



Commonwealth of the Northern Mariana Islands
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September 30, 2015

Naval Facilities Engineering Command
Attn: 09PA, Public Affairs Office
258 Makalapa Dr., Suite 100
JBPHH, Hawaii 96860

Re. Comments on Draft EIS/OEIS for CNMI Joint Military Training Project

Dear Sir or Madam:

The Commonwealth of the Northern Mariana Islands ("CNMI") Division of Historic Preservation ("HPO") appreciates this opportunity to provide comments on the Department of the Navy's Draft Environmental Impact Statement/Overseas Environmental Impact Statement ("Draft EIS") for the CNMI Joint Military Training Project ("CJMT" or "Project").

HPO was established by the Commonwealth of the Northern Mariana Islands Historic Preservation Act of 1982 (Public Law 3-39), which was enacted to ensure the identification and protection of significant archaeological, historic, and cultural resources in the Commonwealth; to educate the public concerning matters relating to local history, archaeology, culture and historic preservation; and to develop historic and cultural properties to allow them to contribute to the cultural, social, and economic growth of our citizens. HPO serves as the CNMI's State Historic Preservation Officer (or "SHPO") for purposes of the National Historic Preservation Act.

Consistent with its statutory role and organizational mission, HPO's comments on the Draft EIS focus on issues related to historic and cultural resources, alternatives, mitigation, and public participation.

After careful review of the entire Draft EIS, HPO has no choice but to conclude that the Navy's treatment of each of these areas is inadequate.

The Navy has proposed a Project that will unnecessarily destroy vast numbers of irreplaceable historic and cultural resources — and it has done so without considering reasonable alternatives, without studying the Project's consequences, without identifying feasible mitigation, and without meaningful outreach to those most likely to be affected.

While HPO remains willing to work collaboratively with the Navy on military training activities within the CNMI, I must respectfully request that the Draft EIS for the CJMT be thoroughly revised and each of the Navy's errors fully corrected before this NEPA process moves forward.

HPO's specific comments are as follows:

1. Improper Scope of Analysis

The scope of the analysis in the Draft EIS is improper, a fundamental error which renders the entire document inadequate. The Department of Defense has proposed a series of military training actions — including the Mariana Islands Training and Testing ("MITT") project, the Divert Activities and Exercises project, the Guam and CNMI Military Relocation project, and the CJMT — that would be implemented in the same place, at the same time, and with impacts to many of the same historic and cultural resources.

Under NEPA, those proposed actions must be analyzed together in a single EIS (see 40 C.F.R. §1508.25). Instead, separate EISs have been prepared for each one. As a result, the Navy has impermissibly segmented what appears to be a single Defense Department training program for the Marianas. And segmentation, in turn, threatens to obscure the full impact of that program on the region's unique historic and cultural resources; impermissibly narrows the set of alternatives under consideration; and makes it more difficult for the public meaningfully to participate in the decision-making process.

2. No Consideration of Alternatives

The Draft EIS' failure to "[r]igorously explore and objectively evaluate all reasonable alternatives" (40 C.F.R. §1502.14) represents a second and equally fundamental error. The analysis of alternatives is supposed to be "the heart" of an EIS, an exercise in identifying different ways to balance agency needs and environmental consequences (40 C.F.R. §§ 1500.1, 1500.2(e), 1502.14). But the Draft EIS fails to provide a detailed evaluation of any alternatives that would address the Navy's training needs outside the CNMI. Nor, for that matter, does the alternatives analysis in the Draft EIS properly respond to the CJMT's environmental consequences — all of the alternatives evaluated in the document involve the same training activities in the same locations. The Navy must make a meaningful effort to explore and evaluate a full range of alternative means to address its training needs, including alternative locations outside the CNMI.¹

¹ The small land area of Tinian (24,960 acres) and Pagan (11,680 acres) further weighs in favor of looking for alternative locations. HPO notes that other American military bases with live-fire training are much larger than these two small islands, including Camp Pendleton, California (125,000 acres); Eglin Air Force Base, Florida (464,000 acres); Nellis Air Force Base, Nevada (3,200,000 acres); and Fort Benning, Georgia (182,000 acres).

3. Inadequate Identification of Resources and Impacts

The Navy has not done an adequate job of identifying historic and cultural resources that may be impacted by the CJMT.

- The Draft EIS considers a "region of influence" (which it erroneously refers to as equivalent to an area of potential effect under the National Historic Preservation Act) that is based on the footprint of the Navy's proposed training activities. Unfortunately, the impacts of the CJMT — including impacts to historic and cultural resources associated with noise, visual intrusions, access restrictions, induced growth, and the relocation of the International Broadcast Bureau facility, among other things — would extend far beyond the Project footprint. The Draft EIS must be revised so that it properly identifies all potential impacts.
- It appears that the Navy has not completed appropriate historic and cultural resource identification efforts for areas of Pagan that will indisputably be impacted by the CJMT. Indeed, the Draft EIS admits that the Navy has only surveyed a small portion of the island. The document suggests that un-surveyed areas were addressed through "aerial inspections." But there is no way to fully "inspect" the existence, significance, or integrity of historic and cultural resources from the air, particularly in a setting like Pagan.
- The Navy's Traditional Cultural Property ("TCP") studies accurately acknowledge the existence of three TCPs on Tinian and six others on Pagan, all of which are eligible for listing in the National Register of Historic Places. In general, the Navy has done a good job of addressing TCPs related to fishing. But it has not fully identified all TCPs that would be impacted by the Project. In particular, potential TCPs associated with traditional gathering activities and *latte* sites have yet to be fully or properly addressed:
 - The Navy appears to assume that traditional gathering activities do not fit within the TCP framework because they often involve plant species that can be found in numerous locations. That assumption fails to account for the importance of place in traditional gathering activities. For example, *suruhanu* and *suruhana* gather specific plant species from specific locations even though those same species might well be available elsewhere — indeed, the power of the *suruhanu's* (or *suruhana's*) medicine is attributable to the place from which ingredients are obtained. The Navy's analysis must be revised to account for the role of place in traditional gathering activities.
 - The Draft EIS inaccurately assumes that *latte* sites lack ongoing cultural significance. *Latte* are important symbols of Chamorro identity, and the people of the CNMI value and protect *latte* sites as places to connect with ancestors, history, and cultural identity. By dismissing *latte* sites as archaeological relics,

the Draft EIS massively underestimates the CJMT's impact on TCPs and other cultural resources and fails to address appropriate mitigation. HPO notes that the Navy has previously acknowledged the significant, ongoing cultural importance of *latte* sites on Guam; the same respect and acknowledgment should be provided to *latte* sites in the CNMI, and the Draft EIS must be revised accordingly.

- The Draft EIS fails to address the cultural significance of Pagan as a whole. That failure is particularly disappointing because evidence from the Navy's own technical appendices clearly indicates that the island — and, more specifically, the fact that the island remains in a natural, un-impacted state — is central to the maintenance of a continuing cultural identity among those from the Northern Islands. For example, the Navy's Draft TCP study reports that some residents of the Northern Islands feel that "the entire island of Pagan is medicine. It's very unique." Similarly, Appendix B to the Navy's Draft Socioeconomic Impact Assessment Study characterizes Pagan as "home to our culture." The Navy's analyses should be revised to fully address the cultural importance of Pagan as a whole.

HPO also notes that the Draft EIS inaccurately assumes that impacts to many historic and cultural resources will be limited to periods of active construction and/or military training. While it is true that some types of damage will be especially acute during construction and training, many other types of impacts (including, for example, destruction of traditional fishing grounds or changes to visual character) will be constant and permanent.

4. Significant and Unnecessary Damage

As explained above, the Draft EIS does not do an adequate job of identifying the historic and cultural resources that will be impacted by the CJMT. But the limited information presented in the document is more than enough to confirm that the Navy's preferred alternative would wipe out a staggering number of historic sites and cultural resources — by the Navy's own admission, at least 197 on Tinian and 75 more on Pagan.

It is important to recognize that the affected resources are rare, irreplaceable, and not found elsewhere.

Unai Chulu, for example, is among the richest historic sites in the United States: It is one of the earliest human habitation sites in the Marianas (dating to at least 2,900 years ago); it contains an extensive, pre-*latte* complex as well as a *latte* site; it was the location of important World War II military action; it has been identified as a National Register-eligible Traditional Cultural Property by two separate sets of Navy technical reports, based largely on its continuing importance as a traditional fishing ground; and it is a contributing feature to the North Field National Historic Landmark. Previous Navy NEPA analyses (including analyses carried out for the Mariana Islands Range Complex in 1999 and the Guam and CNMI Military Relocation in 2010) recognized the sensitivity and significance of Unai Chulu and placed the area "off limits" for intensive training. In contrast, the CJMT proposes to locate the Navy's most intensive

amphibious training at Unai Chulu. Doing so will permanently destroy a large section of coral reef and essential fish habitat (both of which are contributing features of the Unai Chulu TCP), will permanently compromise the integrity of the beach (a contributing feature of the National Historic Landmark), will unnecessarily risk damage to fragile *latte* and *pre-latte* sites adjacent to the beach, and will eliminate public access for large portions of the year.

The Draft EIS summarily categorizes the vast majority of the CJMT's impacts to historic and cultural resources — including Unai Chulu — as "unavoidable." It appears that many impacts will, in fact, be impossible to avoid, a fact that further confirms Tinian and Pagan are not appropriate locations for the Project. But it appears that many other impacts could reasonably be avoided with the exercise of appropriate planning and care.

For example, the Draft EIS shows that the CJMT includes a massive surface radar site immediately adjacent to (and looming over) Unai Dankulo, a National Register-eligible TCP. Another surface radar site is proposed to be built within an ancient *latte* site at Unai Babui. The Draft EIS admits that impacts at both sites will be significant, but it provides no information on whether other, less sensitive locations might have been available. In fact, it appears the Navy did not even look at that possibility.

As currently designed, the Project will do significant and unnecessary damage to the CNMI's irreplaceable historic resources. Reasonable, less-damaging alternatives must be developed.

5. Absence of Mitigation

The Navy has compounded the errors described above by failing to provide a reasonable discussion of mitigation measures for cultural resource impacts. NEPA requires that every EIS "include mitigation measures not already included in the proposed action or alternatives" (40 C.F.R. §1502.14(f)) and discuss "means to mitigate adverse environmental impacts" (40 C.F.R. § 1502.16(h)). But the Draft EIS does not discuss potential mitigation for the CJMT's significant impacts on cultural resources; instead, the document states that mitigation will be developed later, in the context of the Project's Section 106 process.

While HPO welcomes the Navy's commitment to developing appropriate mitigation during the Section 106 process, that commitment cannot substitute for NEPA compliance. The NHPA and NEPA are different statutes with different requirements, and they involve the public in different ways. Mitigation must be addressed in the Draft EIS in addition to the Section 106 process.

6. Inconsistency With Prior Mitigation Commitments

HPO's concerns about mitigation are heightened by the fact that the Draft EIS does not provide sufficient detail to determine whether the CJMT, as currently designed, is consistent with the Navy's existing cultural resource mitigation responsibilities.

For example, the 2009 Programmatic Agreement for the Mariana Islands Range Complex project establishes "no training" areas at Unai Chulu. Will the activities proposed in the CJMT be consistent with those requirements?

Likewise, the 2009 Programmatic Agreement establishes training limitations at Unai Dankulo, Unai Masalok, and in the Tinian Exclusive Military Lease Area. Will the CJMT be consistent with those limitations? How does the Navy plan to resolve potential conflicts?

HPO respectfully requests that the Navy (1) clarify the status of its compliance with prior mitigation commitments related to military training in the Marianas and (2) to the extent the CJMT is inconsistent with any such commitments, revise the Project accordingly.

7. Failure to Address National Historic Preservation Act Section 110

Section 110 of the National Historic Preservation Act requires a heightened standard of care with respect to National Historic Landmarks: "to the maximum extent possible" the Navy must "undertake such planning and actions as may be necessary to minimize harm." Here, all three of the "action" alternatives proposed by the Navy would involve significant, direct, and adverse impacts on the North Field National Historic Landmark. But the Draft EIS provides no information that could reasonably be described as "planning and actions to minimize harm." On the contrary, the Draft EIS fails to properly address alternatives (see part 2, above) or mitigation (see part 5, above).

8. Section 4(f) Evaluation Inappropriately Limited To Tinian International Airport

Section 4(f) of the Department of Transportation Act prohibits transportation agencies from funding or approving projects that would "use" historic resources or public parks (among other resources) unless (1) there is no prudent and feasible alternative and (2) all possible planning to minimize harm has been completed (49 U.S.C. § 303(c)). Significantly, the concept of "use" is not limited to direct, physical occupation; it also extends to "constructive use"— activities that substantially impair the protected attributes qualifying the property for Section 4(f) protection (23 C.F.R. § 774.15(a)).

HPO is extremely concerned about the narrow scope of the Section 4(f) evaluation in Chapter 4.19 of the Draft EIS. It appears that the Navy has only evaluated the CJMT's direct use of historic resources at Tinian International Airport. The Section 4(f) evaluation does not consider the potential for other portions of the Project (most of which cannot proceed without the authorization of the FAA) to directly or constructively use 4(f) resources. This is no small omission, for it appears that Project activities dependent on FAA approval will, in fact, result in direct or constructive use of a significant number of historic resources and public parks. The scope of the Section 4(f) evaluation must be significantly expanded to fully address this issue.

9. Public Outreach

As the Navy is aware, there are three official languages in the CNMI: English, Chamorro, and Carolinian. To date, the Navy has refused to provide the Draft EIS (or any portions of it) in any language other than English. HPO is extremely concerned that CNMI residents who primarily speak Chamorro or Carolinian (many of whom would be particularly affected by the cultural resource impacts of the CJMT) have been effectively denied participation in the EIS process. HPO strongly suggests that the Navy take immediate steps to remedy this situation.

Thank you for this opportunity to review and provide comments on the Draft EIS for the CJMT. If you have any questions, please do not hesitate to contact my office at (670) 664-2120 or Wesley Bogdan at (670) 287-6512.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Mertie T. Kani', with a long horizontal flourish extending to the right.

Mertie T. Kani

State Historic Preservation Officer