

BUREAU OF STATISTICS AND PLANS

(Bureau of Planning)

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MAY 28 2010

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REF: 5090 Ser J4/0176

Hafa Adai Captain Lynch:

The Bureau of Statistics and Plans has completed its review of the April 01, 2010, federal consistency determination for the "Guam and Commonwealth of the Northern Mariana Islands (CNMI) Military Relocation, Relocating Marines from Okinawa, Visiting Aircraft Carrier Berthing and Army Air and Missile Defense Task Force (AMDTF)," hereafter referred to as the Relocation Plan. After careful review of the federal consistency determination (FCD) and Draft Environmental Impact Statement (DEIS) upon which it is based, the Bureau finds that the Relocation Plan is not consistent with the enforceable policies of the Guam Coastal Management Program (GCMP), nor is the consistency determination in compliance with the Federal Consistency Regulations under 15 C.F.R. Part 930. The GCMP hereby objects to the Relocation Plan as proposed.

The Government of Guam recognizes the 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 GCMP. We look forward to the opportunity to discuss our concerns and how the policies of the GCMP can be met as soon as possible.

I. The Basis for Finding That the Relocation Plan is Consistent to the Maximum Extent Practicable Has Not Been Established:

The Coastal Zone Management Act (CZMA) of 1972, 16 USC § 1456 (c)(1), and the Federal Consistency regulations under, 15 C.F.R Part 930, subpart C §§930.30-930.46, mandate that Federal agency activity that will have a reasonably foreseeable effect on any land or water use or natural resources of 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 C.F.R. §930.32(a)(1), the standard for "consistent to the maximum extent practicable" means fully consistent with the enforceable policies of Guam's management programs unless full consistency is

prohibited by existing law applicable to the Federal agency. For the reasons cited below, the proposed Relocation Plan is not fully consistent with the enforceable policies of the GCMP, nor has the Navy 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 the management program.

II. The FCD's Analysis of Effects Does Not Fully Address Activities Occurring on Federal Lands:

The FCD does not address the full range of activities on federal lands, nor does it address the effects from the activities on resources within Guam's coastal zone. As such Coastal Zone Management Act Regulations found at 15 CFR 923.33(a) provide that: The boundary of a State's coastal zone must exclude lands owned, leased, held in trust or whose use is otherwise by law subject solely to the discretion of the Federal Government, its officers or agents." However, Section 923.33(b) provides: *The exclusion of Federal lands does not remove Federal agencies from the obligation of complying with the consistency provisions of section 307 of the Act when Federal actions on these excluded lands have spillover impacts that affect any land or water use or natural resource of the coastal zone within the purview of a state's management program.*

Under the Federal Consistency regulations at 15 C.F.R. §930.11(g), "effects" include "direct effects which result from the activity, and which occur at the same time and place as the activity, and indirect (cumulative and secondary) effects which result from the activity and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects are effects resulting from the incremental impact of the federal action when added to other past, present, and reasonably foreseeable actions, regardless of what person(s) undertake(s) such actions."

Paragraphs 3 and 4 of page 2 of the FCD indicate that "the majority of the proposed federal activities and development is located on federally-controlled property, which is not within Guam's "coastal zone" and therefore is not subject to Guam's jurisdiction." Although it is clear that many proposed activities within federal property, such as dredging at the Apra Harbor area for the construction of wharves, will have spillover effects on Guam's coastal zone, assessment of those activities was not included in the FCD submission. The FCD must be analyzed for impacts regardless of the location of the buildup activity. The submitted consistency determination falls short of this analysis and does not fully comply with the regulations.

Moreover, this narrow focus of the FCD for the Relocation Plan is in stark contrast to past determinations. In the past, the Navy has regularly provided Federal Consistency Determinations for projects occurring directly on federal property, and the proposed activities discussed in this submission should be treated no differently. Past FCD submissions have been provided for a wide range of terrestrial and marine activities, such as the following projects: DEA for Portable Maintenance Facility (PMF) at AAFB, Establishment of Operation of an Intelligence, Surveillance, Reconnaissance, (ISR) and Strike Capability at AAFV., EA for the Construction of AAFES Shoppette; Clearing of Vegetation within the Flight line at AAFB, Military Operations on Urbanized Terrain (MOUT) Training, Construction of an On-Base Water Supply System on AAFB; Development of Cargo Parachute Drop Zone on Northwest Field, Installation of anchors for marker buoys at Tarague and Sirena Beaches, AAFB, EAs for the Beddown Training, Red

Horse Training areas at AAFB, Various Wharf Repair Projects (Delta Pier, Kilo Wharf, X-Ray Wharf, Victor Wharf and others), Construction of Walkway at Echo Pier in Piti, Tango, Uniform Wharves and Other Boring and Soil/Sediment Testing Activities.

The FCD does not evaluate the effect to Guam's coastal zone from dredging activities proposed at Apra Harbor and the proposed Weapons Emplacement Alternatives. Apra Harbor is adjacent to the Port Authority of Guam; however, the FCD does not provide any information on the impacts from the proposed CVN project on the adjacent marine resources. The lack of analysis and discussion for the Apra Harbor projects is one example of a lack of specific information and effects analysis for proposed activities. There is no analysis on the spillover effects resulting from dredging of the coral reefs in Apra Harbor. A more detailed discussion on the impacts to marine resources is discussed in Section IV: Living Marine Resources.

Though both the DEIS and the FCD acknowledge that the proposed Relocation Plan will have impacts that affect Guam's coastal zone, and contain recognition that proposed actions on DoD lands may have the potential to indirectly impact non-federal lands, there is little or no discussion of these impacts. In cases where some discussion is present, the impact is deemed "insignificant" without a clear description of the process by which this conclusion was reached.

Further, though the submission notes that some activities may occur on non-federal lands, the FCD provides no information on activities proposed for non-federal lands, or on the impacts associated with those activities. Given the large scale of the actions, it is unlikely that these impacts would indeed be insignificant. On March 24, 2010, NOAA and GCMP staff met with Navy personnel to discuss submission of FCD for DoD projects. At this meeting, GCMP conveyed its position that all impacts to species, habitat and the island ecosystems have coastal effects. It is government of Guam's position that virtually all development has spillover effects regardless of the location of the activity.

The submission correctly recognizes that the actions will impact Guam's coastal zone but includes no analysis of the impacts or the assessment process used to determine that the impacts would be insignificant. The effect test was determined only for certain federal actions that occur on non-federal land that could have reasonably foreseeable effects subject to CZMA federal consistency requirements. The effect test as stated in the CZMA and the OPNAVIST 5090.1B Ch 28 fails to fully assess the impact of all activities related to the Navy's action.

III. Insufficient Information:

Consistency regulations at 15 CFR Part 930.39 provide that *"The consistency determination shall also include a detailed description of the activity, its associated facilities, and their coastal effects, and comprehensive data and information sufficient to support the Federal agency's consistency statement. The amount of detail in the evaluation of the enforceable policies, activity description and supporting information shall be commensurate with the expected coastal effects of the activity. The Federal agency may submit the necessary information in any manner it chooses so long as the requirements of this subpart are satisfied."*

The GCMP finds that the Navy has failed to provide sufficient information necessary for complete and adequate analysis of each of the projects proposed in the action. For example, for some of the proposed actions, project locations have yet to be determined. Moreover, the analysis of the FCD is presumptive in regard to the preferred alternatives identified in the DEIS, giving little if any consideration to other alternatives, even though the selection of some of the preferred alternatives is very much in doubt. For several of the preferred alternatives, the required studies and plans, such as the pollution control plans and solid waste plan, are not available or have not been completed. The amount of information and analysis presented in the FCD is not commensurate with the scale of expected coastal effects from the military buildup. Summarizing impacts as insignificant without providing appropriate supporting information is not acceptable within the context of a federal consistency determination. A list of impacts the Navy has determined to be insignificant is attached. In many instances, the impact is determined to be insignificant when mitigation is implemented. However without more information on the mitigation plan it is difficult to determine if the mitigation will bring the proposed action into compliance with Guam's enforceable policies.

CZMA Section 930.37 of the Federal Consistency regulations provides that the DEIS can be used as consistency determination. In this case, however, the DEIS is problematic and contains numerous shortcomings identified by both local and federal reviewers during the comment period. U.S. EPA rated the buildup DEIS environmentally unsatisfactory, the lowest possible rating for a NEPA document, citing concerns with discussion on water and wastewater impacts and inadequate methodology in the evaluation of impacts to coral reefs, among other issues. The National Marine Fisheries Service did not concur with the Navy's determination that the buildup would not adversely affect marine resources, while U.S. FWS noted that the preferred alternatives were not always the least damaging to the environment. All three of these federal reviewers noted that the DEIS generally lacked enough information to adequately address environmental impacts and specifically pointed out major problems with the marine resource impact assessment. Further, the reviewers noted that the DEIS did not sufficiently address indirect or cumulative impacts and failed to provide a reasonable range of alternatives for several projects, including the CVN berthing.

Given the issues already raised with the DEIS, this document is not sufficient to serve as a consistency determination, nor is it sufficient to serve as a primary supporting document for a separate FCD. The DEIS does not provide enough analyses of many of the preferred alternatives, and even less discussion of the additional alternatives is provided. Recent public statements by DODDOD representatives suggest that the original preferred alternatives may change with the completion of the FEIS and ROD. Without a clear picture of the actions, alternatives and the potential impacts associated with these scenarios, it is premature to make a determination at this point.

IV. Consistency With Enforceable Policies:

Without identification of legal constraints that would preclude the Navy from fully complying with Guam's enforceable policies, the Navy must describe how its actions are fully consistent with those

enforceable policies. The Bureau believes the Relocation Plan is inconsistent with the following enforceable policies of the Guam Coastal Management Program in the following ways:

1) Guam CMP 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.
[P.L. 12-200, as amended by P.L. 20-147; P.L. 24-161; P.L. 25-152; P.L. 26-32 as amended by P.L. 26-132]

The FCD states that the buildup would have no impact on island-wide safe drinking water. However, increased demand for groundwater withdrawals for drinking water and other use, an increase in impervious surfaces with a corresponding decrease in infiltration to the aquifer, and increased introduction of pollutants associated with a lack of BMPs could all lead to degradation of groundwater, through contamination or saltwater intrusion. The buildup also could lead to a situation where the water supply is inadequate to meet demand.

The Navy's DEIS itself points out that shortfalls could begin in 2010, with a peak shortfall of more than 6 mgd in 2014 even with the Guam Waterworks Authority's planned addition of 16 new wells to supply 7 mgd. The U.S. EPA estimates that an actual peak shortfall of 13.1 mgd is probable because of GWA's financial constraints, which make it unlikely that wells will be installed in a timely manner.

Given that new wells typically require a 3-year permitting process, it appears that U.S. EPA's concerns are well founded. The drilling of these wells is only the first step and GWA also would need to upgrade treatment, transmission and distribution capabilities as well. The accelerated population growth rate of 44% at the height of the construction phase, without corresponding revenue streams or funding sources will lead to major discrepancies between demand and the utility's ability to meet it. Further, water treatment and distribution are not guaranteed even if the supply is adequate. GWA is not currently prepared to meet the required water supply and treatment demands. This shortfall will result in adverse impacts to the availability of safe drinking water as well as the quality of Guam's waters.

GWA estimates the 41.8 mgd current projection rate is more than the GWA well production of 37.6mgd, based on the 2009 GWA report. However, the question of simply meeting demand does not take into account the potential physical limitations of the aquifer itself. An updated, reliable study to determine maximum sustainable yield is critical, especially considering the fact that 19 wells producing an average of 5.3 mgd are already consistently exceeding Chloride levels of 250 ppm. The Navy proposes to conduct studies to determine the sustainable yield of new proposed wells, but U.S. EPA's review of the DEIS calls for the completion of a study to determine the maximum sustainable yield of the northern Guam lens aquifer as a whole. The water demand at the peak of construction in 2014 is 60 mgd, a figure that does not include the water demand induced by tourist and the other populations.

In fact, Guam already is experiencing significant challenges with regard to water supply. This year's drought conditions, the aging water infrastructure and increasing demand are currently leading to prolonged water outages in many villages. This situation is not unusual during the annual dry seasons and is particularly pronounced in years with El Nino events. Wells are producing less water and that limited supply is being stretched to provide for the demands of more people. The population growth associated with the buildup, and especially with the construction phase of the buildup, will undoubtedly have

additional impacts on safe drinking water supply and quality. These calculations do not consider the potential problems that may arise due to climate change and sea level rise, which may reduce the maximum sustainable yield of the aquifer that supplies the great majority of Guam's water.

Water quality issues are not limited to drinking water concerns. Another potential for impact is the Navy's stated intention to use the Northern District Wastewater Treatment Plan, which is presently at full capacity. Calculations based on average flows do not take into account heavy rain events, when most overflows happened, according to the 2009 GGWA SSO report. The correlation between these rains and overflows incidents strongly suggests the existing collection systems and pump stations are incapable of handling additional loads.

2) Guam Development Policy # 8 Erosion and Siltation: To control development where erosion and siltation damage is likely to occur. Development shall be limited in areas of 15% or greater slopes by requiring strict compliance with erosion sedimentation and land uses districting guidelines as well as other related land use standards for such areas.
[P.L. 25-152; P.L. 12-200, as amended by P.L. 20-147; P.L. 12-208]

The Navy's assumes that installation of BMPs will control potential impacts, making them insignificant. However, the FCD does not provide detailed information on the type of BMPs that will be utilized, their effectiveness, or plans for short- and long-term maintenance. We could assume these details will be addressed in the Stormwater Pollution Prevention Plan, but without seeing this plan, it is difficult to make a blanket determination that the BMPs will be sufficient to effectively control erosion and sedimentation and provide compliance with all federal and local requirements.

Section 2.8.1 identifies construction projects including family housing (1006 acres to be cleared include 326 ac Harmon Annex; 680 ac Former FAA parcel), a training complex, NMS access road, and the Finegayan connector. Clearly, the proposed projects will generate erosion as stated in Section 2.8.1, Proposed Actions That May Directly Impact Guam's Coastal Zone: "Land disturbing activities within Guam coastal zone associated with proposed actions pose a risk of increased soil erosion and sedimentation." Along with development comes an increased amount of impervious surfaces, which significantly limit the natural infiltration of rainwater into the underlying groundwater system. As a result, the groundwater lens that serves as the principal drinking water source is depleted. Or, in instances where stormwater is infiltrated without adequate pre-treatment, groundwater quality is degraded (Horsley Witten Group, 2006). The proposed actions to construct family housing, a training complex, and utility improvements will undoubtedly generate erosion and stormwater runoff.

GCMP supports the Navy's intent to control these construction projects through compliance with the Guam Water Pollution Control Act (10 GCA47), Sections 404 and 401 of the Clean Water Act, and the National Pollution Discharge Elimination System. However, GCMP is concerned with the NMS Access Road Alternative A (preferred) as stated, "The existing dirt roadway is steep and the proposed paved surface would reduce the erosion potential." On the contrary, the proposed "paved surface" is an impervious cover or surface that will sharply increase the volume of stormwater runoff, causing and potentially even increasing erosion and sedimentation. Impervious cover is defined as those surfaces that cannot effectively infiltrate rainfall, including building rooftops, pavement, sidewalks, driveways, and coral surfaces (e.g., driveways, lots, and yards). Consequently, runoff from the proposed road paving

will greatly affect adjacent stream channels, water quality including coastal waters; and surrounding natural resources within the watershed. Therefore, GCMP must disagree with the statement in Section 2.8.4, “No indirect impacts contributing to erosion and siltation within the Guam coastal zone are anticipated as a result of the proposed actions.” Both NMFS and U.S. EPA also find that the DEIS inadequately addresses potential impacts of stormwater runoff to coastal resources. This analysis is another critical component that should be addressed in the consistency determination.

Access Road Alternative B is the preferred action to avoid any impact and effects. However, if Alternative A is selected, GCMP recommends the implementation of best management practices (BMPs) to manage stormwater runoff and prevent erosion and sedimentation. BMPs may include diversion dikes, diversion swales, grade stabilization, grassed waterways, and permanent vegetative cover to name a few. Additional best management practices may be found in chapter 3 of the CNMI Guam Stormwater Management Manual. While GCMP concurs with the implementation of best management practices, clarification is needed as to what specific BMP will be used at each project site. As each project site is unique, a more detailed description of BMPs is required for each project to effectively determine federal consistency. GCMP recommends the implementation of BMPs during and after construction. The CNMI Guam Stormwater Management Manual provides more information on local stormwater issues, sizing and designing BMPs to comply with stormwater performance standards and detailed information on how to select and locate BMPs at a development site.

GCMP further recommends the following standards from the CNMI Guam Stormwater Management Manual be incorporated in the development of the applicant’s Stormwater Pollution Prevention Plan. The FCD states that there will be no adverse impact on island-wide safe drinking water and Guam coastal zone aquatic recreation site assumes that all BMPs and permit requirements would be implemented. Insufficient information is provided on which BMPs will be used and relies on the permitting process to mitigate any adverse impact.

3) Guam Resource Policy # 3 Fragile Areas: To protect significant cultural areas, natural marine and terrestrial wildlife and plant habitats – development in the following types of fragile areas (historical and archeological sites, wildlife habitats, pristine marine and terrestrial communities, limestone forest, and mangrove stands, coral reefs, and other wetlands) shall be regulated to protect their unique character. [P.L. 12-200, as amended by P.L. 20-147; P.L. 24-21; P.L. 27-87; E.O. 97-10]

Historic and archaeological sites. Though the Navy states that impacts from the new construction would be rendered insignificant because actions would follow the stipulations of the Programmatic Agreement (PA), the PA remains under review and unsigned by the parties. It is premature to dismiss impacts because of compliance with polices that are not currently in effect, especially when many proposed actions have the potential to cause adverse effects such as vandalism or erosion.

Wildlife habitats, pristine marine and terrestrial communities, limestone forests, mangrove stands and other wetlands. More than 1,286 acres of habitat in the Refuge Overlay will be cleared during proposed buildup activities. Direct loss of habitat through clearing of trees and vegetation to accommodate placement of activities and structures will impact northern Guam forest and severely reduce the ability to recover Guam’s native threatened and endangered species, including the Mariana crow (*Corvus kubaryi*), Guam Micronesian kingfisher (*Halcyon c. cinnamomina*), and others. Though the Navy claims that impacts to wildlife will be addressed through the EIS process, U.S. FWS has already stated

that the DEIS does not sufficiently describe actions to avoid and minimize loss of habitat essential for the recovery of threatened and endangered species. Guam's Division of Aquatic and Wildlife Resources requests additional discussion on alternatives that will shift proposed actions to avoid forested areas and more information about mitigation efforts, including preservation of other areas for recovery. To the greatest extent possible, removal of large native forest tree species should be avoided.

The FCD's brief discussion of wetland impacts does not include assessment of potential impacts to moorhens, which utilize wetlands spanning both DoD and non federal property. Guam's DAWR emphasizes that mitigation efforts must include a commitment to repatriate endangered species on military lands, a practice that current DoD/Navy policy effectively prevents. The current policy dictates that ES repatriation demands the signature of a high level of command (possibly the Assistant Secretary). As such, local Navy environmental staff is adverse to projects that involve repatriation of ES and do not facilitate local or Federal agency ES recovery efforts on DoD property. This effectively prevents any repatriation efforts on DoD lands and nullifies any commitment by DoD to mitigate for the proposed actions, and previous commitments. The impact of not allowing reintroduction of ES on DoD property is enormous when you consider the size of Guam, the percentage of land held in trust by DoD, and the quality and quantity of habitat reserved for ES recovery on military land. Without local intent and support of repatriation of ES on DoD land, DoD is in violation of the Endangered Species Act of 1973 without first considering the impacts on the species. The FEIS must include measures that will dictate the release on ES on DoD land and language must be included to allow GDAWR full participation in ES recovery programs on DoD lands. Although current law provides for concurrent jurisdiction of living resources by local and federal agencies, this issue remains problematic for local resource managers.

With regard to the marine environment, the Navy generally fails to provide enough information or analysis of potential impacts to marine habitat, from impacts related to stormwater and land development as well as impacts due to dredging and other actions. The discussion of Essential Fish Habitat only covers impacts associated with the Northern District Waste Water Treatment Plant outfall and personnel and recreational activities directly adjacent to the proposed Route 15 training complex – with no discussion of the Apra Harbor dredging work or the effects of increased military and non military personnel recreational activity throughout Guam's coasts. These activities may have significant impacts that are not considered in the FCD submission.

The NMFS review of the Navy's DEIS states that the marine resource assessment was inadequate to complete Essential Fish Habitat consultation; having not agreed with the Navy determination, NMFS has recommended a Section 7 consultation.

Local Guam agencies also have questions about the EIS process, as it has been carried out thus far, primarily concerning a lack of information to fully compare and contrast the true effects of proposed alternatives. Examples of such information include, but are not limited to, the Micronesia Biosecurity Plan, Noise Abatement Plan, Partulid Translocation Plan, Ungulate Management Plan, an adequate *in situ* benthic assessment to include coral size frequencies, information on coral communities below 60 ft. depth, lack of information and misinformation regarding environmental consequences, discussion on the possible conflicts between the proposed action and the objectives of local policies, and a sea turtle assessment. The missing information is relevant to environmental concerns and impacts, and without this information an adequate analysis of impacts cannot be completed.

Both federal and local partners highlighted the need for alternatives that minimize impacts, appropriate mitigation measures and greater analysis of impacts on threatened and endangered species in the EIS process. U.S. FWS further pointed out that the DEIS does not include a discussion of potential near term impacts of climate change that may compound adverse impacts resulting from proposed buildup actions on fish and wildlife resources.

In addition to the direct impacts associated with buildup activities on federal lands, the proposed actions will likely have indirect impacts on wildlife habitat through the removal of limestone forest and other habitats as a result of off-base development that is occurring directly and solely as a result of the buildup. The removal of a large amount of limestone forest (from disturbed to pristine) to accommodate the cantonment, facilities associated with the missile defense task force, and development associated with other aspects of the buildup will significantly impact the population sizes and distribution of protected and “regionally important” species. The permanent removal of this habitat will not only impact current populations, but will permanently remove habitat that could potentially be used for the recovery of threatened and endangered species.

The proposed actions will likely have indirect impacts on wildlife habitat through the removal of limestone forest and other habitats as a result of off-base development occurring as a direct result of the buildup (i.e., activity that would not occur but for the buildup). Yet the increased potential for destruction of wildlife habitat is only described in relation to an expected increase in feral dogs/cats. DoD itself has funded the development of a regional biosecurity plan to address the expected increases in introductions of invasive/nuisance plant and animal species, yet the FCD submission fails to mention the invasive species concern. This is just one major effect of the buildup actions that is not adequately addressed in the submission’s limited discussion of potential direct and indirect impacts on wildlife habitat.

The FCD fails to identify or analyze the cumulative and indirect impacts of proposed activities to threatened and endangered species such as the Mariana fruit bat. Cumulative impacts, such as how the direct loss of habitat through clearing of trees and vegetation to accommodate placement of activities and structures will reduce the recovery potential of Guam’s native species, are not adequately analyzed.

Indirect impacts including increase potential for the introduction of invasive plant and animal species are not adequately addressed. In recognition of the potential for environmental and economic impacts related to the spread of invasives, DOD has already provided funding for a regional biosecurity plan, but the FCD submission fails to mention biosecurity concerns. The brief discussion of feral dogs and cats that may increase due to buildup activities does not reflect the larger concern; U.S. FWS reviews of the buildup DEIS also state that biosecurity measures are not adequately described.

4) Guam Natural Resources Policy # 4 – Living Marine Resources: To protect marine resources in Guam’s waters – All living resources within the territorial waters of Guam, particularly corals and fish, shall be protected from overharvesting and in the sake of marine mammals from any taking whatsoever.[P.L. 12-200, as amended by P.L. 20-147; P.L. 26-25; P.L. 20-147 §62020; P.L. 12-208]

The only potential impacts to living marine resources acknowledged by the Navy are impacts to marine mammals and other living marine resources as a result of training activities near Rt. 15 (mainly, strikes by discharged ammunition); this assumes that training facility will be located at the Rt. 15 site, but such a

decision has not yet been made and no other alternatives for the firing range were analyzed in the application.

The FCD fails to address impacts to marine resources as a result of:

- a) Increased recreational activity on and off-base by military or non-military personnel associated with the buildup, both during the construction phases and after. Given the expected population increases associated with the activities it is almost certain that these impacts will be substantial;
- b) Significant increase in the harvesting of nearshore marine resources as a result of the population increase associated with the buildup, both military and non-military personnel.;
- c) The cumulative impacts to living marine resources of the various buildup activities, MIRC activities, and other military and non-military activities was not addressed;
- d) Impacts to living marine resources in Apra Harbor as a result of the direct and indirect impacts of dredging are not addressed. While the action alternatives proposed in the DEIS will occur on federal submerged lands, the activity will result in the permanent loss of at least 70 acres of coral reef habitat, and the presumably temporary loss of a much larger area of coral reef habitat. The loss of these resources will impact resources occurring on submerged lands owned by Guam within the harbor and possibly beyond; however, the Navy includes no discussion of the effects test used to determine that there will be no significant impacts to Guam's coastal resources as a result of this project. Considering a large number of marine species are only found in Apra Harbor, the impacts to these species as a result of the CVN project will affect a significant portion of the populations of each of these marine species. No information on the distribution and abundance of unique/rare species or how these species will be impacted was presented in the FCD or in the DEIS.

In reviews of the DEIS, U.S. EPA, FWS and NMFS all pointed out that the marine resource impact assessment presented in the DEIS does not adequately describe the function of the coral reef resources impacted by the proposed actions. As a result, the DEIS does not adequately address compensatory mitigation of lost ecological function as required by the 2008 Army Corps of Engineers – EPA Compensatory Mitigation Rule.

Additional concerns regarding inconsistencies with the GCMP enforceable policies are attached.

- 5) There is no discussion on cumulative and secondary impacts to the community and, similarly, no discussion on compatibility of existing and proposed uses on DoD and non-DoD properties was provided. In some areas there are many incompatible uses. For example, the cantonment area and family housing is adjacent to the firing range and the cantonment and family housing alternative at Finegayan is adjacent to one of the AMDTF weapons emplacement alternatives.
- 6) There is no discussion on indirect effects, which are Navy actions when added to other past, present and reasonable foreseeable actions regardless of what agency or individual undertakes such action. The GCMP has reviewed several projects on federal properties in preparation of the proposed build up. None of these projects are incorporated in the analysis of the impacts of the actions, such as: Kilo Wharf Expansion project, Alpha/Bravo Wharf Project, construction of munitions storage igloos at AAFB, various wharf repairs within the Apra Harbor area, etc.

Our review of this FCD is in conjunction with the cooperative efforts with the GCMP networked agencies of the Government of Guam such as: the Guam Environmental Protection Agency (GEPA), the Department of Agriculture's Division of Aquatic and Wildlife Resources (DAWR), and the Department of Parks and Recreation's Guam Historic Preservation Office (GHPO). These GCMP networked agencies have informed us that they have objections and disagree with the assumptions that most of the proposed activities would not result in significant impacts. They also have serious concerns with the federal action that ignores the concurrent jurisdiction and responsibilities over the water quality on, over or under military properties, and DAWR's concurrent jurisdiction over managing and conserving the living resources in the military property. We are deeply concerned by "the public loss of access to and use of several recreational features if the proposed Route 15 Training Complex action were implemented. Access to activities and areas including the Guam International Raceway, Marbo Cave, Pagat Trail and nearby trails, cultural gathering activities, and off-shore fishing near Marbo Cave," would be restrictive without DoD offering any mitigation whatsoever.

V. Recommendation on Phase Determination:

The FCD lacks insufficient details and therefore, the Bureau recommends that the Navy resubmit the consistency determination using a phased consistency determination approach, as described in the Navy's OPNAVINST 5090.1B CH-3, 17 October 2002, which states:

"28-4.31(c) Phased Consistency Determinations. A Phase Consistency Determinations may be provided in cases where the decisions of the Navy action proponent related to a proposed development project or other action will be made in phases based upon developing information that may not be available at the time of original Consistency Determination. In this case, a consistency Determination will be required for each major decision."

Several of the required studies, such as a pollution control plan and a solid waste plan, as well as the selection of an alternative for each of the major activities, have not yet been completed or are not readily available. Given this lack of reliable information, the Bureau recommends submitting a separate FCD for projects as approved by each fiscal year. It is expected that the buildup will be spread over five (5) years.

VI. How the Navy Could Be Consistent and Move Forward With the Relocation Plan:

We are confident that with continued coordination and cooperation between the Federal Government and the Government of Guam we can resolve the issues and concerns with regard to these proposed Federal activities. It is important that the Federal activity be in the best interest of all the people of Guam. Guam's resources and environment must not be compromised but preserved for the future generations and sustainable use by both civilian and military populations.

It is difficult to determine the actual impacts resulting from the military buildup due to the numerous changes including the number of personnel that will be expected to relocate, the pace of construction and the uncertain sources of funding required to support both the military and civilian build up. Based on the lack of current, reliable information, the Bureau strongly recommends a phased approach to Federal Consistency Determination as provided for by both CZMA regulations, the Navy's OPNAVINST 5090.1B CH-3, 17 October 2002, and as described above. The immense scale of the buildup as well as the

changes that will inevitably occur as the process unfolds make it difficult to provide a single FCD that will demonstrate consistency to the maximum extent practicable.

In addition to a phased approach, the Bureau requests the following information to allow adequate assessment of coastal effects. As this process continues, the Bureau may request additional information as it becomes available.

- Study on sustainable yield for Northern Guam lens aquifer
- Mitigation plans for specific buildup actions
- Solid waste management and disposal plan
- Funding plans for infrastructure improvements
- Additional data on marine resources that will be impact by the CVN project
- Selected alternative for each project and analysis of impacts and mitigation

As soon as more information is available to conduct a complete Federal Consistency Determination, please feel free to contact me at 671-475-9661 or Ms. Evangeline Lujan, GCMP Administrator at 671-475-9672 or email: vangelujan@yahoo.com.

Senseramente,



ALBERTO A. LAMORENA V
Director

Attachments