITT).

Transmitted via hand delivery and email: tony.babauta@guam.gov

Hafa Adai Maga' Håga,

In response to the Governor's Circular (GC) #2019-018, requesting comments on the 2019 Mariana Islands Training and Testing Supplemental EIS/OEIS (MITT), below are the Agency's comments. Several comments pertain to the 2015 Mariana Islands Training and Testing EIS/OEIS (2015 MITT), as well as the 2019 MITT Supplemental, as we feel these issues have not been specifically addressed.

1. The Navy does a respectable job of notifying the local regulatory agencies of upcoming underwater Mine Detonation activities within Outer Apra Harbor and Agat Bay. But the public nor the regulatory agencies ever receive any form of feedback/after action reports on outcome of these activities. Specifically if any environmental damages occurred. Guam EPA request that some form of report be produce outlining these activities and highlight any issues regarding water quality, fish kills, protected species sightings, and marine debris be made available to the public and local agencies.
2. In the past, pre-coordination meetings on these activities were conducted with the local regulatory agencies. Guam EPA requests to make these meetings standard operating procedures, at a minimum of bi-annual basis.
3. At a minimum, a yearly report should be produced summarizing all activities identified in the MITT. There is no current mechanism to evaluate if the activities and quantities identified in the MITT are met or exceeded. Report should also address any impacts to stressor types.
4. Neither the 2015 MITT nor the 2019 Supplemental MITT have a discussion on the rational for an increase from a 10 lbs. underwater mine charge to the new standard of a 20 lbs. charge for the listed mine detonation activities. What is the justification for the increase? This needs to be further explained and justified.
5. In the 2015 MITT, page 3.1-18, Section 3.1.3, it states that Amphibious assaults and raids sediment plumes are temporary and since no military materials are expended, "...no further analysis of this

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Response to GC#2019-018 Page 3 of 3

Development and Operating Regulations, Part II: Guidelines for Water Works Development (22 GAR Chapter 7), and the Water and Wastewater Operator Certification Regulations (22 GAR Chapter 11

12. The 2019 MITT Supplemental states there have been no new information since the 2015 MITT, which identifies specific data gaps within the report about the environmental impact of previously used ammunition and/or the degradation products on the marine ecosystems in that area. There needs to be a discussion on this topic.

If you have any questions or concerns, please contact me directly by email at jesse.cruz@epa.guam.gov or by telephone at 671-300-4795.

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TODU Y NILALA Y TANO MAN UNO • ALL LIVING THINGS ARE ONE

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Gloria B. Nelson Public Service Building | Suite 200, 688 Route 15, Mangilao, Guam 96913
P.O. Box 3010, Hagåtña, Guam 96932
Tel. No. (671) 300-6846/48 Fax No. (671) 648-3290

March 3, 2020

MEMORANDUM

To: Tyrone Taitano, Director, Bureau of Statistics and Plans (BSP)

From: Paul Kemp, Assistant Manager, Compliance and Safety

Subject: Federal Consistency Review: Department of the navy Proposed Activities in the Mariana Islands Training and Testing (MITT) Study Area GCMP FC- 2020-001

Håfa Adai,

The Guam Waterworks Authority has reviewed the 2019 Draft Mariana Islands Training and Testing (MITT) Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement. The GWA reviews proposed planned military activity to ensure protection of the Northern Guam Lens Aquifer and wastewater discharge into Guam's waters.

Land based training located on Guam was covered under the 2015 MITT Final EIS/OEIS under the existing Mariana Island Range Complex (MIRC). This Supplemental EIS/OEIS considers activities conducted at sea and on Farallon de Medinilla (FDM). This supplemental EIS/OEIS incorporated new models, information, data and science as required by the Council on Environmental Quality Regulations. However, there are no changes made to land based activities proposed on Guam. The analysis on impacts on sedimentation and water quality are assessed for activities that will impact water quality off shore and not impacts to the Northern Guam Aquifer.

The proposed activities listed in this draft MITT Supplemental EIS/OEIS will not have an impact to the ability for GWA to provide safe drinking water to its customers and ensure that wastewater discharge is conducted in appropriate manner.

Sincerely,

Paul Kemp
Assistant General Manager – Compliance and Safety

The Bureau of Statistics & Plans Mail - MITT

<https://mail.google.com/mail/u/0?ik=7120dcbbc2&view=pt&s>



Julian Janssen <julian.janssen@bsp.guam.gov>

MITT

Aguon Celestino F. <tinoaguon@gmail.com>
To: Julian Janssen <julian.janssen@bsp.guam.gov>
Cc: "Jay T. Gutierrez" <Jay.Gutierrez@doag.guam.gov>

Thu, Mar 5, 2020 at 6:01 AM

Here is the document we had submitted in 2013. Just in case time runs out I included the draft-document.

Tino

2 attachments

MITT-2019.docx
73K

NewCoverltr-MITT.docx
137K

DOD

March 2019

Re: Marianas Island Training and Technology- Comments

Hafa Adai,

The Division of Aquatic and Wildlife Resources has reviewed the proposed Marianas Island Training and Technology and provides the following comments:

1. The Draft Environmental Impact Statement (EIS) for the Marinas Islands Military Testing and Training (MITT) was released and available for public comment.
2. Please be aware that the island and its surrounding marine environment is inhabited by Endangered species of whales and dolphins, and any military activity should be aware of their presence.
3. The action should consider the impact to the marine mammals near Guam. The Division has recorded stranding's of these animals, and should take all precautions not to impact them

March 4, 2020

DOD, Ms. Nora Macariola
Naval Facilities Engineering Command, Pacific 258 Makalapa Drive, Suite 100
Pearl Harbor, Hawaii 96860-3134.
Attn: MIIT EIS/OEIS Project Manager Email: Marianas.tap.eis@navy.mil

Subject: Comments on the Supplemental Draft Overseas Environmental Impact Statement/Overseas Environmental Impact Statement for the Mariana Islands Training and Testing Activities

Hafa Adai:

The Draft Environmental Impact Statement/Overseas Environmental Impact Statement for the Mariana Islands Military Testing and Training (MIIT DEIS) Volume I and II were released for public review September 13, 2013. The Guam Department of Agriculture, Division of Aquatic and Wildlife Resources requested and received a hard copy of the MIIT DEIS for review pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 *et seq.*; 83 Stat.852] (NEPA) on November 12, 2013.

The initial action was discontinued. A subsequent was published, and a public hearing was held at the University of Guam's School of Business and Public Administration, Leon Guerero Building, on March 19, 2019, from 5pm-10pm. Public comments were accepted, and DAWR staff attended the meeting.

The proposed action by the US Department of the Navy (DON) includes reevaluation and reauthorization of the training and testing activities reviewed in the Marianas Islands Range Complex (MJRC) in May 2010, with an expansion of the study area to include high seas and transit corridors not previously approved, as well as adjustments to locations and tempo of training and testing activities. The actions are proposed to achieve and maintain military readiness, to support and to conduct current, emerging, and future training and Research, Development, Test and Evaluation activities, while enhancing training resources through investment in Guam and the Commonwealth of the Northern Marianas Islands. The draft MIIT DEIS commit sea and land-based training areas on Guam and CNMI, as well as transit corridors between Guam and CNMI.

DoAg Comments on Draft MITT F2019 OEIS

Page 2

As the local state agency mandated to monitor and protect Guam's biological resources, the Guam Department of Agriculture (DoAg) submits the following general comments to be addressed in the development of the MITT Final Environmental Impact Statement and Record of Decision. In addition, we have included comments in table form referencing specific document pages (see attachment).

1. First and foremost, DOD needs to provide a progressive, comprehensive plan for the recovery of native species on DOD property in consultation and coordination with DoAg. Without the ability to reintroduce federally endangered species on DOD property the cumulative impacts of DOD actions are jeopardizing the DoAg's ability to recover Guam's native species. Furthermore, DOD's failure to coordinate with DoAg as required by the Sikes Act of 1960 [16 U.S.C. *et seq.*; 74 stat. 1052], as amended, and recognize the DoAg's ability to assist DOD in meeting their Section 7 requirements under the Endangered Species Act of 1973 [16 U.S.C. 1531 *et seq.*; 87 Stat. 884], as amended, results in a waste of taxpayers' dollars. The DoAg further emphasizes the need to be consulted and notified in matters that may impact the natural resources of Guam.
2. Secondly, the Final EIS needs to outline how DON will address long-standing issues regarding timely access for the DoAg Division of Aquatic and Wildlife Resources (DAWR) staff to all DOD lands to monitor and manage Guam's natural resources. The DOAg-DAWR staff could complete monitoring of resources under annual federal funded grant objectives, without cost, or at a much lower cost to DON that is currently being contracted and assist with meeting Sikes Act coordination obligations. The current access requirements for DoAg-DA WR staff are cumbersome and prevent timely coordination as opposed to those procedures for federal employees and contractors.
3. All Navy contractors should communicate with the Division in regards to sensitive areas, resource-wise.
4. The Final MITT DEIS needs to address another long-standing issue that is DOD's failure to comply with local laws. The MITT activities and study area include the Piti Marine Preserve Area that extends to the 600-foot contour. Any take of non-pelagic fishes within this area is a violation of Guam law.
5. The Final MITT DEIS must mitigate the cumulative impacts to recreational ~~fishing in the oceanic areas that will be impacted by the proposed action.~~ The NEPA documents for other proposed military activities indicate the closure of important fishing areas such as Ritidian and Pati Point. The additional loss of key recreational fishing areas proposed in the Draft MITT EIA is unacceptable.
6. Other boaters, including divers and other recreational users, also frequent many areas within the MITT study area. There is no clear indication of how extensive closures will be -do events last for an hour, or a day, or a week? The Final EIS and ROD need to minimize closure of areas regularly used by recreational boaters and identify clearly the space and time of the closures.

DoAg Comments on Draft MITT F2019 OEIS

Page 2

7. When notices to mariners is sent out, DOD should insure that notices are sent out to all media source outlets, to inform the public of Surface-Danger –Zone activities as the actions are implemented. Prior to training exercises, the DON and USCG issue NOTMARs and NOTAMs to announce an exercise and to notify the public of potential hazards in the exercise area. DON must ensure these notices are adequately distributed to the public and with a much larger area proposed in the MITT distribution must be assessed for adequacy.
8. The ROD must clearly indicate how the Micronesia Biosecurity Plan will be implemented, including funding mechanisms, to prevent the spread of invasive alien species (IAS) throughout the region. For example, 100% inspection rates for brown tree-snake (BTS) at ports of exit from Guam and entry points to other regional areas are necessary to ensure BTS does not impact bird, bat and lizard populations on other islands. These populations are necessary for the recovery of Guam's native ecosystem.
- 9.

DoAg Comments on Draft MITT F2019 OEIS

Page 2

10. Although there are currently BTS inspections of cargo and vessels from Guam, there is a potential for the system to be overwhelmed by the increase in tempo of activities. The MITT DEIS also needs to be mindful of other IAS that Guam could infect CNMI with that would be devastating to endangered wildlife and its habitats, i.e., little fire ant and coconut rhinoceros beetle.
11. Consistent monitoring of behavior and distribution of Mariana fruit bat/island swiftlet/common moorhen/megapode (and other terrestrial species of regional concern) must be conducted prior to and after MITT related activities in-order to evaluate the impact of activities, particularly on species of greatest conservation need. Appropriate measures must be incorporated to reduce impacts to terrestrial species, as well as measures to avoid impacting species that aggregate when feeding in open water ocean. Impacts to aggregations of individuals in the expanded areas of MITT activities may impact species on a population level.
12. The assessment of potential effects to marine animals and habitat from underwater demolition needs more clarified and analyzed. The habitat mapping needs to be more detailed, the Cetacean species that utilize the area proposed for the MITT need to be identified, as well as the impacts such activity will have on these species. The analysis also needs to include the impacts to sea turtles. The presence of ESA-listed sperm whales is well documented within three to five miles offshore in the Agat area. Effects to this species and the mitigation for these actions are not addressed in the MITT DEIS. The increased boat activity greatly increases the potential for boat strike of sperm whales. Navy lookouts undergo extensive training in order to qualify as a watch stander. It seems the use of these watch standers been how successful & should be measured.
10. DoAg is concerned about the impact of landing craft exercises on the dolphins that reside in Agat Bay. The DON contended unavoidable impacts. The Navy recognizes the common occurrence of spinner dolphins within Agat Bay and has developed mitigation measures in consultation with NMFS under provisions of the MMPA. Beachmasters are shore-based observers with binoculars whose sole purpose is to ensure safety of craft including avoidance of marine and terrestrial animals. Beachmasters were to work with environmental monitors and the natural resource managers. These measures have been utilized - how successful have they been and how has that success been measured?

DoAg Comments on Draft MITT F2019 OEIS

Page 2

The MITT DEIS must address impacts to the existing community of resource users and the need to mitigate economic impacts by avoiding near shore populations and their habitats. The training activities themselves present additional challenges that may alter



Lourdes A. Leon Guerrero
Governor
Joshua F. Tenorio
Lt. Governor

Department of Parks and Recreation
Dipattamenton Plaset yan Dibuetision

Government of Guam
Director's Office, Parks and Recreation Divisions
#1 Paseo de Susana, Hagåtña, Guam 96910
P.O. Box 2950, Hagåtña, Guam 96932
(671) 475-6288; Facsimile (671) 477-0997
Guam Historic Resources Division
490 Chalan Palasyo, Agaña Heights, Guam 96910
(671) 475-6294/6355; Facsimile (671) 477-2822



Jesse G. Garcia
Acting Director
Victor R. Villagomez
Acting Deputy Director

In reply refer to:
RC2020-0361

February 27, 2020

MEMORANDUM

To: Director, Bureau of Statistics and Plans

From: Acting Director, Department of Parks and Recreation

Subject: Federal Consistency Review: Department of the Navy Proposed Activities in the Mariana Islands Training and Testing (MITT) Study Area GCMP FC2020-0001

Dear Mr. Taitano,


We have reviewed the subject Federal Consistency Application for the Department of the Navy proposed activities in the Mariana Islands Training and Testing (MITT) Study Area and have the following comments:

1. In response to your request we reviewed the enforceable policies pursuant to the Executive Order 78-37, Guam Land Use Policies. We are currently working to assess and mitigate any adverse effects to historic properties with the Department of the Navy (DoN).
2. We have had Section 106 consultations with the DoN, expressing our concerns with regards to the project's potential to affect historic and archaeological sites within the project's areas of potential effect (APE). At this time, we are working off of a 2009 Programmatic Agreement (PA) extension, while the affects to historic properties are being assessed by the DoN. We are working to have a new PA that will address any and all adverse effects to historic properties within the near future.

Based on the aforementioned, we have not completed our consultation on the affects to historic properties and, therefore, we cannot agree with a Federal Consistency Determination for the subject undertaking.

Should you have any questions with regards to our comments, please contact Mr. John Mark Joseph, State Archaeologist, at 475-6339.

Sincerely,



Jesse G. Garcia
PL

Cc: Julian Janssen, Federal Consistency Coordinator
Julian.janssen@bsp.guam.gov

C.3 ENDANGERED SPECIES ACT CONSULTATION

C.3.1 NAVY REQUEST LETTER FOR FORMAL CONSULTATION WITH NATIONAL MARINE FISHERIES SERVICE



DEPARTMENT OF THE NAVY

COMMANDER
UNITED STATES PACIFIC FLEET
250 MAKALAPA DRIVE
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:
5090
Ser N465/0703
18 June 2019

Director, Office of Protected Resources
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
B-SSMC3, Room 13821
1315 East-West Highway
Silver Spring, MD 20910-3282

Dear Director:

SUBJECT: REQUEST FOR INITIATION OF ENDANGERED SPECIES ACT SECTION 7
FORMAL CONSULTATION FOR COMMANDER, UNITED STATES PACIFIC
FLEET TRAINING AND TESTING ACTIVITIES

In accordance with section 7 of the Endangered Species Act (ESA), the U.S. Navy requests initiation of formal consultation on the Mariana Islands Training and Testing (MITT) activities occurring within the Pacific Ocean in the surrounding waters of the Mariana Islands.

The proposed action may affect listed species that reside within the MITT Study Area by exposing them to sound and other environmental stressors associated with training and testing activities. The enclosed Biological Assessment (BA) is the Navy's primary document that provides the required information pursuant to 50 C.F.R. §402.12(f). The U.S. Navy is requesting formal consultation on Alternative 2 within the MITT Draft Supplemental Environmental Impact Statement/ Environmental Impact Statement (EIS/OEIS).

The Navy is requesting formal consultation on ESA-listed species including the blue whale (*Balaenoptera musculus*), fin whale (*Balaenoptera physalus*), humpback whale (*Megaptera novaeangliae*) from the Western North Pacific Distinct Population Segment (DPS), sei whale (*Balaenoptera borealis*), sperm whale (*Physeter macrocephalus*), green sea turtle (*Chelonia mydas*) from the Central West Pacific DPS, East Indian-West Pacific DPS, and North Central Pacific DPS, hawksbill sea turtle (*Eretmochelys imbricata*), leatherback sea turtle (*Dermochelys coriacea*), loggerhead sea turtle (*Caretta caretta*), olive ridley sea turtle (*Lepidochelys olivacea*), giant manta ray (*Manta birostris*), oceanic whitetip shark (*Carcharhinus longimanus*), scalloped hammerhead shark (*Sphyrna lewini*) from the Indo-West Pacific DPS, and three coral species *Acropora globiceps*, *Acropora retusa*, *Seriatopora aculeata* (no common name).

5090
Ser N465/0703
18 June 2019

The Navy also seeks concurrence on our high-energy laser No Effect determinations for coral, giant manta rays, oceanic whitetip sharks, and hammerhead sharks.

High-energy lasers are a new testing activity not analyzed in previous consultations between the Navy and National Marine Fisheries Service (NMFS) within the MITT Study Area. High-energy laser weapons are designed to disable surface targets, rendering them immobile. These laser systems are extremely unlikely to strike the water directly, since that is not an aimpoint for the system. Even though the probability is very low, if there is a target miss by the laser, a laser beam would typically intersect the water surface in the 200 m (219 yds) to 6.5 km (3.5 NM) range or more. At these ranges, the low angles to the water will reflect most of the laser energy. The little remaining laser energy after reflection that might enter the water would do so at much lower power levels, reaching eye-safe levels within 0.3 m (12 in) of the surface at 200 m (219 yds) and within 0.18 m (7 in) at 1 km (0.5 NM). Unlike marine mammals and sea turtles that surface to breathe, ESA-listed fish would normally be found at depths greater than 7-12 inches over most of their distribution.

There are additional layered safeguards on these systems that further reduce the probability of a water strike. First, the system will only fire when the operator pulls the trigger. Second, the system has provisions that only permit firing when locked onto a target and automatically interrupts firing if the target track is lost. This gives the operator time to reacquire the target lock before firing again. Third, the operator is also trained to stop firing when the laser aim point moves off the selected target in the event the automated system does not turn the laser off first. Even if at the water surface, such as when a shark's dorsal fin is above water, the depth of a given shark's body would still mean eyes and other sensitive organs would be deeper than 7-12 inches. Given these high-energy laser procedural measures and technological characteristics, the low probability of laser energy accidentally hitting the water surface, the low power of a laser if it did hit the water and limited penetration depth, effects on ESA-listed fish species are not expected to occur.

The Navy also seeks concurrence on our simulant No Effect determinations for all species. Simulants are another new testing activity not analyzed in previous consultations between the Navy and NMFS within the MITT Study Area.

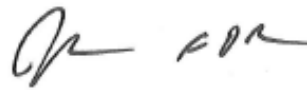
The Navy uses compounds, referred to as simulants, as substitutes for chemical and biological warfare agents to test equipment intended to detect their presence. Simulants must have one or more characteristics of a real chemical or biological agent—size, density, or aerosol behavior to effectively mimic the agent, but must also pose a minimal risk to health and the environment in order to be used safely in outdoor tests. They are relatively benign compounds (e.g., oil of wintergreen) that disperse as an aerosol and are expected to dissipate before hitting the water. Exposure levels during testing activities would be well below concentrations associated with any adverse health or environmental effects. The degradation products of simulants used during testing would also be harmless. Given these characteristics of simulants used during testing activities, no effects are expected on any ESA-listed species.

5090
Ser N465/0703
18 June 2019

Analysis supporting the application is contained within the BA. Due to the large file size and page count of the MITT BA (>750 pages), the Navy will be electronically submitting the BA directly to the appropriate NMFS staff.

Please extend my thanks to your staff for their continued support of the U.S. Navy's compliance process. My point of contact for these matters is Mr. Chip Johnson at 619-767-1567 or chip.johnson@navy.mil

Sincerely,



D. A. McNAIR
Director, Environmental Readiness Division
By Direction of the Commander

Enclosure: Mariana Islands Training and Testing Biological Assessment

Copy to: Ms. Kris Peterson, NMFS Office of Protected Resources, F/PR5

C.4 ESSENTIAL FISH HABITAT ASSESSMENT

C.4.1 NAVY ESSENTIAL FISH HABITAT ASSESSMENT SUBMISSION TRANSMITTAL LETTER TO NATIONAL MARINE FISHERIES SERVICE



DEPARTMENT OF THE NAVY

COMMANDER
UNITED STATES PACIFIC FLEET
250 MAKALAPA DRIVE
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:
5090
Ser N465/1397
21 November 2019

Assistant Regional Administrator, Habitat Conservation Division
Pacific Islands Regional Office, National Marine Fisheries Service
1845 Wasp Boulevard, Building 176
Honolulu, HI 96818-5007

Dear Director:

SUBJECT: SUBMISSION OF 2019 NAVY SUPPLEMENTAL ESSENTIAL FISH HABITAT ASSESSMENT IN SUPPORT OF THE MARIANA ISLANDS TRAINING AND TESTING SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT/ OVERSEAS ENVIRONMENTAL IMPACT STATEMENT

This letter provides the Pacific Islands Regional Office (PIRO) of the National Marine Fisheries Service with supplemental information for the U.S. Navy's continuing training and testing activities previously analyzed in the 2015 Mariana Islands Training and Testing (MITT) Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS).

In support of the 2015 EIS/OEIS, the Navy also prepared an Essential Fish Habitat Assessment (EFHA) in May 2014 analyzing potential impacts of Navy activities on designated EFH within the MITT Study Area in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act of 1976, Public Law 94-265 as amended through January 12, 2007, section 305(b)(2) and 50 C.F.R. 600. The 2015 EIS/OEIS and associated EFHA was subject to PIRO EFH consultation concluding in August 2014.

The U.S. Navy prepared a draft supplemental MITT EIS/OEIS using new information available after the release of the 2015 EIS/OEIS to cover similar activities from November 2020 and into the reasonably foreseeable future (<https://mitt-eis.com>). With few exceptions, there are no substantive changes to activities and their impacts, to the geographic extent of these activities, or to designated EFH areas in the MITT Study Area that would alter the conclusion from the 2014 EFHA or affect the basis for PIRO's previous EFH Conservation Recommendations.

The U.S. Navy requests reinitiation of a MITT supplemental EFH consultation pursuant to 50 C.F.R. 600.920(a)(1) to address only the changes in proposed activities that may adversely affect EFH as well as any new information that affects the basis for NMFS EFH Conservation Recommendations. A new supplemental EFHA has been prepared to support this request (Enclosure 1).

5090
Ser N465/1397
21 November 2019

Please extend my thanks to your staff for their continued support of the U.S. Navy's environmental stewardship and compliance process. If you need additional information or have questions, my point of contact is Mr. Chip Johnson (619-767-1567 or chip.johnson@navy.mil).

Sincerely,



D. A. McNAIR
Director, Environmental Readiness Division
By Direction of the Commander

Enclosures: 1. MITT Supplemental EFHA, October 2019
2. MITT EFHA, May 2014

Copy to: (w/enclosures)

Mr. Steve McKagan, Commonwealth of the Northern Mariana Islands Field Office

Dr. Kelly Ebert, Chief of Naval Operations (N454)

C.4.2 NATIONAL MARINE FISHERIES SERVICE ESSENTIAL FISH HABITAT ASSESSMENT RECOMMENDATION LETTER



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
national marine fisheries service
Pacific Islands Regional Office
1845 Wasp Blvd., Bldg 176
Honolulu, Hawaii 96818
(808) 725-5000 • Fax: (808) 725-5215

Mr. D. A. McNair
Director, Environmental Readiness
Department of the Navy
United States Pacific Fleet
250 Makalapa Drive
Pearl Harbor, HI 96860-3131

December 19, 2019

Dear Mr. McNair:

The National Marine Fisheries Service, Pacific Islands Regional Office (NMFS), received a request from your staff at the Commander, U.S. Pacific Fleet (hereafter, Navy) to complete a supplemental essential fish habitat (EFH) consultation for updates to the Mariana Islands Training and Testing (MITT) Environmental Impact Statement (EIS)/Overseas EIS (OEIS). The scope of the supplemental consultation includes aspects of the proposed activities that have changed since the 2014 EFH consultation was completed, and incorporation of any new scientific information that changes the basis of prior conservation recommendations. The Navy requested that the consultation be completed by December 21, 2019, and NMFS appreciates this opportunity to coordinate with the Navy and provide revised conservation recommendations pursuant to the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens Act), Section 305 (b) (2) and 50 C.F.R. 600.920.

Overview

In order to streamline the MITT supplemental EFH consultation, all supporting materials and analysis from the 2014 consultation are incorporated by reference 50 CFR 600.920(e)(5). Project activities and methods are superseded only where new information has been provided by the Navy; however, NMFS will consider sources of scientific information that may be new. The ten conservation recommendations from 2014 still apply, and will be revised only where these new sources of supplemental information change the basis for NMFS determination.



Essential Fish Habitat

The marine water column from the surface to a depth of 1,000 m from shoreline to the outer boundary of the Exclusive Economic Zone (5,150 kilometers/200 nautical miles/230 miles), and the seafloor from the shoreline out to a depth of 400 m around each of the Mariana Islands, have been designated as EFH. As such, the water column and bottom and all surrounding waters and submerged lands within the Mariana's Archipelago are designated as EFH and support various life stages for the management unit species (MUS) identified under the Western Pacific Regional Fishery Management Council's, Pelagic and Mariana Archipelago Fishery Ecosystem Plans (hereafter, Mariana FEP). The MUS and life stages found specifically within the Mariana's Archipelago include eggs, larvae, juveniles, and adults for Bottomfish and Pelagic MUS. Habitat Areas of Particular Concern (HAPCs) only occur for these MUS within the Marianas. Specific types of habitat considered as EFH include coral reef, patch reefs, hard substrate, artificial substrate, seagrass beds, soft substrate, mangrove, lagoon, estuarine, surge zone, deep-slope terraces and pelagic/open ocean.

Ecological Roles

The principal benthic organisms provide ecological services (e.g., water filtration and maintaining balanced nutrient concentrations) and provide physical habitat at both micro- and macro-scales. At a micro scale, the shape of benthic organisms change water movement, which can influence the settlement (McDougall 1943) and behavior of larvae and the availability of planktonic prey (Williams 1964). Sessile organisms provide refuge from predators, particularly for larvae and small sized species (Russ 1980; Sutherland 1974). Sessile organisms provide new ecological niches increasing species diversity. At a macro-scale, corals are the primary habitat builders in the coral reef ecosystem that benefit juvenile, sub-adult, and adult life stages of the MUS that utilize this designated EFH. The morphology, shape, and composite features of benthic organisms can also influence feeding strategies of these MUS.

NMFS Concerns

Adverse Effect Determinations

This EFH supplemental consultation incorporates by reference all information previously provided from previous phases of MITT activities, except where new information has been provided. In addition, all previous determinations and conservation recommendations apply except where explicitly amended. NMFS has determined that the activities described within the Supplemental MITT EFHA may result in adverse effects to EFH, and has provided seven new conservation recommendations to help avoid, minimize, offset for, or otherwise mitigate potential impacts.

NMFS categorizes adverse effect types in four categories: temporary, short-term, long-term, and permanent. The severity is measured by intensity and spatial extent of the stressor, while the adverse effect type is based on the recovery rate from the impact and the pervasiveness of the impact at the

ecological scale. Standard EFH effects analysis normally will use the most sensitive and hard-to-replace EFH resources based on the recovery time back to the baseline or the highest following stable state likely. Considering recruitment and growth rates of impacted fauna, oceanographic and geomorphologic features, and anticipated future conditions, living EFH resources which are altered or lost can be quantified as a debt. Non-living resources can also be adversely affected and lost, such as removal or impairment of feature to serve as shelter. These types of effects tend to be permanent.

The threshold for what effects are considered adverse to EFH is highly variable among the hundreds of species managed by the Western Pacific Fishery Management Council and NMFS. For example, multiple species included in each of the MUS in all FEPs have strong associations with the water column, especially the water surface in their egg and larval life stages. Those species typically have eggs that float very close to the surface (buoyant) and/or become planktonic as larvae. Therefore, physical disturbance of the surface (e.g., boat propeller churning) may be an adverse effect to the water column, which may reduce the fecundity of both MUS, their prey, and habitat forming organisms (e.g., coral). Both power generation studies (Schlezinger et al., 2013) and those that investigate the impacts of boating on zooplankton (Bickel et al., 2011) provide useful proxies in this respect. However, the severity of those potential adverse effects are dependent upon many factors that are complex to predict, including but not limited to: the reproductive cycles of a diverse assemblage of organisms potentially affected, oceanographic conditions (e.g., tides, prevailing currents, nearshore eddies), and the frequency of and forces generated by the vessels being operated.

The Navy provided a summary table of adverse effects determinations within the supplemental EFHA that are inconsistent with the definition of adverse effect in the Magnuson-Stevens Act (50 C.F.R. § 600.810). NMFS does not agree with the 'no effect' determinations made for acoustic, explosive, or physical disturbance and strike stressors. Below we list select stressors from Table 5-1 of the supplemental EFHA, followed by a description of how these stressors may impart temporary, short-term, long-term, permanent, and cumulative adverse effects on EFH (see *EFH Stressors* section below). My staff is willing to investigate more specific descriptions of adverse effects determinations for the stressors summarized in this document, if the Navy initiates an expanded EFH consultation.

Acoustic

The Navy lists sonar, vessel noise, and weapons noise as acoustic stressors. The Navy uses sonar (underwater sound) to navigate, communicate, or detect underwater objects. Active sonar emits sound waves which reflect off objects and returns to the receiver whereas passive sonar uses listening equipment to pick up underwater sounds (MITT EFH Assessment 2014). Vessels will be used for the majority of all proposed activities. Noise will be discharged from vessel engines during maneuvers and staging. Vessel noise can adversely affect fish and coral recruitment (see below). The use of sonar and weapons noise may result in temporary acoustic impacts to water column EFH, as it will alter the natural soundscape affecting the quality of water column EFH.

Explosives

Underwater explosive and other impulsive activities include ordnance and munitions such as projectiles, missiles, bombs, and other munitions (e.g. demolition charges). Explosives detonated near the surface would result in a shock wave and recurring pressure waves in the water column. Although most explosives would be at or below the water surface, charges associated with mine neutralization could occur near the ocean bottom. Temporary physical and acoustic effects to water column EFH will occur from explosives detonated near the surface. Explosives detonated near the bottom may result in physical impacts to benthic communities, increase in turbidity (through disturbance of seafloor), and increase in acoustic impact. Physical impacts to soft bottom will be short-term, including an increase in turbidity, whereas physical impact changes to hard bottom will be permanent. Temporary effects to fish may be change in fish behavior or distribution, and permanent effects may be fish mortality.

Physical Disturbance and Strike

The Navy includes vessel movement, in-water devices, military expended materials, seafloor devices, and personnel disturbance as stressors under this category. Vessels are used in nearly all training and testing activities and include multiple types of vessels such as aircraft carriers, surface combatant, amphibious warfare ships, support crafts, and submarines. Vessels that approach the shore or beach such as amphibious vessels could cause physical effects to benthic communities; physical impacts to soft-bottom will be short-term, including an increase in turbidity, whereas physical impact changes to hard bottom will be permanent. In 2017 a French Navy vessel grounded at Jade Shoals on Guam during military exercises and damaged the reef, highlighting the need for a funded vessel grounding response plan to ensure quick removal of the vessel, documentation of damages and offset of any permanent loss.

Military expended materials include: non-explosive practice munitions, fragments from high explosive munitions; and expended materials other than ordnance, such as sonobuoys, ship hulls, expendable targets and aircraft stores (fuel tanks, carriages, dispensers, racks, carriages or similar types of support systems on aircraft which could be expended or recovered. Materials that are not recovered will result in marine debris that will either sink to the bottom or float and be transported by wind and ocean currents. Debris that sinks will result in permanent physical impacts to benthic habitat. Although ingestion rates are lower than sea turtles and marine mammals, ingestion of marine debris has been documented in approximately 40 fish species (CBD 2012).

Seafloor devices are items that are deployed onto the seafloor and may later be recovered, including moored mine shapes, anchors, bottom placed instruments, and robotic vehicles referred to as "crawlers." Seafloor devices are either stationary or move very slowly along the bottom. Physical impacts to soft bottom will be short-term, including an increase in turbidity, whereas physical impact changes to hard bottom will be permanent.

Energy

Electromagnetic devices use magnetic influence in activities such as mine neutralization and mine countermeasure activities. The majority of the activities include towed or unmanned mine warfare systems that mimic the electromagnetic signature of a passing vessel which may result in temporary behavioral effects to susceptible fish and invertebrates.

EFH Stressors

The proposed MITT activities may result in adverse effects to EFH including physical impacts to benthic communities, enhanced sedimentation and turbidity, enhanced chemical contaminants, increase in acoustic and energy impacts, and introduction and propagation of invasive species. Any proposed activity that occurs within designated EFH may cause the following adverse effects, described generally in this section. The extent and severity of individual stressors will be highly variable across the spectrum of MITT activities, and the adverse effects may not be consistent from year to year even though the activities remain the same, due to external factors (i.e., climate change).

Physical Impacts to Benthic Communities – Physical damage to coral or coral reefs is often associated with the breaking of colonies or in the form of abrasion. The amount of damage is dependent on many factors, but is mostly due to the nature of the physical force and the types of corals being impacted (Storlazzi *et al.* 2005, Shimabukuro 2014). Corals, which are primarily responsible for the structural complexity of coral reefs, are particularly vulnerable to physical damage because their slow-growing carbonate skeleton is relatively brittle and their polyps are easily damaged. In general, lobate, encrusting, and other massive colony morphologies tend to withstand breakage better than foliose, table, plating, and branching morphologies; more fragile forms tend to have higher growth rates (Rützler 2001). Reduction of topographic complexity in the habitats of the coral reef ecosystem reduces biodiversity and productivity (Alvarez-Filip *et al.* 2009). In 2017, a MITT-related vessel grounding occurred in the nearshore coral reef ecosystem of Guam, resulting in the long-term to permanent loss of coral ecosystem services and function due to the absence of contingency/response planning and sufficient offset.

NMFS has reviewed the Navy's approach to managing the risk from physical impacts to EFH, including corals, associated with explosive stressors, vessel movements, and personnel disturbance. NMFS agrees that the proposed BMPs will help to avoid and minimize some impacts. However, NMFS still has concerns regarding the proposed increased usage and the lack of updated benthic mapping and surveys at the Guam UNDET site. We are also concerned about the ability of personnel and small boats to consistently remain within designated approach pathways during beach assault training activities. We also see a need to formalize planning and funding for response, assessment, and mitigation following potential vessel grounding events. In addition to direct physical damage from a grounding, these events break down the reef into rubble, which then becomes a long-term scouring hazard with the potential to induce further physical damage to corals due to wave action.

Increase in Sedimentation and Turbidity – Suspended sediment can elicit short- and long-term responses from aquatic organisms depending on the quantity, quality, and duration of suspended sediment exposure (Kjelland et al. 2015, Philipp and Fabricius 2003). Coral reef organisms are easily smothered by sediment (Golbuu et al. 2003), and rates >100 milligrams/centimeter²/day can kill exposed coral tissue within a few days (Riegl and Branch 1995), although corals show considerable interspecific variability. Sedimentation can also reduce photosynthetic rates (Philipp and Fabricius 2003), disrupt polyp gas exchange, inhibit nutrient acquisition (Richmond 1996), cause tissue damage (Rogers, 1990), reduce recruitment success (Gilmour 1999) and increase metabolic costs due to enhanced mucus production (Telesnicki and Goldberg 1995).

NMFS has reviewed the Navy's approach to managing the risk from sediment and turbidity to EFH, including corals. We remain particularly concerned about these stressors at the Guam UNDET site due to the proposed increase in tempo and usage in the nearshore ecosystem, where there is a lack of updated benthic habitat mapping and coral reef surveys. Due to uncertainty from the lack of recent, quantitative resource survey assessment and geomorphologic information, NMFS must assume that enhanced sedimentation and turbidity will result in potential mortality and the degradation in the condition of corals present. New surveys and updated benthic habitat maps may help to alleviate these concerns.

Increase in Noise – Noise has a broad range of potential effects, especially when it is very loud and has high amplitude (Casper *et al.* 2016), or when it is less intense but long-lasting (Popper and Hastings 2009). Behavioral changes can occur, resulting in animals leaving feeding or reproduction grounds (Slabbekoorn et al., 2012) or becoming more susceptible to mortality through decreased predator-avoidance responses (Simpson et al., 2016). Less intense but chronic noise can cause a general increase in background noise over a large area. Chronic noise will not likely result in mortality, but may mask biologically important sounds and alter the natural soundscape, cause hearing loss, and/or have an adverse effect on an organism's stress levels and immune system (Minton 2017). Masking of the normal reef sounds by artificial sounds may have an impact on species abundances and numbers on coral reefs. Research has shown that larvae of several reef fish families preferentially select traps emitting high frequency sounds over traps emitting sounds similar in frequency to normal background frequencies (Simpson *et al.* 2008). Studies on an invertebrate species has shown that chronic exposure to noise may lead to increased metabolic rates, causing a reduction in growth and reproduction (Lagardère 1982). Recent advances in passive acoustic technology and analysis indicates that coral reef larvae are using lower frequency sounds such as those made by grunting fishes. These daily sounds are primarily produced at night and during dusk and dawn. However, these types of sounds are produced most abundantly during spawning. Corals exposed to enhanced anthropogenic noise, including that from vessel engines, will have disrupted settlement of their planulae (Lecchini et al. 2018).

NMFS disagrees with the Navy's conclusion that noise generated as part of MITT activities will have no effect on EFH. There are reasonable avoidance and minimization measures that can be

implemented to reduce adverse effects to coral, bottomfish life history stages, and organisms that serve as prey-base for bottomfish. Some of these measures include establishing avoidance/buffer zones and turning off vessel engines (particularly small vessels in nearshore ecosystems) and sonar when not needed.

Invasive Species – Introduced species are organisms that have been moved, intentionally or unintentionally, into areas where they do not naturally occur. Species can be introduced to new biogeographies, typically via transport on vessel hulls or in ballast water, such as those that may be used in the Applicant's cable laying and trenching operations. Invasive species rapidly increase in abundance to the point that they come to dominate their new environment, creating adverse ecological effects to other species of the ecosystem and the functions and services it may provide (Goldberg and Wilkinson 2004). Invasive species can decrease species diversity, change trophic structure, and diminish physical structure, but adverse effects are highly variable and species-specific.

NMFS is concerned that the increase in vessel movements and personnel disturbances proposed within the MITT may also increase the risk of introducing and spreading invasive species within the region through direct physical introduction or transportation resulting from hull fouling and ballast water. A description of how the Navy plans to avoid and control for the possible spread of invasive species during these activities would help alleviate this concern.

Cumulative Adverse Effects

A cumulative effects analysis must consider the changes to the marine environment that are expected to occur under our current climate trajectory. Considering that many effects in marine ecosystems have long durations due to slow ecosystem recovery (e.g., corals), activities proposed today could result in significant and irreversible damage to EFH in coming decades. In addition, individual adverse effects (stresses) often interact in ways that increase adverse effects (Brown 1997, Negri and Hooganbloom 2011). For example, elevated seawater temperatures can cause coral bleaching, but the temperature threshold at which coral bleaching occurs is lowered under elevated nutrient conditions. In another example, nutrient enrichment combined with large-scale physical damage can increase the probability of a shift in dominance from coral to algae, known as "phase-shifts."

Crain *et al.* (2008) reviewed over 200 studies examining cumulative effects for multiple stressors in intertidal and nearshore marine ecosystems to elucidate general patterns in cumulative stressor effects. The cumulative effects of any two stressors were distributed among all interaction types with 26% being additive, *i.e.*, no interaction, 36% synergistic and 38% antagonistic. In 62% of all cases, interactions between stressors resulted in an adverse effect on the species or ecosystem that was at least additive. In cases where a third stressor was considered, over two-thirds of the interaction became more negative, and the number of synergistic interactions increased to 66% of the cases.

The amount of Navy materials being deposited (i.e., MEM) is planned to continue for the foreseeable future. At an unidentified inflection point adverse effects to EFH from the continual deposition of these materials over the same footprint will be reached. As that point is approached it will become more difficult to mitigate and restore ecological functions and services. We expect that the Navy will calculate the deposition rates and decomposition rates to determine maximum MEM loads as this action becomes decadal, since offset may become appropriate if MEM loading impairs the habitat function. In addition, there may be cumulative adverse effects from personnel usage and unexpected vessel groundings in the absence of proper contingency planning, including resources for regular and on-the-spot survey damage assessments at all sites used for amphibious assaults.

NMFS is concerned about past, present, and future adverse effects to EFH resources from these stressors. The concerns about MEM can be assessed through the Navy's calculation of deposition and decomposition rates to determine maximum MEM loads as this action becomes decadal; this would inform potential offset. Quantitative resource survey assessments, updated benthic habitat substrate and biological cover mapping, and vessel grounding planning and contingencies would help to avoid, minimize, offset for, or otherwise mitigate potential cumulative adverse effects from these stressors.

Revised Conservation Recommendations

NMFS provides the following supplemental EFH conservation recommendations in accordance with the EFH provisions of the Magnuson-Stevens Act (50 C.F.R. 600.920) to help Navy ensure that adverse effects to EFH including coral reef resources are avoided, minimized, and offset. These recommendations are additions to the ten original conservation recommendations provided as part of the 2014 consultation.

Conservation Recommendation 11: The Navy should work with NMFS and local agencies to develop a vessel grounding response plan that includes a funding mechanism and protocols for expedited vessel removal, damage assessment surveys, and strategies to offset any unavoidable loss to EFH resources (e.g., corals, seagrass, etc.). This would also inform and minimize potential cumulative adverse effects from unexpected groundings as MITT continues into the future.

Conservation Recommendation 12: Surveys should be performed annually at the Apra Harbor UNDET site to include georeferenced status and condition information for habitat forming EFH resources (e.g., corals and seagrass) within a 100-ft buffer surrounding the site. This will help to document potential adverse effects associated with both direct physical impacts and suspension of sediments to inform potential minimization (i.e., transplantation) and offset.

Conservation Recommendation 13: Shallow reef areas and reef flats that are being used for amphibious assaults should be surveyed immediately following each training exercise to document physical impacts, quantify coral condition, and stabilize and/or translocate any broken corals. NMFS is ready and willing to assist with such planning.

Conservation Recommendation 14: Implement a 300-yard buffer around coral reef habitats and as much as practicable avoid continuous emission of sounds (i.e., turn off vessel engines and sonar when not needed or in use) in these habitats. This would minimize potential adverse effects of chronic noise on corals (e.g., disruption of coral planulae settlement), Bottomfish MUS life history stages (e.g., hearing, immune system disruption, etc.), and reef fish (e.g., hearing, immune system disruption, etc.) that serve as prey-base for juvenile and adult Bottomfish MUS.


Conservation Recommendation 15: The Navy should ensure that in-water activities minimize potential introduction of nuisance or invasive species. Any vessels coming from outside of the CNMI's EEZ should comply with U.S. Coast Guard ballast water discharge standards (i.e. no ballast water discharge within 12 nautical miles or use approved ballast water management system) to prevent introduction of new invasive species. Any equipment, materials and gear entering the nearshore waters of Rota should also be checked prior to deployment.

Conservation Recommendation 16: The Navy should calculate MEM deposition and decomposition rates to determine maximum loads as this action becomes decadal. This would inform potential offset for potential cumulative adverse effects.

Conservation Recommendation 17: The Navy should conduct regular (i.e., every 3-5 years) quantitative resource survey assessments and updated benthic habitat substrate and biological cover mapping at representative nearshore sites to document cumulative impacts over time. This would reduce uncertainty, quantify changes in coral condition and state due to ongoing MITT activities, inform potential offset, and minimize cumulative adverse effects by informing adaptive management.

Conclusion

NMFS supports the need for military readiness and believes the mission of the Pacific Fleet is of utmost national security importance. NMFS supports Navy's intent to be good resource stewards and appreciate Navy's future effort in working with us to ensure that any unavoidable impacts to our trust resources are adequately mitigated. We therefore highlight the importance of continued cooperation and coordination to resolve NMFS's concerns. Also, NMFS is enclosing a report (Minton 2017) that provides a comprehensive review of typical adverse effects to EFH in the Pacific Islands region, which will be helpful to the Navy for future consultations. NMFS believes that our positive working relationship and mutual desire for a meaningful outcome for NOAA trust resources at risk while meeting the needs of the Fleet can be achieved. Please do not hesitate to contact Steve McKagan at 670-234-0004 and/or steven.mckagan@noaa.gov with any questions or to request further technical assistance.

Sincerely,

Gerry Davis
Assistant Regional Administrator
Habitat Conservation Division

cc by e-mail:
Ms. Arlene Pangilinan, NMFS
Dr. Malia Chow, NMFS
Barbara Prine, Navy
Chip Johnston, Navy

Enclosures

Minton, D. 2017. Non-fishing effects that may adversely affect essential fish habitat in the Pacific Islands Region. National Oceanic and Atmospheric Administration Final Report for contract AB-133F-15-CQ-0014.

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C.4.3 NAVY RESPONSE LETTER TO NATIONAL MARINE FISHERIES SERVICE ESSENTIAL FISH HABITAT RECOMMENDATIONS



DEPARTMENT OF THE NAVY

COMMANDER
UNITED STATES PACIFIC FLEET
250 MAKALAPA DRIVE
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:
5090
Ser N465/0145
29 January 2020

Assistant Regional Administrator, Habitat Conservation Division
Pacific Islands Regional Office, National Marine Fisheries Service
1845 Wasp Boulevard, Building 176
Honolulu, HI 96818-5007

Dear Mr. Davis:

SUBJECT: NAVY FINAL RESPONSE TO THE NATIONAL MARINE FISHERIES
SERVICE LETTER ON THE NAVY'S 2019 SUPPLEMENTAL ESSENTIAL
FISH HABITAT ASSESSMENT IN SUPPORT OF THE MARIANA ISLANDS
TRAINING AND TESTING SUPPLEMENTAL ENVIRONMENTAL IMPACT
STATEMENT/OVERSEAS ENVIRONMENTAL IMPACT STATEMENT

The Navy thanks you for the comments provided in your letter of December 19, 2019, as well as the prompt review from your office of our supplemental Essential Fish Habitat Assessment for the Mariana Islands Training and Testing Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement.

This letter contains enclosures that responds to the seven additional conservation recommendations to avoid, minimize, offset for, or otherwise mitigate potential impacts in your letter.

We thank you for your continued support of this critical project.

Sincerely,

A handwritten signature in black ink, appearing to read "D. McNair", is written over a horizontal line.

D. A. McNAIR
Director, Environmental Readiness Division
By direction of the Commander

Enclosure: Navy Response To NMFS' December 19, 2019 Essential Fish Habitat Letter

Copy to: (w/enclosure)

Mr. Steve McKagan, Commonwealth of the Northern Mariana Islands Field Office

Dr. Kelly Ebert, Chief of Naval Operations (N454)

Mr. Dana Lujan, Joint Region Marianas

Michael Noah, Joint Region Mari

Enclosure: Navy Response To NMFS' December 19, 2019 Essential Fish Habitat Letter

The U.S. Navy (Navy) addressed National Marine Fisheries Service Conservation Recommendations from the 2014 consultation in Table 4-2 of the Navy's 2019 supplemental Essential Fish Habitat Assessment (EFHA). This included incorporation of the Navy's original 2014 response to NMFS, as well as updated information addressing how some of the recommendations had been addressed.

The below text contains the Navy's response to the additional Conservation Recommendations from the NMFS letter to the Navy of December 19, 2019.

NMFS Conservation Recommendation 11: The Navy should work with NMFS and local agencies to develop a vessel grounding response plan that includes a funding mechanism and protocols for expedited vessel removal, damage assessment surveys, and strategies to offset any unavoidable loss to EFH resources (e.g., corals, seagrass, etc.). This would also inform and minimize potential cumulative adverse effects from unexpected groundings MITT continues into the future.

Navy Response to Recommendation 11: Although a naval vessel grounded in 2017, the Navy asserts such events are not reasonably foreseeable impacts from the proposed action. Vessel groundings are rare and typically result from a series of unusual and unpredictable circumstances. The Navy is already prepared to respond to such events. The Navy maintains salvage and towing response capability through the employment of Navy assets and through worldwide salvage contracts. Contingency planning is required for preparedness, and the Navy can ensure that baseline conditions of natural resources within the management control of the Navy are identified and kept current through implementation of the 2019 Joint Region Marianas Integrated Natural Resources Management Plan to which NMFS is a signatory partner. Furthermore, the INRMP identifies strategies and actions to address Marine Habitat Management (Sections 5.4.2.1, 8.4.2.1, and 9.4.2.1) and Marine Protected Species Management (Section 5.4.2.3), specifically:

- "Develop protocol for immediate assessment and response to reef damage caused by unanticipated events such as ship groundings and anchor damage. The protocol will outline responsible parties, coordination process, and initial reef damage assessment requirements. This protocol will inform the long-term response plan."
- "Ensure no impact to coral or hard substrates during MITT training activities occurring within or adjacent to reef habitats by implementing appropriate avoidance measures."

Enclosure: Navy Response To NMFS' December 19, 2019 Essential Fish Habitat Letter

NMFS Conservation Recommendation 12: Surveys should be performed annually at the Apra Harbor UNDET site to include georeferenced status and condition information for habitat forming EFH resources (e.g., corals and seagrass) within a 100-ft buffer surrounding the site. This will help to document potential adverse effects associated with both direct physical impacts and suspension of sediments to inform potential minimization (i.e., transplantation) and offset.

Navy Response to Recommendation 12: The Navy asserts this recommendation is already being satisfied under the mandates of the Joint Region Marianas INRMP, to which the NMFS is a signatory, as briefly summarized in the Navy's 2019 supplemental EFHA (page 5-2).. Details specific to previous surveys in Apra Harbor including the Outer Apra Harbor UNDET site can be found in the INRMP starting in Section 5.3. Continued similar efforts are recommended and planned in Sections 5.4.2 (Marine Ecosystems Management) as well as in Chapter 13 (Planning, Integration, and Implementation). Specific INRMP activities include:

- "Enhance coral habitat by monitoring health and acute impacts and through focused reef restoration efforts."
- "Establish long-term monitoring programs to track changes in the health of corals and water quality that are compatible with existing monitoring programs in Guam and the region. JRM has programmed for active/continuous remote monitoring of water quality parameters at select locations starting in FY19."
- "Work with regulatory partners and local subject matter experts to identify priority resilience indicators....The measures for assessing resilience include: macroalgae percent cover (to be obtained as coarse level data in the benthic habitat mapping project), coral community (available for some sites from past studies), bleaching resistance, coral recruitment and connectivity, coral diversity (available for some sites from past studies), herbivorous fish community (available for some of Apra Harbor from past studies), herbivore average functional group biomass, temperature variability, land-based sources of pollution, and accessibility due to wave exposure."
- "JRM will coordinate with local partners and subject matter experts (SMEs) to determine appropriate locations and methods for coral population enhancement and restoration efforts. JRM will align projects with the proposed Guam Restoration Strategy (in development). This may include projects that include sexual propagation that collect gametes, settle them on tiles, and eventually outplant new colonies, but can also include out-planting colonies, clones, or asexual propagation from fragments, or other restoration strategies such as algal removal."
- "Update and continuously maintain existing centralized GIS database to effectively inform and guide future management of marine natural resources on NBG Main Base and meet natural resources goals and objectives. Readily available GIS data will be used to develop natural resources constraints maps for use in current and future JRM management and planning decisions for NBG Main Base."

Enclosure: Navy Response To NMFS' December 19, 2019 Essential Fish Habitat Letter



Figure 1. UNDET activities at the Outer Apra Harbor UNDET site. The substrate is mostly sand and contains little coral or seagrass

Enclosure: Navy Response To NMFS' December 19, 2019 Essential Fish Habitat Letter

NMFS Conservation Recommendation 13: Shallow reef areas and reef flats that are being used for amphibious assaults should be surveyed immediately following each training exercise to document physical impacts, quantify coral condition, and stabilize and/or translocate any broken corals. NMFS is ready and willing to assist with such planning.

Navy Response to Recommendation 13: The Navy asserts this recommendation is already being satisfied under the mandates of the Joint Region Marianas INRMP, to which the NMFS is a signatory, as briefly summarized in the Navy's 2019 supplemental EFHA (page 5-2).. While not tied to specific training events, the INRMP directs repeated surveys across all submerged Navy controlled areas in the Mariana Islands. This would include beaches used for landing events. Cumulative impacts, if any can, be assessed over time as the program evolves. Additionally, the INRMP includes the previously described plans to develop protocols to respond to reef damage (Marine Habitat Management (Sections 5.4.2.1, 8.4.2.1, and 9.4.2 and Marine Protected Species Management Section 5.4.2.3). Specific INRMP activities include:

- "Enhance coral habitat by monitoring health and acute impacts and through focused reef restoration efforts."
- "Establish long-term monitoring programs to track changes in the health of corals and water quality that are compatible with existing monitoring programs in Guam and the region. JRM has programmed for active/continuous remote monitoring of water quality parameters at select locations starting in FY19."
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- "Ensure no impact to coral or hard substrates during MITT training activities occurring within or adjacent to reef habitats by implementing appropriate avoidance measures."

While unrelated to specific training events, the 2019 JRM INRMP identifies the strategies and actions across all Navy submerged lands, to include coastal beaches, in the Mariana Islands. Cumulative impacts, if any, can, be assessed continually as the program evolves.

Enclosure: Navy Response To NMFS' December 19, 2019 Essential Fish Habitat Letter

Conservation Recommendation 14: Implement a 300-yard buffer around coral reef habitats and as much as practicable avoid continuous emission of sounds (i.e., turn off vessel engines and sonar when not needed or in use) in these habitats. This would minimize potential adverse effects of chronic noise on corals (e.g., disruption of coral planulae settlement), Bottomfish MUS life history stages (e.g., hearing, immune system disruption, etc.), and reef fish (e.g., hearing, immune system disruption, etc.) that serve as prey-base for juvenile and adult Bottomfish MUS.

Navy Response to Recommendation 14: The Navy asserts meeting this recommendation is impractical and would jeopardize navigational safety, which could increase potential groundings. In practice, large naval vessels such as amphibious assault ships rarely close within 300 yards of a coastline. The NMFS recommendation would apply to landing craft, amphibious assault vehicles, and combat rubber raiding craft approaching or departing from a given landing location. However, these types of craft always need to maintain steerage way. In fact, the main objective is transporting personnel to and from a beach beyond a reef as quickly as possible; therefore, engines cannot be turned off. These types of craft would delay their approach, increasing the potential for drifting or potential grounding, which could present navigational hazards depending on the sea state (e.g., swamping). The Navy's 2019 Supplemental EFHA lists (in Table 4-2) ongoing standard operating procedures limiting the spatial spread of a landing (landing craft approaching in a line), as well as some engine noise (turning off combat rubber raiding craft motors to paddle across reefs to the beach). Finally, the Navy would not characterize the spatially and temporarily limited use of vessels during discreet training events as a chronic noise. There would be significant time between events (e.g., weeks or months) when landing events close to shore would not occur.

High-power sonar used for antisubmarine warfare would not generally occur within 3 NM of land, and hence would be well beyond the 300-yard buffer.

Enclosure: Navy Response To NMFS' December 19, 2019 Essential Fish Habitat Letter

NMFS Conservation Recommendation 15: The Navy should ensure that in-water activities minimize potential introduction of nuisance or invasive species. Any vessels coming from outside of the CNMI's EEZ should comply with U.S. Coast Guard ballast water discharge standards (i.e. no ballast water discharge within 12 nautical miles or use approved ballast water management system) to prevent introduction of new invasive species. Any equipment, materials and gear entering the nearshore waters of Rota should also be checked prior to deployment.

Navy Response to Recommendation 15: The Navy asserts this recommendation is already being satisfied under the mandates of the Navy's internal compliance with established regulations. The Navy implements strict ballast water discharge requirements, consistent with the U.S. Environmental Protection Agency, U.S. Coast Guard, and adheres to applicable international regulations, through internal instructions, directions, and guidance. Vessels not equipped with ballast water treatment systems are required to perform exchanges greater than 12 NM from land or hold discharges, when appropriate and practicable, to minimize the introduction of invasive species.

The NMFS is a signatory to the 2019 JRM INRMP which identifies strategies and actions to address Marine Invasive Species Management (Sections 5.4.2.2, 8.4.2.2, 9.4.2.2, and 11.4.2.2), specifically:

- "Develop and maintain a Marine Invasive Species Management Plan for NBG Main Base, NCTS, AAFB, and Tinian MLA."
- "JRM will work with appropriate U.S. Navy commands to determine if updates are warranted for Navy hull husbandry standards (Naval Sea Systems Command S9086-CQ STM-010) (U.S. Navy 2006) and ballast water requirements (Note: The U.S. Navy adopts USCG standards)."
- "Participate in the quarterly Guam Invasive Species Advisory Council meetings and coordinate regularly with the territorial marine invasive species coordinator once hired."

Enclosure: Navy Response To NMFS' December 19, 2019 Essential Fish Habitat Letter

NMFS Conservation Recommendation 16: The Navy should calculate MEM deposition and decomposition rates to determine maximum loads as this action becomes decadal. This would inform potential offset for potential cumulative adverse effects.

Navy Response to Recommendation 16: The Navy would reiterate that MEM use is across a very large spatial extent and rarely sequentially concentrated in small areas. Furthermore, the total cumulative MEM footprint as listed in Table 2-1 of the Navy's 2019 supplemental EFHA, is only 132,930 m² which is actually 37,866 m² less than the Navy's 2014 EFHA MEM footprint (170,796 m²). Potential MEM footprint, 132,930 m² or 0.133 km², represents less than 0.0000001% of the total MITT study area (1,721,376 km²).

Although absent in the MITT Draft Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS), the Navy has updated Appendix J (Statistical Probability Analysis for Estimating Direct Strike Impact and Number of Potential Exposures from Military Expended Materials) for the pending MITT final supplemental EIS/OEIS. This update will show the anticipated footprint of estimated annual MEM use, which can be summed across multiple years, or at least until a new supplemental EIS/OEIS is required. At that time, MEM usage would be re-evaluated. The Navy can provide the revised Appendix J to the NMFS as soon as final edits are complete. Finally, while the exact decomposition rates for all material in MEM is unknown, it is likely that major components such as aluminum and steel will corrode slowly in deep ocean waters. Overtime MEM would either be incorporated into sediments (i.e., buried) or remain on the ocean bottom subject to corrosion (Ocean News 2016, Edwards and Beldowski 2016¹). Edwards and Beldowski 2016, alone with various contributing authors have documented the fate and condition of WWII munitions and post-war disposed items. Their work includes assessments corrosion of items deposited at a 300-600 m deep-water disposal site south of Oahu² (Figure 2).

¹ Edwards, M, and J. Beldowski, ed. 2016. Chemical Munitions Dumped at Sea-Special Edition. Deep Sea Research II 128. 136 pg. <https://www.sciencedirect.com/journal/deep-sea-research-part-ii-topical-studies-in-oceanography/vol/128> ; Ocean News. 2016. WWII Bombs Provide Living Laboratories for Cold-Water Coral Reefs. Online published 01 June 2016.

² The site had military munitions and items dumps from post-World War II through 1972. The site also had civilian dredged material dumped from Pearl Harbor, Honolulu Harbor, and Ali Wai Canal.

Enclosure: Navy Response To NMFS' December 19, 2019 Essential Fish Habitat Letter

J.A.K. Silva, T. Chock / Deep-Sea Research II 128 (2016) 14–24

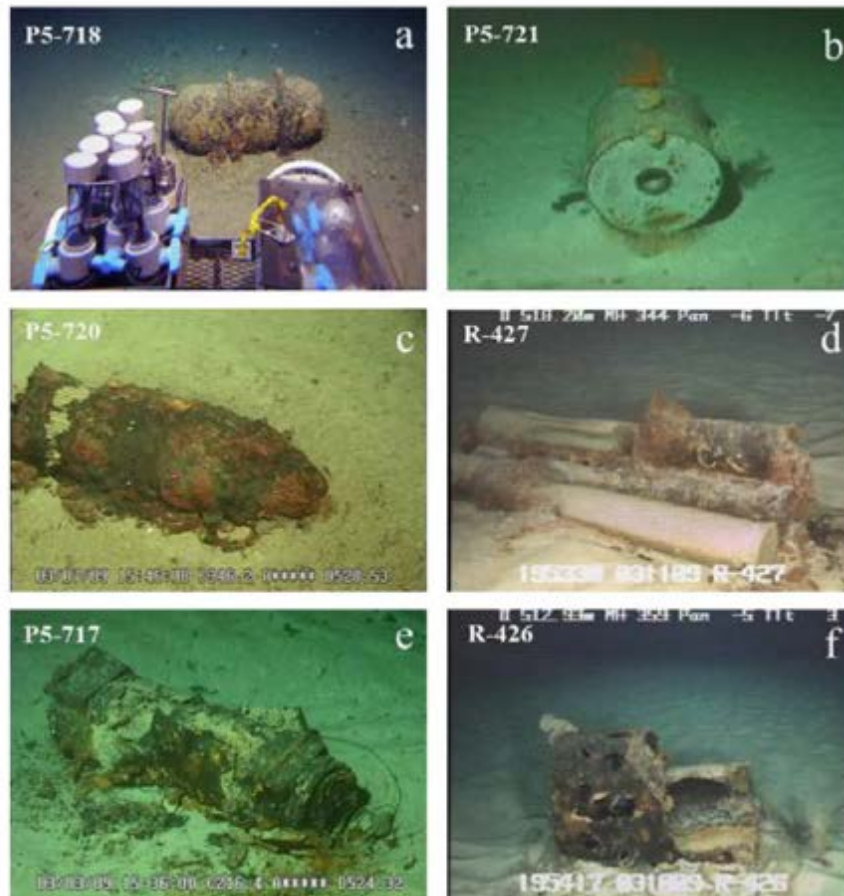


Fig. 2. Examples of DMM corrosion observed:(a) moderately corroded aerial bomb,(b) depth charge exhibiting mild corrosion,(c) significantly corroded artillery projectile, (d) bundle of brass artillery cartridges with significantly corroded projectiles,(e) severely corroded cluster bomb, and (f) severely corroded depth charge.

From: Silva and Chock. 2016. Munitions integrity and corrosion features observed during the HUMMA deep-sea munitions disposal site investigations. Deep Sea Research II 128:14–24.

Figure 2. Representative images from Deep Sea Research II Vol 128- Chemical Munitions At Sea-CORROSION (Edwards and Beldowski, ed. 2016)

Enclosure: Navy Response To NMFS' December 19, 2019 Essential Fish Habitat Letter

NMFS Conservation Recommendation 17: The Navy should conduct regular (i.e., every 3-5 years) quantitative resource survey assessments and updated benthic habitat substrate and biological cover mapping at representative nearshore sites to document cumulative impacts over time. This would reduce uncertainty, quantify changes in coral condition and state due to ongoing MITT activities, inform potential offset, and minimize cumulative adverse effects by informing adaptive management.

Navy Response to Recommendation 17: The Navy asserts this recommendation has been identified in the 2019 JRM INRMP, as briefly summarized in the Navy's 2019 supplemental EFHA (page 5-2). The NMFS is a signatory to the 2019 JRM INRMP which identifies strategies and actions to address Marine Habitat Management (Sections 5.4.2.1, 8.4.2.1, 9.4.2.1, 11.4.2.1, and 12.4.2.1) and Marine Protected Species Management (Sections 5.4.2.3 and 11.4.2.3), specifically:

- "Enhance coral habitat by monitoring health and acute impacts and through focused reef restoration efforts."
- "Establish long-term monitoring programs to track changes in the health of corals and water quality that are compatible with existing monitoring programs in Guam and the region. JRM has programmed for active/continuous remote monitoring of water quality parameters at select locations starting in FY19."
- "Work with regulatory partners and local subject matter experts to identify priority resilience indicators....The measures for assessing resilience include: macroalgae percent cover (to be obtained as coarse level data in the benthic habitat mapping project), coral community (available for some sites from past studies), bleaching resistance, coral recruitment and connectivity, coral diversity (available for some sites from past studies), herbivorous fish community (available for some of Apra Harbor from past studies), herbivore average functional group biomass, temperature variability, land-based sources of pollution, and accessibility due to wave exposure."
- "JRM will coordinate with local partners and subject matter experts (SMEs) to determine appropriate locations and methods for coral population enhancement and restoration efforts. JRM will align projects with the proposed Guam Restoration Strategy (in development). This may include projects that include sexual propagation that collect gametes, settle them on tiles, and eventually outplant new colonies, but can also include out-planting colonies, clones, or asexual propagation from fragments, or other restoration strategies such as algal removal."
- "Develop protocol for immediate assessment and response to reef damage caused by unanticipated events such as ship groundings and anchor damage. The protocol will outline responsible parties, coordination process, and initial reef damage assessment requirements. This protocol will inform the long-term response plan."
- "Ensure no impact to coral or hard substrates during MITT training activities occurring within or adjacent to reef habitats by implementing appropriate avoidance measures."

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Additionally, the 2019 JRM INRMP identifies planning, integration, and implementation strategies to coordinate natural resources requirements with other federal, territorial, or commonwealth agencies, including the acquisition of INRMP mutual agreements between the DON, USFWS, NOAA-NMFS, and territorial and commonwealth fish and wildlife agencies (see Chapter 13).

C.4.4 NATIONAL MARINE FISHERIES SERVICE RESPONSE LETTER TO THE NAVY



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1845 Wasp Blvd., Bldg 176
Honolulu, Hawaii 96818
(808) 725-5000 • Fax: (808) 725-5215

Mr. D. A. McNair
Director, Environmental Readiness
Department of Navy
United States Pacific Fleet
250 Makalapa Drive
Pearl Harbor, HI 96860-3131

February 7, 2020

Dear Mr. McNair:

On January 29, 2020, the National Marine Fisheries Service, Pacific Islands Regional Office, Habitat Conservation Division (NMFS) received your letter by direction of the Commander, U.S. Pacific Fleet (hereafter, Navy) titled 'Navy Final Response To The National Marine Fisheries Service Letter On Navy's 2019 Supplemental Essential Fish Habitat Assessment In Support Of The Mariana Islands Training And Testing Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement'. The Navy's letter provides individual responses to each of the Essential Fish Habitat (EFH) conservation recommendations that we provided in response to the supplemental Mariana Islands Training and Testing (MITT) EFH consultation.

NMFS would like to thank the Navy for taking a close look at each of the new conservation recommendations that we put forward as part of this Supplemental Environmental Impact Statement (SEIS) for MITT activities. Furthermore, NMFS is proud of the progress we have made as a partner and signatory on the Joint Region Marianas (JRM) Integrated Natural Resource Management Plan (INRMP), which was completed in June 2019. The INRMP, as referenced in your letter, is full of progressive strategies and actions which have the potential to address many of our conservation concerns if implemented in an effective and coordinated fashion. NMFS agrees with Navy that the JRM INRMP will be an important tool in the avoidance, minimization, and offset of adverse effects to EFH resulting from MITT activities. However, we are not comfortable deferring each of the proposed conservation recommendations to the INRMP. We request to continue our ongoing coordination to better understand a) the current status of INRMP projects directly related to our MITT-specific EFH concerns, and b) future planning and funding of INRMP projects to better understand how and when the products of these projects could be applied to our MITT-specific EFH concerns.



NMFS Responses

Navy has opted not to accept any of the seven new conservation recommendations provided as part of the supplemental EFH consultation and has instead asserted that NMFS concerns are already addressed through existing procedures (CR#'s 11, 15), are covered by the INRMP (CR#'s 11, 12, 13, 15, 17), are impractical (CR#14), or are minimal at large spatial scales (CR#16). Below, we restate all conservation recommendations, Navy responses; and the subsequent responses by NMFS either accepting the responses by Navy, maintaining our position, or providing opportunities for ongoing partnership to meet our shared conservation goals.

Below, and pursuant to the EFH provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, Section 305(b) as described by 50 CFR 600.920), NMFS evaluates the sufficiency of Navy responses.

Conservation Recommendation 11 (CR#11): Navy should work with NMFS and local agencies to develop a vessel grounding response plan that includes a funding mechanism and protocols for expedited vessel removal, damage assessment surveys, and strategies to offset any unavoidable loss to EFH resources (e.g., corals, seagrass, etc.). This would also inform and minimize potential cumulative adverse effects from unexpected groundings MITT continues into the future.

Navy Response: Although a naval vessel grounded in 2017, Navy asserts such events are not reasonably foreseeable impacts from the proposed action. Vessel groundings are rare and typically result from a series of unusual and unpredictable circumstances. Navy is already prepared to respond to such events. Navy maintains salvage and towing response capability through the employment of Navy assets and through worldwide salvage contracts. Contingency planning is required for preparedness, and Navy can ensure that baseline conditions of natural resources within the management control of Navy are identified and kept current through implementation of the 2019 Joint Region Marianas Integrated Natural Resources Management Plan to which NMFS is a signatory partner. Furthermore, the INRMP identifies strategies and actions to address Marine Habitat Management (Sections 5.4.2.1, 8.4.2.1, and 9.4.2.1) and Marine Protected Species Management (Section 5.4.2.3), specifically:

- “Develop protocol for immediate assessment and response to reef damage caused by unanticipated events such as ship groundings and anchor damage. The protocol will outline responsible parties, coordination process, and initial reef damage assessment requirements. This protocol will inform the long-term response plan.”
- “Ensure no impact to coral or hard substrates during MITT training activities occurring within or adjacent to reef habitats by implementing appropriate avoidance measures.”

NMFS Response: We appreciate Navy's readiness to respond to grounding events and intent to better integrate damage assessment and mitigation protocols through the INRMP. We agree that the INRMP provides an opportunity to address this conservation recommendation, but would like to further coordinate with the Navy to ensure that our MITT-specific EFH concerns are proactively integrated into the projects currently being developed within the INRMP while working collectively to help enable funding of these projects and their deliverables. NMFS would like to suggest that we schedule a meeting with the MITT Environmental Readiness Division, INRMP project leads and other stakeholders to discuss how to ensure the strategies and activities stemming

from the new INRMP translate to projects and outcomes that satisfy this conservation recommendation.

Conservation Recommendation 12 (CR#12): Surveys should be performed annually at the Apra Harbor UNDET site to include georeferenced status and condition information for habitat forming EFH resources (e.g., corals and seagrass) within a 100-ft buffer surrounding the site. This will help to document potential adverse effects associated with both direct physical impacts and suspension of sediments to inform potential minimization (i.e., transplantation) and offset.

Navy Response: The Navy asserts this recommendation is already being satisfied under the mandates of the Joint Region Marianas INRMP, to which the NMFS is a signatory, as briefly summarized in the Navy's 2019 supplemental EFHA (page 5-2). Details specific to previous surveys in Apra Harbor including the Outer Apra Harbor UNDET site can be found in the INRMP starting in Section 5.3. Continued similar efforts are recommended and planned in Sections 5.4.2 (Marine Ecosystems Management) as well as in Chapter 13 (Planning, Integration, and Implementation). Specific INRMP activities include:

- "Enhance coral habitat by monitoring health and acute impacts and through focused reef restoration efforts."
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- "Update and continuously maintain existing centralized GIS database to effectively inform and guide future management of marine natural resources on NBG Main Base and meet natural resources goals and objectives. Readily available GIS data will be used to develop natural resources constraints maps for use in current and future JRM management and planning decisions for NBG Main Base."

NMFS Response: We agree that the INRMP provides an opportunity to address this conservation recommendation, but would like to further coordinate with the Navy to ensure that our MITT-

specific EFH concerns are proactively integrated into the projects currently being developed within the INRMP while working collectively to help enable funding of these projects and their deliverables. NMFS would like to suggest that we schedule a meeting with the MITT Environmental Readiness Division, INRMP project leads and other stakeholders to discuss how to ensure the strategies and activities stemming from the new INRMP translate to projects and outcomes that satisfy this conservation recommendation.

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outline responsible parties, coordination process, and initial reef damage assessment requirements.

- This protocol will inform the long-term response plan.”
- “Ensure no impact to coral or hard substrates during MITT training activities occurring within or adjacent to reef habitats by implementing appropriate avoidance measures.”

While unrelated to specific training events, the 2019 JRM INRMP identifies the strategies and actions across all Navy submerged lands, to include coastal beaches, in the Mariana Islands. Cumulative impacts, if any, can, be assessed continually as the program evolves.

NMFS Response: We agree that the INRMP provides an opportunity to address this conservation recommendation, but would like to further coordinate with the Navy to ensure that our MITT-specific EFH concerns are proactively integrated into the projects currently being developed within the INRMP while working collectively to help enable funding of these projects and their deliverables. NMFS would like to suggest that we schedule a meeting with the MITT Environmental Readiness Division, INRMP project leads and other stakeholders to discuss how to ensure the strategies and activities stemming from the new INRMP translate to projects and outcomes that satisfy this conservation recommendation.

Conservation Recommendation 14 (CR#14): Implement a 300-yard buffer around coral reef habitats and as much as practicable avoid continuous emission of sounds (i.e., turn off vessel engines and sonar when not needed or in use) in these habitats. This would minimize potential adverse effects of chronic noise on corals (e.g., disruption of coral planulae settlement), Bottomfish MUS life history stages (e.g., hearing, immune system disruption, etc.), and reef fish (e.g., hearing, immune system disruption, etc.) that serve as prey-base for juvenile and adult Bottomfish MUS.

Navy Response: The Navy asserts meeting this recommendation is impractical and would jeopardize navigational safety, which could increase potential groundings. In practice, large naval vessels such as amphibious assault ships rarely close within 300 yards of a coastline. The NMFS recommendation would apply to landing craft, amphibious assault vehicles, and combat rubber raiding craft approaching or departing from a given landing location. However, these types of craft always need to maintain steerage way. In fact, the main objective is transporting personnel to and from a beach beyond a reef as quickly as possible; therefore, engines cannot be turned off. These types of craft would delay their approach, increasing the potential for drifting or potential grounding, which could present navigational hazards depending on the sea state (e.g., swamping). The Navy’s 2019 Supplemental EFHA lists (in Table 4-2) ongoing standard operating procedures limiting the spatial spread of a landing (landing craft approaching in a line), as well as some engine noise (turning off combat rubber raiding craft motors to paddle across reefs to the beach). Finally, the Navy would not characterize the spatially and temporarily limited use of vessels during discreet training events as a chronic noise. There would be significant time between events (e.g., weeks or months) when landing events close to shore would not occur.

High-power sonar used for antisubmarine warfare would not generally occur within 3 NM of land, and hence would be well beyond the 300-yard buffer.

NMFS Response: We agree that Navy should not jeopardize personnel or marine resources in an effort to minimize sound emissions and should only consider sound reduction strategies when engines and/or sonar are not needed or actively in use.

Conservation Recommendation 15 (CR#15): The Navy should ensure that in-water activities minimize potential introduction of nuisance or invasive species. Any vessels coming from outside of the CNMI's EEZ should comply with U.S. Coast Guard ballast water discharge standards (i.e. no ballast water discharge within 12 nautical miles or use approved ballast water management system) to prevent introduction of new invasive species. Any equipment, materials and gear entering the nearshore waters of Rota should also be checked prior to deployment.

NAVY Response: The Navy asserts this recommendation is already being satisfied under the mandates of the Navy's internal compliance with established regulations. The Navy implements strict ballast water discharge requirements, consistent with the U.S. Environmental Protection Agency, U.S. Coast Guard, and adheres to applicable international regulations, through internal instructions, directions, and guidance. Vessels not equipped with ballast water treatment systems are required to perform exchanges greater than 12 NM from land or hold discharges, when appropriate and practicable, to minimize the introduction of invasive species.

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- "JRM will work with appropriate U.S. Navy commands to determine if updates are warranted for Navy hull husbandry standards (Naval Sea Systems Command S9086-CQ STM-010) (U.S. Navy 2006) and ballast water requirements (Note: The U.S. Navy adopts USCG standards)."
- "Participate in the quarterly Guam Invasive Species Advisory Council meetings and coordinate regularly with the territorial marine invasive species coordinator once hired."

NMFS Response: We appreciate Navy's adherence to all local and federal requirements regarding ballast water and ongoing efforts to control the spread of invasive species through biosecurity protocols outlined within the INRMP. The INRMP biosecurity project has done an excellent job managing terrestrial invasive species risks and has shown a growing awareness of marine threats. NMFS would like to suggest that we schedule a meeting with the MITT Environmental Readiness Division, INRMP project leads and other stakeholders to discuss how to ensure the strategies and activities stemming from the new INRMP translate to projects and outcomes that continue to reduce the risk of marine invaders.

Conservation Recommendation 16 (CR#16): The Navy should calculate MEM deposition and decomposition rates to determine maximum loads as this action becomes decadal. This would inform potential offset for potential cumulative adverse effects.

NAVY Response: The Navy would reiterate that MEM use is across a very large spatial extent and rarely sequentially concentrated in small areas. Furthermore, the total cumulative MEM

footprint as listed in Table 2-1 of the Navy's 2019 supplemental EFHA, is only 132,930 m² which is actually 37,866 m² less than the Navy's 2014 EFHA MEM footprint (170,796 m²). Potential MEM footprint, 132,930 m² or 0.133 km², represents less than 0.0000001% of the total MITT study area (1,721,376 km²).

Although absent in the MITT Draft Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS), the Navy has updated Appendix J (Statistical Probability Analysis for Estimating Direct Strike Impact and Number of Potential Exposures from Military Expended Materials) for the pending MITT final supplemental EIS/OEIS. This update will show the anticipated footprint of estimated annual MEM use, which can be summed across multiple years, or at least until a new supplemental EIS/OEIS is required. At that time, MEM usage would be re-evaluated. The Navy can provide the revised Appendix J to the NMFS as soon as final edits are complete. Finally, while the exact decomposition rates for all material in MEM is unknown, it is likely that major components such as aluminum and steel will corrode slowly in deep ocean waters. Overtime MEM would either be incorporated into sediments (i.e., buried) or remain on the ocean bottom subject to corrosion (Ocean News 2016, Edwards and Beldowski 2016). Edwards and Beldowski 2016, along with various contributing authors have documented the fate and condition of WWII munitions and post-war disposed items. Their work includes assessments corrosion of items deposited at a 300-600 m deep-water disposal site south of Oahu2 (Figure 2).

NMFS Response: NMFS understands the Navy's position, and appreciates that the MEM footprint will be reduced. We are still concerned about the size of the MEM footprint (132,930 m²) and do not consider this negligible. Therefore, we maintain our position in CR#16 if the distribution of those items is not better characterized and monitored at longer time scales.

Conservation Recommendation 17 (CR#17): The Navy should conduct regular (i.e., every 3-5 years) quantitative resource survey assessments and updated benthic habitat substrate and biological cover mapping at representative nearshore sites to document cumulative impacts over time. This would reduce uncertainty, quantify changes in coral condition and state due to ongoing MITT activities, inform potential offset, and minimize cumulative adverse effects by informing adaptive management.

NAVY Response: The Navy asserts this recommendation has been identified in the 2019 JRM INRMP, as briefly summarized in the Navy's 2019 supplemental EFHA (page 5-2). The NMFS is a signatory to the 2019 JRM INRMP which identifies strategies and actions to address Marine Habitat Management (Sections 5.4.2.1, 8.4.2.1, 9.4.2.1, 11.4.2.1, and 12.4.2.1) and Marine Protected Species Management (Sections 5.4.2.3 and 11.4.2.3), specifically:

- "Enhance coral habitat by monitoring health and acute impacts and through focused reef restoration efforts."
- "Establish long-term monitoring programs to track changes in the health of corals and water quality that are compatible with existing monitoring programs in Guam and the region."
- JRM has programmed for active/continuous remote monitoring of water quality parameters at select locations starting in FY19."

- “Work with regulatory partners and local subject matter experts to identify priority resilience indicators....The measures for assessing resilience include: macroalgae percent cover (to be obtained as coarse level data in the benthic habitat mapping project), coral community (available for some sites from past studies), bleaching resistance, coral recruitment and connectivity, coral diversity (available for some sites from past studies), herbivorous fish community (available for some of Apra Harbor from past studies), herbivore average functional group biomass, temperature variability, land-based sources of pollution, and accessibility due to wave exposure.”
- “JRM will coordinate with local partners and subject matter experts (SMEs) to determine appropriate locations and methods for coral population enhancement and restoration efforts. JRM will align projects with the proposed Guam Restoration Strategy (in development). This may include projects that include sexual propagation that collect gametes, settle them on tiles, and eventually outplant new colonies, but can also include out-planting colonies, clones, or asexual propagation from fragments, or other restoration strategies such as algal removal.”
- “Develop protocol for immediate assessment and response to reef damage caused by unanticipated events such as ship groundings and anchor damage. The protocol will outline responsible parties, coordination process, and initial reef damage assessment requirements. This protocol will inform the long-term response plan.”
- “Ensure no impact to coral or hard substrates during MITT training activities occurring within or adjacent to reef habitats by implementing appropriate avoidance measures.”

Additionally, the 2019 JRM INRMP identifies planning, integration, and implementation strategies to coordinate natural resources requirements with other federal, territorial, or commonwealth agencies, including the acquisition of INRMP mutual agreements between the DON, USFWS, NOAA-NMFS, and territorial and commonwealth fish and wildlife agencies (see Chapter 13).

NMFS Response: We agree that the INRMP provides an opportunity to address this conservation recommendation, but would like to further coordinate with the Navy to ensure that our MITT-specific EFH concerns are proactively integrated into the projects currently being developed within the INRMP while working collectively to help enable funding of these projects and their deliverables.. NMFS would like to suggest that we schedule a meeting with the MITT Environmental Readiness Division, INRMP project leads and other stakeholders to discuss how to ensure the strategies and activities stemming from the new INRMP translate to projects and outcomes that satisfy this conservation recommendation.

Conclusion

NMFS has addressed each of Navy responses to individual EFH conservation recommendations provided in our December 21, 2019 letter pertaining to the supplemental MITT Environmental Impact Statement. NMFS maintains our stated positions on CR#16 and believes that we can meet the intent of all our other conservation recommendations through increased coordination and integration into ongoing INRMP activities. We appreciate the opportunity to provide comments on Navy’s response to our EFH conservation recommendations for this proposed project. We are committed to providing continued cooperation and subject matter technical expertise as identified

in the conservation recommendations, and as requested, to Navy in order to achieve the project goals and sufficiently comply with the EFH provisions of the Magnuson-Stevens Act. Please do not hesitate to contact me with any comments, questions or to request further technical assistance.

Sincerely,



Gerry Davis
Assistant Regional Administrator
Habitat Conservation Division

cc by e-mail:

Ms. Arlene Pangilinan, NMFS
Dr. Malia Chow, NMFS
Ms. Barbara Prine, Navy
Mr. Chip Johnston, Navy
Mr. Steven McKagan, NMFS
Dr. Kelly Ebert, Chief of Naval Operations (N454)
Mr. Dana Lujan, Joint Region Marianas
Mr. Michael Noah, Joint Region Marianas

C.5 NATIONAL HISTORIC PRESERVATION ACT COMPLIANCE

C.5.1 NAVY SECTION 106 CONSULTATION LETTERS – COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



DEPARTMENT OF THE NAVY
COMMANDER
UNITED STATES PACIFIC FLEET
250 MAKALAPA DRIVE
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:
5090
Ser N465/0006
January 4, 2019

Ms. Rita Chong
CNMI Historic Preservation Office
Department of Community and Cultural Affairs
P.O. Box 10007
Saipan, MP 96950

Dear Ms. Chong:

SUBJECT: NATIONAL HISTORIC PRESERVATION ACT, SECTION 106
CONSULTATION FOR PROPOSED MARIANA ISLANDS TRAINING AND
TESTING ACTIVITIES

In accordance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, the United States Department of the Navy (Navy) is initiating consultation on the CNMI portion of the proposed continuation of Mariana Islands Training and Testing (MITT) activities. A supplemental analysis of the activities included in the 2015 MITT Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) is being prepared to support ongoing and future activities conducted at sea and on Farallon de Medinilla beyond 2020. The proposed continuation of MITT activities is generally consistent with those analyzed in the 2015 Final EIS/OEIS and are representative of training and testing the military has conducted for decades. However, reanalysis of the activities is being completed using new information available after the release of the 2015 Final EIS/OEIS. In part, this supplemental document will support the renewal of regulatory permits and authorizations under the Marine Mammal Protection Act and Endangered Species Act for training and testing activities. As defined by 36 CFR §800.16(y), the Navy has determined that the proposed activities represent an undertaking requiring consultation.

The current 2009 Programmatic Agreement (PA) among the Department of Defense Representative Guam, Commonwealth of the Northern Marianas Islands (CNMI), Federated States of Micronesia and Republic of Palau, Commander Joint Region Marianas (JRM), Commander 36th Wing Andersen Air Force Base, the Guam Historic Preservation Officer, and the CNMI Preservation Officer expires on December 11, 2019. The PA as written provides NHPA compliance for military activities associated with the Mariana Islands Range Complex (MIRC), including at-sea training and testing, as well as a myriad of land-based activities, most of which are associated with JRM installation actions. The Navy's undertaking for this consultation will be limited to the activities described in our 2015 MITT EIS/OEIS and as proposed in our MITT supplemental EIS/OEIS. The JRM installation-type activities are independent of the MITT and thus, will not be covered under this consultation.

5090
Ser N465/0006
January 4, 2019

The Navy will hold its initial Section 106 consultation meetings from January 22-25, 2019. We welcome your attendance and participation. Ms. Carly Antone of the Naval Facilities Engineering Command, Pacific's Environmental Business Line will be my point of contact for coordination of location, dates, and times. Ms. Antone may be reached by telephone at (808) 472-1464 or by email at carly.antone@navy.mil.

Sincerely,



Timothy C. Liberatore
Captain, Civil Engineer Corps, U.S. Navy
By direction of the Commander

Copy to:
Katharine Kerr, Advisory Council on Historic Preservation
John Salas, Commander, Joint Region Marianas



DEPARTMENT OF THE NAVY

COMMANDER
UNITED STATES PACIFIC FLEET
250 MAKALAPA DRIVE
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:

5090

Ser N465/0024

January 9, 2019

Dear Sir/Madam:

SUBJECT: NATIONAL HISTORIC PRESERVATION ACT, SECTION 106
CONSULTATION MEETING FOR PROPOSED CONTINUATION OF
MARIANA ISLANDS TRAINING AND TESTING ACTIVITIES

In accordance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, the United States Department of the Navy (Navy) is initiating consultation on the CNMI portion of the proposed continuation of Mariana Islands Training and Testing (MITT) activities. A supplemental analysis of the activities included in the 2015 MITT Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) is being prepared to support ongoing and future activities conducted at sea and on Farallon de Medinilla beyond 2020. The proposed continuation of MITT activities is generally consistent with those analyzed in the 2015 Final EIS/OEIS and are representative of training and testing the military has conducted for decades. However, reanalysis of the activities is being completed using new information available after the release of the 2015 Final EIS/OEIS. In part, this supplemental document will support the renewal of regulatory permits and authorizations under the Marine Mammal Protection Act and Endangered Species Act for training and testing activities. As defined by 36 CFR §800.16(y), the Navy has determined that the proposed activities represent an undertaking requiring consultation.

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The current list of consulting parties for this undertaking includes the State Historic Preservation Officer, National Park Service, and other interested parties identified through previous consultations. We invite you to attend and participate in the Navy's initial Section 106 consultation meetings in Saipan and Tinian being held on January 24 and 25, 2019, respectively.

5090
Ser N465/0024
January 9, 2019

Should you be aware of an interested entity/individual not included in the "Copy to" section of this letter, please forward the invitation accordingly.

On Saipan, we will meet at the Kanoa Resort, Latte Stone Room, from 4:00-7:00 pm. On Tinian, we will meet at the Mayor's Offices, from 10:00 am – to 1230 pm.

The meetings will focus on the following:

- 1) Explanation of the NHPA Section 106 process;
- 2) Details about the Undertaking;
- 3) Development of the Area of Potential Effects;
- 4) Identification of Historic Properties
- 5) Potential effects of the Undertaking on Historic Properties

To attend, please respond no later than January 18, 2019 to give us an opportunity to ensure accommodations for all attendees at the meeting venues. Ms. Carly Antone of the Naval Facilities Engineering Command, Pacific's Environmental Business Line will be my point of contact for coordination. Ms. Antone may be reached by telephone at (808) 472-1464 or by email at carly.antone@navy.mil.

Sincerely,



Timothy C. Liberatore
Captain, Civil Engineer Corps, U.S. Navy
By direction of the Commander

Copy to:

David M. Apatang, Mayor of Saipan
Stanley Austin, Pacific West Region, National Park Service
Bonnie Borja, Department of Community and Cultural Affairs, Office of the Mayor, Tinian
John Castro
Don Farrell
Walt Goodridge
Robert Hunter, CNMI Department of Community and Cultural Affairs
Stanley Iakopo, Civil Military Liaison Office, Office of the Governor, CNMI
Katharine Kerr, Advisory Council on Historic Preservation
Gregorio Kilili Camacho Sablan, Congressman, CNMI
Polly DLG Masga, Northern Marianas Humanities Council
Randel Sablan, Joint Region Marianas (Saipan)
John F. Salas, Regional Environmental Director (J45), Joint Region Marianas
Joey Patrick San Nicholas, Mayor of Tinian
Oscar C. Torres, Military Liaison and Veterans Affairs, Office of the Governor, CNMI

C.5.2 NAVY SECTION 106 CONSULTATION LETTERS – GUAM



DEPARTMENT OF THE NAVY

COMMANDER
UNITED STATES PACIFIC FLEET
250 MAKALAPA DRIVE
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:

5090

Ser N465/0005

January 4, 2019

Ms. Lynda Bordallo Aguon
State Historic Preservation Officer
Department of Parks & Recreation
490 Chalan Palasyo
Agaña Heights, Guam 96910

Dear Ms. Aguon:

SUBJECT: NATIONAL HISTORIC PRESERVATION ACT, SECTION 106
CONSULTATION FOR PROPOSED MARIANA ISLANDS TRAINING AND
TESTING ACTIVITIES

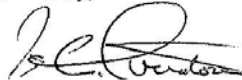
In accordance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, the United States Department of the Navy (Navy) is initiating consultation on the Guam portion of the proposed continuation of Mariana Islands Training and Testing (MITT) activities. A supplemental analysis of the activities included in the 2015 MITT Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) is being prepared to support ongoing and future activities conducted at sea beyond 2020. The proposed continuation of MITT activities is generally consistent with those analyzed in the 2015 Final EIS/OEIS and are representative of training and testing the military has conducted for decades. However, reanalysis of the activities is being completed using new information available after the release of the 2015 Final EIS/OEIS. In part, this supplemental document will support the renewal of regulatory permits and authorizations under the Marine Mammal Protection Act and Endangered Species Act for training and testing activities. As defined by 36 CFR §800.16(y), the Navy has determined that the proposed activities represent an undertaking requiring consultation.

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5090
Ser N465/0005
January 4, 2019

The Navy will hold its initial Section 106 consultation meetings from January 22-25, 2019. We welcome your attendance and participation. Ms. Carly Antone of the Naval Facilities Engineering Command, Pacific's Environmental Business Line will be my point of contact for coordination of location, dates, and times. Ms. Antone may be reached by telephone at (808) 472-1464 or by email at carly.antone@navy.mil.

Sincerely,



Timothy C. Liberatore
Captain, Civil Engineer Corps, U.S. Navy
By direction of the Commander

Copy to:
Katharine Kerr, Advisory Council on Historic Preservation
John Salas, Commander, Joint Region Marianas



DEPARTMENT OF THE NAVY

COMMANDER
UNITED STATES PACIFIC FLEET
250 MAKALAPA DRIVE
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:
5090
Ser N465/0025
January 10, 2019

Dear Sir/Madam:

SUBJECT: NATIONAL HISTORIC PRESERVATION ACT, SECTION 106 CONSULTATION MEETING FOR
PROPOSED CONTINUATION OF MARIANA ISLANDS TRAINING AND TESTING ACTIVITIES

In accordance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, the United States Department of the Navy (Navy) is initiating consultation on the Guam portion of the proposed continuation of Mariana Islands Training and Testing (MITT) activities. A supplemental analysis of the activities included in the 2015 MITT Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) is being prepared to support ongoing and future activities conducted at sea and on beyond 2020. The proposed continuation of MITT activities is generally consistent with those analyzed in the 2015 Final EIS/OEIS and are representative of training and testing the military has conducted for decades. However, reanalysis of the activities is being completed using new information available after the release of the 2015 Final EIS/OEIS. In part, this supplemental document will support the renewal of regulatory permits and authorizations under the Marine Mammal Protection Act and Endangered Species Act for training and testing activities. As defined by 36 CFR §800.16(y), the Navy has determined that the proposed activities represent an undertaking requiring consultation.

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The current list of consulting parties for this undertaking includes the State Historic Preservation Officer, National Park Service, and other interested parties identified through previous consultations. We invite you to attend and participate in the Navy's initial Section 106 consultation meetings in Guam being held on January 22 and 23, 2019. Should you be aware of an interested entity/individual not included in the "Copy to" section of this letter, please forward the invitation accordingly.

On January 22, we will meet at the Daniel L. Perez Elementary School cafeteria from 3:30-6:00 pm. On January 23, we will meet at the Guam Museum multi-purpose room, from 4:00-7:00 pm.

The meetings will focus on the following:

- 1) Explanation of the NHPA Section 106 process;
- 2) Details about the Undertaking;
- 3) Development of the Area of Potential Effects;
- 4) Identification of Historic Properties
- 5) Potential effects of the Undertaking on Historic Properties

5090
Ser N465/0025
January 10, 2019

To attend, please respond no later than January 18, 2019 to give us an opportunity to ensure accommodations for all attendees at the meeting venues. Ms. Carly Antone of the Naval Facilities Engineering Command, Pacific's Environmental Business Line will be my point of contact for coordination. Ms. Antone may be reached by telephone at (808) 472-1464 or by email at carly.antone@navy.mil.

Sincerely,



Timothy C. Liberatore
Captain, Civil Engineer Corps, U.S. Navy
By direction of the Commander

Copy to:

Julian Aguon
Stanley Austin, Pacific West Region, National Park Service
Michael Lujan Bevacqua, Famonsaiyan
Chamorro Land Trust Commission
Hope A. Cristobal, Guahan Coalition for Peace and Justice
Jose Ulloa Garrido, Commission on Decolonization
Galaide Group
Guam Ancestral Lands Commission
Victoria-Lola Leon Guerrero, Reclaim Guahan Collective
Leonard Iriarte, I Fanlala'an Oral History Project
Danny Jackson, Nasion Chamoru
Ramona Jones, Jones and Guerrero, Inc.
Katharine Kerr, Advisory Council on Historic Preservation

Dave Lotz, Guam Boonie Stompers
Rufo Lujan, Organization of People for Indigenous Rights
Mayor's Council of Guam
Lisalinda Natividad
Prutehi Litekyan - Save Ritidian
Joseph Quinata, Guam Preservation Trust
Frank Rabon, Pã'a Taotao Tãno
Johnny Sablan, Department of Chamorro Affairs
John F. Salas, Regional Environmental Director (J45), Joint Region Marianas
Frank J. Schacher, Chamorro Tribe
Rlene Santos Steffy, Micronesia Publishing
Dianne Strong
Trini Torres, Chamorro Cultural Development and Research Institute

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