UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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July 6, 2010

Nora Macariola-See
Project Manager, EV21
Naval Facilities Engineering Command, Pacific
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Pearl Harbor, HI 96860-3134

Subject: EPA comments on the Mariana Islands Range Complex (MIRC) Final Environmental Impact Statement/Overseas Environmental Impact Statement, Mariana Islands (CEQ# 20100204)

Dear Ms. Macariola-See:

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 reviewed the Draft Environmental Impact Statement (DEIS) and provided comments to the Navy on March 26, 2009. We rated the DEIS as Environmental Concerns - Insufficient Information (EC-2) primarily due to concerns regarding potential impacts to coral reef ecosystems and water quality. Our concerns were based on our determination that the impact assessment approach did not fully assess impacts, since it assessed each individual training activity without considering the additive impacts that these activities would have on environmental resources at the training sites. Because of this approach, the DEIS averaged the impacts of training activities over the very large training area of the MIRC[1] and repeatedly concluded that impacts would be "localized and temporary", and thus insignificant. Except for the open ocean, training locations are distinct (indeed "local"), and in our comments on the DEIS, we recommended that the impacts to resources at these sites be assessed in a geography-based or site-specific assessment approach for the Final EIS (FEIS).

The Navy responded to this comment by stating that the EIS is a programmatic review and is not a site-specific analysis of actions on particular areas (Response to Comments, p. 11-437-438). The DEIS did not indicate that the MIRC EIS was intended to be a programmatic EIS, nor does the FEIS indicate this, except in the response to our comment. We do not disagree that a programmatic EIS would be appropriate for this action, if site-specific analyses were also include or prepared separately and tiered to the programmatic document. EPA recommends that programmatic EISs be prominently identified as such, and include descriptions of the scope and timing of additional site-specific NEPA documents that will be prepared, if any.

[1] 501,873 square nautical miles (nm^2) of ocean, 64 nm^2 of land across 5 islands, and 63,000 nm^2 of airspace

While some additional information was added to the FEIS, we do not believe it contains a sufficient level of detail to determine the environmental effects of the action on the different training locations. The FEIS continues to conclude that impacts to various resources would be "localized and temporary", but does not provide the detailed analysis of local geographic conditions necessary for the decision-maker to determine what course of action is appropriate. Courts have held that site-specific assessments are necessary when a programmatic statement is not sufficiently detailed and when the scope and analysis in the programmatic statement is insufficient to cover the environmental effects of the site-specific action[2]. As such, we do not believe the FEIS alone fulfills NEPA's mandate to take a "hard look" at impacts for the action. We recommend that additional NEPA analysis occur for site-specific training locations, tiered to this programmatic EIS. We also note that the Council on Environmental Quality (CEQ) regulations advise that statements on broad federal actions should consider evaluating the proposal geographically (40 CFR 1502.4(c)), and that the Navy's Hawaii Range Complex EIS provided site-specific assessments.

EPA also has remaining concerns regarding deficiencies in the cumulative impact assessment. The MIRC FEIS states that the cumulative effects associated with the Guam and Commonwealth of the Northern Mariana Islands (CNMI) Military Relocation are included in the MIRC EIS (p. ES-2), however the cumulative impact assessment does not discuss the significant cumulative impacts to various resources that are likely to occur as a result of the military relocation, nor how the MIRC actions will contribute to these impacts and whether they would be cumulatively significant. Our MIRC DEIS comments noted the cumulative impacts to coral reef ecosystems from the nuclear aircraft carrier (CVN) berth project, which is part of the military relocation DEIS, and advised that these impacts be discussed in the MIRC cumulative impact assessment for marine communities (corals). The FEIS still does not contain a cumulative impact assessment for marine communities. EPA also identified significant potential impacts to water resources during our review of the Guam and CNMI Military Relocation DEIS[3], which should be considered in any future tiered assessments of localized training site impacts.

EPA appreciates the opportunity to review this FEIS. We would appreciate receiving a copy of the Record of Decision (ROD) when it is available. If you have any questions, please contact me at 415-972-3521, or contact Karen Vitulano, the lead reviewer for this project, at 415-947-4178 or vitulano.karen@epa.gov.

Sincerely,

For Connell Dunning

Kathleen M. Goforth, Manager
Environmental Review Office (CED-2)

[2] Kelley v. Butz, 404 F. Supp. 925; Natural Res. Def. Council, Inc. v. Morton, 388 F. Supp. 829

[3] EPA's comment letter is available at: http://www.epa.gov/region9/nepa/letters/Guam-CNMI-Military-Reloc-DEIS.pdf

cc: Frank Rabauliman, Director, CNMI Division of Environmental Quality
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