



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

**75 Hawthorne Street
San Francisco, CA 94105-3901**

February 17, 2010

**OFFICE OF THE
REGIONAL ADMINISTRATOR**

Mr. Roger M. Natsuhara
Acting Assistant Secretary of the Navy
Installations and Environment
1000 Navy Pentagon
Washington, D.C. 20350-1000

Subject: EPA comments on the Draft Environmental Impact Statement (DEIS) for the Guam and CNMI Military Relocation, November 2009

Dear Mr. Natsuhara:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. EPA is a cooperating agency on the project EIS and has worked closely with the Department of Defense (DoD) to review and comment on the project since 2007.

Based on our review of the information provided in the DEIS, we have rated the DEIS as Environmentally Unsatisfactory; Inadequate Information (EU-3) (see enclosed "Summary of Rating Definitions"). There are two bases for the "EU" component of the rating: 1) by not providing a specific plan to address the wastewater treatment and water supply needs of the construction workers and induced population growth, the project will result in unsatisfactory impacts to Guam's existing substandard drinking water and wastewater infrastructure which may result in significant adverse public health impacts, and 2) the project will result in unacceptable impacts to 71 acres of high quality coral reef ecosystem in Apra Harbor.

Similarly, there are two reasons for the "3" component of the rating: 1) the DEIS acknowledges that the introduction of 56,000 additional residents (i.e., 23,000 construction workers and 33,000 from induced population growth in peak years) will greatly exacerbate an already environmentally unsatisfactory situation, but it offers no specific, workable plan for addressing this situation; and 2) EPA, and several other involved resource agencies, have determined that the methodology used in the DEIS for evaluating the full extent of impacts to coral reef habitat is not adequate and, as a result, the DEIS does not present an adequate plan for mitigating the unavoidable loss of coral reef habitat.

The military realignment, as proposed in the DEIS, will significantly exacerbate existing substandard environmental conditions on Guam. Presently, Guam's environmental and public health problems exceed those of most U.S. communities. For example, its population experiences boil water notices, sewage spills, exposure to waterborne diseases, and illegal dumping. Indeed, over the last seven years, EPA has issued enforcement orders to the Government of Guam to bring their environmental infrastructure into compliance with federal

environmental laws. Further, power production and transportation on the island depends on the highest sulfur content fuel currently used in the U.S.

EPA is concerned about the magnitude of the project impacts, including public health impacts, upon the existing substandard conditions on Guam, further impeding Guam's efforts to comply with federal environmental laws and policies. At the peak of construction, 79,000 new residents (a 45% increase over its current population of 180,000) will relocate to Guam because of the military realignment; however, the DEIS proposes to provide direct services for only 23,000 of that new population. The DEIS acknowledges the impacts to the water and wastewater infrastructure will be significant, but states that these impacts are mitigable to less than significant through upgrades to the local utility. Viable plans for these upgrades are not presented in the DEIS.

As stated in the DEIS, because of Guam's geographic and historical circumstances, Guam "faces two broad types of capacity challenges both of which will affect its ability to cope with the impacts of the proposed action: 1) human resources and 2) financial resources." We do not suggest DoD is responsible for existing conditions on Guam; however, the additional burden placed on existing conditions by the military realignment is the responsibility of DoD. Given the interwoven nature of DoD's impacts on civilian infrastructure in Guam, EPA has consistently advocated for a coordinated approach among federal agencies and the Government of Guam. DoD should provide leadership to articulate and implement a coordinated U.S. Government – Government of Guam funding strategy to address the impacts of the project, including the impacts of the off-island construction and induced population growth.

These impacts are of sufficient magnitude that EPA believes the action should not proceed as proposed and improved analyses are necessary to ensure the information in the EIS is adequate to fully inform decision-makers. Further, EPA believes that the information needed to address the aforementioned inadequacies should be circulated for full public review prior to the issuance of any decision regarding the project. In any event, if we are unable to resolve our concerns in the Final EIS, this matter may be a candidate for referral to the Council on Environmental Quality.

Given the importance of this project and the magnitude of the anticipated impacts, EPA has worked with DoD through the DEIS public comment period to address our environmental concerns about the project as proposed. We appreciate DoD's engagement of EPA and other federal agencies early in the NEPA process and acknowledge that this has resulted in project improvements. We understand the challenges DoD faces in meeting the 2014 deadline for the Marine relocation from Okinawa, and strongly support DoD's stated objective to avoid the creation of "two Guams." Within this context, urgent action is needed and EPA is committed to working with DoD to identifying solutions.

The military realignment to Guam is an historic opportunity to develop a more environmentally, economically, and socially sustainable Guam. EPA strongly supports looking at how the military build-up can advance the goal of "One Guam." DoD has a long-standing policy to take the leadership role within the federal government in helping communities respond to the effects of defense-related activities.¹ This project is the opportunity for DoD, the federal government, and the Government of Guam to "get it right." Moreover, the recently proposed "Tiger Team" trip to Guam to assess priority needs, identify federal funding leveraging opportunities, and identify funding gaps is a positive undertaking. We want to help DoD ensure this effort is outcome oriented and can help achieve interagency cost sharing commitments for immediate, necessary improvements to ensure the long term integrity of Guam's infrastructure systems under the additional burden of the projected population growth associated with this project.

In brief, EPA's primary concerns and recommendations are the following:

Responsibility for Impacts of Construction Workers and Induced Population Growth

The DEIS inappropriately excludes the construction workers and the induced population growth for jobs, and their impacts, as part of DoD's proposed action. We understand DoD plans to use contracting requirements to ensure the service needs are provided for construction workers. However, the DEIS does not specify how these services will be provided for in time to meet demand, resulting in potentially unacceptable environmental impacts. DoD needs to address how the infrastructure needs of the construction workers and the induced population growth will be met.

Drinking Water

According to the DEIS, the military realignment to Guam will result in an immediate island-wide shortfall in water supply. By 2014 this shortfall will range between 6 and 13 million gallons per day. Drinking water shortfalls result in low water pressure, which has direct public health and safety impacts, including increased exposure to water borne diseases from sewage, stormwater infiltration into drinking water, and low water pressure for fire fighting. As the DEIS indicates, these impacts are likely to fall disproportionately upon minority and low-income communities. Eighty-five percent of Guam relies on a federally designated sole source aquifer for drinking water, as does DoD. DoD identifies the local utility, Guam Waterworks Authority (GWA) as the responsible party for providing services to the construction workers and the induced population growth. However, DoD acknowledges the low likelihood of GWA's ability to fund necessary upgrades.

The drinking water shortfall will result in a drawdown of this aquifer with potential long-term impacts, including saltwater intrusion and a reduction in the overall yield of the aquifer. There is uncertainty regarding the sustainable yield of the aquifer, yet DoD has not completed an updated assessment. Provisions for the drinking water demands by the construction workers and the induced population growth are not identified in the DEIS.

¹ Executive Order 12049 – Defense Economic Adjustment Programs.

To ensure the environmental acceptability of this project DoD should complete an interim sustainable yield assessment and long-term comprehensive study, implement an aquifer management plan in conjunction with GWA, and develop a cost-share agreement, including financial and technical assistance to GWA to meet the drinking water needs of the construction workers and the induced population growth.

Wastewater

All of the GWA-operated wastewater treatment plants are operating in non-compliance with their existing Clean Water Act discharge permits. The military realignment to Guam will increase sewage flows to these non-compliant plants. The likely public health result will be an increase in raw sewage spills and human exposure to pathogens through drinking water supply, ocean recreation, and shellfish consumption. Raw sewage spills are already occurring in Guam and have recently increased.

Notably, DoD has identified expansion and upgrade to secondary treatment of GWA's Northern District Wastewater Treatment Plant (NDWWTP) as the preferred alternative to serve both military and civilian populations. EPA strongly supports this approach, however several unresolved issues persist. DoD has not identified how upgrades to the NDWWTP will be funded, and, similar to drinking water, DoD has not identified the impacts or options for providing wastewater service to the construction workers and the induced population growth not serviced by the NDWWTP.

To ensure the environmental acceptability of this project, DoD should identify the reasonably foreseeable wastewater impacts from construction workers and induced population growth beyond those serviced by the NDWWTP and commit to cost-sharing upgrades to the NDWWTP and other treatment plants which will serve the construction and the induced population growth. These commitments should be made prior to the facilities receiving increased sewage flows resulting from the military realignment.

Coral Reefs

The Carrier Vessel Nuclear (CVN) berth in outer Apra Harbor will affect over 71 acres of coral reefs, a magnitude unprecedented for the U.S. Pacific Islands in recent permit history. DoD has used an assessment method which underestimates coral reef impacts and does not provide the data needed to identify appropriate mitigation per the 2008 Army Corps of Engineers (Corps) – EPA Compensatory Mitigation Rule. DoD's inadequate characterization of coral reef impacts and insufficient mitigation proposals are of such serious concern EPA considers the CVN berth project a potential candidate for formal elevation within the context of the necessary Clean Water Act 404 permit. EPA senior political leadership and technical experts are actively participating in a facilitated process with DoD and the other resource and regulatory agencies to resolve these issues and ensure compliance with the Clean Water Act. EPA, the U.S. Fish and Wildlife Service (FWS), and the National Marine Fisheries Service (NMFS) have formally raised these concerns since 2008.

To ensure the environmental acceptability of this project DoD should commit to obtaining coral reef impacts data using the in-situ method recommended by EPA, FWS, and NMFS; and work with EPA, NMFS, FWS and the Corps to identify and assess suitable coral reef mitigation alternatives. Artificial reefs are not a suitable mitigation option.

In addition to these primary concerns, EPA remains concerned about the continued use of high sulfur fuel for power and transportation on Guam and the air quality health impacts from increased project-related emissions. Additionally, DoD needs to demonstrate how the large volumes of waste generated by this project will be managed in the interim and long-term. All of the recommendations above, and in the enclosed detailed comments, should be addressed before the Final EIS (FEIS), and commitments should be included in the FEIS and the Record of Decision.

I will personally be engaged in this issue and look forward to working with DoD and our partnering agencies on next steps to move forward to achieve an environmentally acceptable project consistent with federal environmental law and the Presidential Executive Order on Environmental Justice. Your office can contact Enrique Manzanilla, Director of our Communities and Ecosystems Division. Mr. Manzanilla oversees this project within EPA Region 9 and can be reached at (415) 972-3850 and manzanilla.enrique@epa.gov.

Sincerely,



Jared Blumenfeld
Regional Administrator

Enclosures:

Summary of Rating Definitions
Detailed Comments

cc:

Cecilia Munoz, Director, White House Office of Intergovernmental Affairs
Dorothy Robyn, Deputy Under Secretary of Defense, Environment and Installations
David F. Bice, Joint Guam Program Office
Debra Walker, Assistant Secretary of the Air Force Installations, Environment and Logistics
Tony M. Babauta, Assistant Secretary of the Interior for Insular Areas
Victor Vasquez, Deputy Undersecretary for Rural Development, USDA
Robert Nabors, Deputy Director, Office of Management and Budget
Bill Corr, Deputy Secretary, Health and Human Services
Eileen Sobeck, Assistant Secretary for Fish, Wildlife, and Parks, U.S. Fish and Wildlife Service
Michael Ensich, Chief Operations Division, U.S. Army Corps of Engineers
Paul Doremus, Acting Deputy Assistant Administrator & Director of Strategic Planning, NOAA
Greg Nadeau, Deputy Administrator, Federal Highways Administration
Catherine Lang, Acting Associate Administrator, Federal Aviation Administration
Madeleine Z. Bordallo, Congresswoman, Guam
Gregorio Kilili Camacho Sablan, Congressman, CNMI
Felix Camacho, Governor, Guam
Benigno Fitial, Governor, CNMI

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

“LO” (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

“EC” (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

“EO” (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

“EU” (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

ADEQUACY OF THE IMPACT STATEMENT

Category “1” (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category “2” (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category “3” (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.