



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION IX**

**75 Hawthorne Street**

**San Francisco, CA 94105-3901**

July 16, 2007

MIRC TAP EIS

Attn: EV2

258 Makalapa Drive, Suite 100

Pearl Harbor, HI 96860-3134

Subject: Scoping Comments for the Mariana Islands Range Complex (MIRC)

Dear MIRC TAP:

The U.S. Environmental Protection Agency (EPA) has reviewed the Federal Register notice published on June 1, 2007 requesting comments on the Department of Defense (DoD) decision to prepare an Environmental Impact Statement (EIS)/Overseas Environmental Impact Statement (OEIS) for the subject project. Our comments are provided 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.

The DoD proposes to increase training operations in the MIRC. This will include increased existing training, new operations on existing ranges and training areas, and new training on adjacent air and ocean areas with upgraded and modernized capabilities. In response to your scoping request, we have identified the several issues for your attention in the preparation of the Draft Environmental Impact Statement (DEIS). Our detailed comments are attached.

We appreciate the opportunity to comment on this Notice of Intent (NOI). We understand that this project will be coordinated with the Relocation of Marines to Guam EIS, for which EPA is a cooperating agency. When the DEIS is released for public review, please send one hard copy and one electronic copy to the address above (mail code: CED-2). If you have any questions, please contact me at (415) 972-3846 or Karen Vitulano, the lead reviewer for this project, at 415-947-4178 or [vitulano.karen@epa.gov](mailto:vitulano.karen@epa.gov).

Sincerely,

A handwritten signature in black ink that reads "Karen Vitulano for".

Nova Blazej, Manager  
Environmental Review Office

Enclosure: EPA's Detailed Comments

cc: Frank Rabauliman, Director, CNMI Division of Environmental Quality  
Brian Bearden, CNMI Division of Environmental Quality  
John Joyner, CNMI Office of Coastal Resources Management  
Captain Robert Lee, Department of the Navy  
David F. Bice, Joint Guam Program Office  
Michael Molina, U.S. Fish and Wildlife Service  
George Young, U.S. Army Corps of Engineers  
Gerry Davis, National Marine Fisheries Service  
Patricia Young, U.S. Environmental Protection Agency

### **Alternatives Analysis**

The CEQ regulations state that federal agencies shall, to the fullest extent possible, “assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment (40 CFR 1500.2(e)). Additionally, the CEQ regulations state, that agencies shall consider alternatives which include mitigation measures not in the proposed action (40 CFR 1508.25(b) 3.). EPA recommends a mitigated alternative be evaluated for this DEIS. This would broaden the range of alternatives, and would be consistent with the approach taken for the 1999 *Military Training in the Marianas* EIS, which included a “mitigated set of training activities” as an evaluated alternative. The DoD should strive to formulate this alternative so that all potentially significant impacts to resources are avoided.

For example, the mitigated alternative should be formulated to:

- Avoid coral reef damage from amphibious landing activities, demolitions and detonations, and include post-activity monitoring and compensatory mitigation for measured impacts;
- Use simulations instead of live ammunition for underwater detonations;
- Restrict underwater demolition activities to areas that do not contain sensitive biological resources;
- Restrict underwater demolitions/detonations to periods outside the breeding season for sea turtles and other sensitive marine life, and outside the coral spawning season (i.e., most of June and July). Avoid whale breeding and migration periods;
- Avoid training activities that could result in reductions in water or substratum quality during the coral spawning season;
- Observe a precautionary threshold for use of mid-frequency sonar (see below).

### **Acoustic Impacts on Marine Mammals**

The project website indicates that active sonar may be used in subsurface submarine training. There have been advances in knowledge in recent years regarding impacts from mid-frequency sonar on marine mammals. Because of marine mammal strandings associated with Navy sonar use in the Bahamas and elsewhere, it is important that this issue be fully explored in the Draft Environmental Impact Statement (DEIS). We recommend that a thorough discussion of current best available science be presented regarding impacts from the proposed sonar use on all marine biological resources, and that this information be utilized in assessing potential impacts.

The Woods Hole Oceanographic Institution has recommended a precautionary threshold of 154 decibels for avoiding significant behavioral responses of marine mammals<sup>1</sup>. For the alternatives analysis, EPA recommends DoD evaluate an alternative in the DEIS where mid-frequency sonar use would not exceed this precautionary threshold.

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<sup>1</sup> Cited in California Coastal Commission's revised staff recommendation available at: <http://documents.coastal.ca.gov/reports/2007/1/W10b-1-2007.pdf>

### **Impacts to Coral Resources**

The DEIS should disclose the full range of impacts to coral reefs from training activities, including direct impacts to corals and indirect impacts from sedimentation. Cumulative impacts on corals should include impacts from pollution, warming waters from climate change, commercial fishing, development and ship groundings.

Compensatory mitigation should be included for significant impacts on biological resources. DoD should coordinate with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, as well as the CNMI government, when developing compensatory mitigation.

### **Environmental Justice**

Executive Order 12898 on Environmental Justice addresses disproportionate adverse impacts of federal actions on minority and low-income populations. The DEIS should identify minority and low-income populations, identify the approaches used to foster public participation in the NEPA process by these populations, and address whether the alternatives would cause a disproportionate adverse impact. Assessment of the project's impact on minority and low-income populations should reflect coordination with those affected populations. The document should also explore potential mitigation measures for any adverse environmental justice effects, such as displacement, changes in existing access, community disruption, or impacts to subsistence fishing.

### **Hazardous Materials / Toxics**

The DEIS should identify the use of hazardous materials in training equipment and address their release into the environment during training exercises. Discuss the fate and transport of toxics from ammunition/explosives use. Identify the potential for accidental releases of fuels and other hazardous materials and mitigation measures to prevent this from occurring or respond to it if a release occurs. Identify whether training areas contain hazardous materials or are contaminated with hazardous wastes and how training will avoid the spread or transfer of contaminants to other environmental media during training operations. Discuss cleanup activities that will occur after training, whether equipment will be retrieved from land and ocean sites, and what effects to environmental resources would occur from leaving equipment, discharged munitions and unexploded ordnance at impact sites.

### **Cumulative Impacts**

Cumulative impacts analyses are of increasing importance to EPA as they describe the threat to resources as a whole. The cumulative impacts analysis should identify how resources, ecosystems (including coral reefs) and human communities have already been affected by past or present activities in the project areas. Characterize these resources in terms of their response to change and capacity to withstand stresses, and identify the additional stresses that will affect resources. Trends data should be used to establish a baseline for the affected resources, to evaluate the significance of historical degradation, and to predict the environmental effects of the proposed action. Identify appropriate mitigation and the entities responsible for implementing all mitigation.

**Invasive species / Brown Tree Snake**

Executive Order 13112, *Invasive Species* (February 3, 1999), mandates that federal agencies take actions to prevent the introduction of invasive species (terrestrial and marine), provide for their control, and minimize the economic, ecological, and human health impacts that invasive species cause. The DEIS should describe how the project will meet the requirements of Executive Order 13112. The introduction of invasive species, specifically the Brown Tree Snake, to the Northern Mariana Islands is a major concern. Because of sensitive wildlife populations, some of which are endemic to the Northern Mariana Islands, plans and procedures to prevent this from occurring are critical.

**Clean Water Act Section 404**

The DEIS should identify all waters of the U.S. that could be affected by the project alternatives, including the acreages and channel lengths, habitat types, values, and functions of these waters. Include maps that clearly identify all waters within the project area.

The DEIS should identify whether training activities will cross streams, require temporary bridges, or involve activities that could result in the deposition of fill into streams, wetlands or reefs. DoD should coordinate early with the U.S. Army Corps of Engineers to determine if the proposed project requires a Section 404 permit under the CWA, which regulates the discharge of dredged or fill material into waters of the U.S. If a permit is required, EPA will review the permit application submitted to the Corps for compliance with EPA's 404(b)(1) guidelines. Pursuant to 40 CFR 230, any permitted discharge into waters of the U.S. must be the least environmentally damaging practicable alternative available to achieve the project purpose. The DEIS should include an evaluation of the project alternatives in this context in order to demonstrate the project's compliance with the 404(b)(1) Guidelines.