



OFFICE OF THE VICE SPEAKER
THERESE M. TERLAJE
Chairperson of the Committee
On Culture and Justice

I Mina'trentai Kuåttro na Liheslaturan Guåhan
34th Guam Legislature

Transmitted via Electronic Mail

governor@guam.gov

May 24, 2018

Honorable Eddie Baza Calvo

Governor of Guam Ricardo J. Bordallo Complex
Adelup, Guam

RE: 6th Annual Guam Programmatic Agreement Workshop and Issues with the PA

Håfa Adai Governor Calvo,

I write to you with concern about the Programmatic Agreement (PA), which as you know, controls how the Department of Defense will behave in regard to historic sites in the buildup. Not all of the achievements predicted when signing the Programmatic Agreement have come to fulfillment and the process has become a monumental and overwhelmingly burdensome task for our State Historic Preservation Officer (SHPO), who is the sole entity charged with protecting historic properties for all the people of Guam. The Record of Decision (ROD) made very clear that there are severe impacts on historic sites and environmental resources at both the Cantonment area and the Live Fire Training Range (LFTRC) area. Moreover, when the PA was signed, the Live Fire Training Range location had not been decided, and our SHPO did not believe that the Northwest Field location, which impacts Ritidian/Litekyan, was on the table. Furthermore, the Record of Decision regarding the LFTRC and the location of the Cantonment area had not been issued. Since the Record of Decision for the LFTRC was announced, the SHPO has discovered historic properties at the site that were not considered by the Department of Navy and is in the process of asking for reconsideration. There are over 100 historic sites at Northwest Field, and 14 of these sites have not been avoided and instead a sampling of important ancient artifacts has been removed and stored, and therefore will not be left in place in order to preserve historical context for future generations of Guam. Any artifacts or historic materials not removed from the site are left to the disposal of the contractor.

In her letter to the Advisory Council on Historic Properties (ACHP) received on Sept 26, 2017, the Guam SHPO requested that the construction of the LFTRC be “paused” noting that the Guam Training Range Review and Analysis report (TRRA) did not provide sufficient information on the full effects of the proposed project on historic properties. The ACHP urged the SHPO to process objections as outlined under Stipulation XIII of the PA. The stipulation allows for signatories, invited signatories, and concurring parties of the PA to “consult” for up to 45 calendar days to resolve the objection.

Today, SHPO’s concerns remain unresolved and she presented a letter to all signatories to support the State Archaeologist’s objections to actions carried out in the implementation of the Programmatic Agreement and relative to several military projects including the LFTRC,

the Main Cantonment (Marine Base, Finegayan), the Anderson South Training Complex, and the Water Well Development and Construction projects on Andersen Air Force Base. Please see the attached May 24, 2018 letter from SHPO. The State Archaeologist noted concerns about the adequacy of sampling relative to the scope of historic properties. At today's PA Annual workshop, it was further discussed that data recovery is only a representative sample of a site. Once data recovery is completed, the rest of the site is left to the discretion of the contractor. A representative of JRM also noted that they are wary of the cost of curation for artifacts that they retrieve and stated, "If we pick something up, we are required to curate it."

Also, the PA has not allowed the SHPO to stop projects when an historical site will be affected. The SHPO has stated that the 45-day period for review and consultation for projects is insufficient and has made requests for at least three extensions on one project. Her third and most recent request to extend the consultation period for the J-001B project (Finegayan) was declined and DOD proceeded with the project. Furthermore, according to the Department of Defense's interpretation of the PA, as they stated in minutes from last year's Annual Workshop for CY2016 on April 27, 2017, "any eligible sites are being fully data recovered, not nominated, as the buildup requires disturbance of the area for construction."

Likewise, a PA Memo for Project J-755 (Urban Combat Training Project, Anderson South) published in February of this year by the Naval Facilities Engineering Command and the Marine Corps activity Guam Public Works Department indicated that a project of the Department of Defense, "Does not require approval from SHPO or other consulting party; does not require the identification of every historic property within the area of potential effect (APE); does not require investigations outside of or beneath a properly documented APE; and does not require ground verification for the entire APE." Furthermore, the same document stated that DOD is not required to identify 100% of the sites in the APE and that 100% of the land area of the APE does not have to be covered."

In addition, many of the promises of the PA have yet to come to fruition, including the promise for a new museum complex. The Programmatic Agreement has identified the entire islands of Guam and Tinian as the Area of Potential Effect for cumulative effects on historic properties, and specifies a provision for a 20,000 square foot curation facility as well as a museum complex to the Government of Guam as part of DOD's mitigation measures. The dedication of a site for the repository recently took place, but it is still not built, ten years after the PA promised it would be built. As to the promise that the Department of Defense would advocate for the construction of a new museum complex, today an Executive Summary from the Department of the Navy was discussed in which they confirmed that "no federal agencies had additional Congressional authority or discretionary funds to support the construction of the Guam Museum." Please see the attached summary.

It is evident that access to historic sites on bases continues to be highly restricted, despite the Public Access plan that has recently been implemented. The plan was promised with the PA and now may have resulted in more restricted access to historic sites on bases including Haputo and areas at Orote Point.

I maintain that impacts to historic properties should be avoided, that the sites, artifacts, and burials should remain in context, and that the PA has proven not to be fully effective in this regard. Projects should not proceed without final consensus and explicit approval by Guam SHPO. I object to the DON's decision to disregard the SHPO's recommendations, which undermines the people of Guam and further provokes public skepticism and mistrust of DOD activities and their effects on historic sites.

Additionally, the PA process does not adequately consider environmental issues that are now upon us from the combined clearing of vegetation along with the deposit of materials over the Northern Guam Lens Aquifer. The Northern Guam Lens Aquifer is a precious resource that must be protected. Rehabilitation of the aquifer and habitat is not a viable option if we fail to protect it.

I would like to reiterate my points from a letter I sent you on September 5, 2017 and attached, in which I discussed the Final SEIS, the Biological Opinion, and other documents which outline the clearing of a total of 1,219 acres of limestone forest habitat, including the clearing of 187 acres of limestone forest habitat at Northwest Field, the clearing of 212 acres of limestone forest habitat for the hand grenade range, urban terrain training area and other activities at Andy South, the clearing of 12 acres of limestone forest habitat for well fields and water system at AAFB, and the further clearing of 683 acres of limestone forest for the cantonment at Finegayan.

The Biological Opinion (BO) also discusses the significant adverse effects on endangered or threatened species from the proposed destruction of habitat, especially the limestone forest habitat. It states that of the 23 endangered or threatened species located in Micronesia, 13 were found to occur adjacent to or within the proposed project areas. In particular, the BO, regarding the Live-Fire Training Range at Ritidian Point and the effects on the Guam National Wildlife Refuge states:

"The largest effects on listed species habitat in terms of habitat fragmentation will be on AAFB near Ritidian Point from construction of the LFTRC. This area currently contains a large expanse (over 350 ac {142 ha}) of high-quality primary limestone forest that serves as occupied habitat for the Mariana fruit bat, Mariana eight spot butterfly, B. guamense, D. guamense, Tuberculabium guamense, C. micronesica, H. longipetiolata, and T. rotensis, and unoccupied habitat for the Guam tree snail, fragile tree snail, and humped tree snail (DON 2017a, p. 44). This primary limestone forest is also contiguous with GNWR, providing an even larger forested area serving as habitat for the above eleven listed species. In total, approximately 78 ac (32 ha) of primary limestone forest and 109 ac (44 ha) of secondary limestone forest would be permanently cleared for construction of the LFTRC.

In addition to LFTRC clearing activities, the proposed action will create a Surface Danger Zone (SDZ) over approximately 68 percent of the GNWR at Ritidian Point during operation of the LFTRC. The SDZ will cover the GNWR access road, visitor center, offices, and other facilities and thereby limit access to the GNWR while firing occurs at the LFTRC. Any entry into GNWR will require scheduling with and approval by LFTRC Range Control personnel. The limited access that GNWR staff will have to the refuge property during the estimated 39 weeks per year the LFTRC is active will limit the amount of habitat management that can occur at the GNWR. This could have an

adverse effect on listed species by: 1) limiting maintenance of the predator exclusion fence at the GNWR, 2) limiting maintenance of native out-plantings, 3) limiting invasive plant control, and 4) limiting effective ungulate control. Per Section 2822 (Establishment of surface danger zone, Ritidian Unit, GNWR) in the 2015 National Defense Authorization Act, the Service and the DON may enter into an agreement to establish and operate a SDZ over the GNWR. The agreement may include relocation and reconstruction of GNWR facilities, mitigation for impacts to wildlife species, and use of DoD personnel to complete GNWR conservation actions; however, this agreement is not yet in place. Therefore, in this analysis we assume that the operation of the LFTRC will have an adverse effect on listed species by preventing the management, research, and monitoring that would have otherwise occurred at GNWR.”


While Guam suffers the adverse environmental and historic impacts from buildup projects, litigation continues via a lawsuit filed in the CNMI by the Tinian Women’s Association and others, the District Court is considering whether the Record of Decision for the military buildup should have included the training ranges required throughout the Marianas, instead of dividing these “required” training ranges for the marines being relocated to Guam into a different CJMT EIS and ROD process. A decision on that case is still pending.

I respectfully request again that you address these concerns and pause clearing and construction where it will adversely impact historic properties until our SHPO’s concerns can be fully addressed, and that avoidance of destruction of 1,219 acres of limestone forest habitat can be accomplished.

I stand ready to discuss and assist in the best strategy for Guam that will bring justice to our history and that will naturally unite and not further divide our people.

Si Yu’os Ma’åse yan Saina Ma’åse.

Best regards,



Therese Terlaje
Vice Speaker

Attachments:

- Executive Summary Memorandum, Department of the Navy, April 16, 2018
- SHPO Letter to Signatories Regarding Stipulation XIII- Resolving Objections, May 24, 2018 with attachments
 - o SHPO letter to ACHP, September 26, 2017
 - o ACHP response to SHPO, October 13, 2017
- Letter from Vice Speaker Terlaje to the Governor, September 5, 2017
 - o Factsheet for Letter to the Governor, September 5, 2017
- Annual Workshop Minutes for CY2016, April 27, 2017
- PA Memo for Project J-755, February 2018