



Preserving America's Heritage

August 27, 2010

Karen C. Sumida
Business Line Manager, Environmental
Naval Facilities Engineering Command, Pacific
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Pearl Harbor, HI 96869-3134

Ref: *Proposed Guam Build-up
Guam and CNMI*

Dear Ms. Sumida:

On August 20, 2010, the Advisory Council on Historic Preservation (ACHP) received the "Draft Programmatic Agreement Regarding the Military Relocation to the Island of Guam and the Commonwealth of the Northern Mariana Islands" (PA). Our comments are provided for your consideration in finalizing the PA pursuant to 36 CFR 800.14(b)(3).

We understand it is the Navy's intention to include the executed PA in the Record of Decision under the National Environmental Policy Act. We find that many of our previous comments have been taken into consideration, and we are looking forward to working with the Navy in the implementation of an agreement that will govern implementation of Department of Defense (DoD) projects within the undertaking. We wish to highlight here a few key points regarding the PA. For detailed comments on the draft document, please see the attached document.

We remain concerned that the Section 106 review process for individual projects that are part of this undertaking will likely overwhelm the Guam and CNMI State Historic Preservation Offices, which have limited staffing and funding. We refer you to our legal opinion which provides authority for a federal agency to give assistance to a State Historic Preservation Office for the purpose of supporting the agency in meeting its responsibilities under the Section 106 process.

Should Navy decide not to provide direct assistance to the SHPO, we suggest augmentation of the commitment by DoD in Section VII.C.4 regarding the "principal point of contact and liaison to the Guam SHPO". We recommend that this "liaison" be duty stationed at the SHPO office (or at least commit to some regular office hours there each week) and that this individual's specific responsibilities be identified, to the extent possible. We would look to the SHPO to identify how this individual could best assist their office. While Navy may conclude that this person cannot conduct 106 reviews for the SHPO, some amount of logistical work, to facilitate reviews, could be assigned to such a person. For instance, in order to ensure all DoD submittals to the SHPO meet the documentation requirements in 36 CFR 800.11, the liaison could be tasked with reviewing all submittals for completeness and if incomplete, returning them for more information.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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We are encouraged that the Navy has made a commitment to mitigate the cumulative effects that can be anticipated from the implementation of the Build Up and we recognize the value of the agreed-upon mitigation measures. We are concerned that a significant portion of this commitment, the intention to provide financial support to both Guam and CNMI for museum and cultural facilities, is conditional upon receiving authority from Congress. In light of the uncertain outcome of this request, we urge the Navy to lead a federal inter-agency effort to identify other federal programs and funding sources that could benefit the people of Guam in implementing the museum and cultural center through other means. Our specific recommendations on how to clarify and provide more certainty in the Navy's commitments regarding efforts to mitigate cumulative effects are attached.

In addition, in view of the potential for impacts to the culture of Guam and CNMI, we recommend that DoD include cultural sensitivity training as part of the in-country orientation received by military personnel, augmenting the proposed cultural resource sensitivity training proposed in Section VI.B.1 of the PA. Such training should include information on the culture, language, and customs of the people of Guam and CNMI and should be made available to any entity doing business on Guam in relation to the Build Up.

We appreciate Navy's commitment to further consultation regarding the proposal to site multiple firing ranges in the area of the ancient village of Pãgat. This proposal has met with significant opposition from consulting parties, and we are pleased that the language in the PA with regard to the firing ranges provides an opportunity for the parties to continue consultation on both the appropriate location of such ranges and the potential for effects to historic properties.

In addition, we understand that the Federal Highway Administration (FHWA) may no longer intend to be a signatory to this PA. We ask that the Navy clarify the FHWA's intent with regard to the PA, and if they do not intend to sign, revise the PA accordingly, deleting all reference to specific FHWA responsibilities.

Please note that our comments on this draft do not include comments or concurrence with the effect findings made by the Navy on specific projects that are a part of this undertaking and are set forth in Appendix D to the PA. We defer to the opinion of the Guam and Commonwealth of the Northern Mariana Islands (CNMI) Historic Preservation Officers on these determinations, as from our remote perspective, we simply do not have enough information or knowledge of local resource significance and location to concur or non-concur with the determinations proposed. This approach is consistent with ACHP regulations, which put forth a process in the "standard" Section 106 process for agencies to make effect determinations and for the SHPO to concur or non-concur.

We look forward to your consideration of these and other comments you receive from consulting parties.

Sincerely,



Reid Nelson
Director
Office of Federal Agency Programs