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To Whom It May Concern,

The Commonwealth of the Northern Marinas Islands (CNMI) Division of Coastal Resources Management (DCRM) has reviewed portions of the draft supplement to the 2015 Final Marianas Islands Training and Testing (MITT) Draft Supplemental Environmental Impact Statement (EIS)/ Overseas Environmental Impact Statement (OEIS).

CNMI Public Law 3-47, entitled the "Coastal Resources Management Act," grants DCRM regulatory authority towards activities within its jurisdictional territory that can impact the coastal resources of the CNMI. DCRM's mission is to protect and enhance the CNMI's coastal resources for residents and visitors through effective and adaptive resource management, interagency collaboration, and stakeholder engagement, in a manner that builds and sustains community resilience and well-being. Pursuant to the requirements of Section 307 of the federal Coastal Zone Management Act of 1972, as amended, and its implementing regulations found at 15 CFR 930, federal actions which may have reasonably foreseeable effects on uses or resources of the coastal zone must be undertaken in a manner which is consistent with the CRM enforceable polices as approved by the National Oceanic and Atmospheric Administration.

DCRM is firm in its belief that the Technical Agreement reserves for the Commonwealth at the very least, limited jurisdiction. The Technical Agreement reserved for the Commonwealth certain rights (e.g. planning and coordination efforts regarding infrastructure and utilities, shoreline access for fishermen, recreational access to beach areas, etc.), the Commonwealth maintains its jurisdiction over the coasts and shorelines, broadly defined by law, for the safety and benefit of the general public. To that extent, we believe it mutually beneficial to establish better methods of communication and information-sharing. As outlined further in this comment, DCRM has concerns regarding the scope, extent of data sharing and lack of updated data, and the process itself that has been implemented for this MITT draft SEIS review.

DSEIS/OEIS Scope

DCRM provided scoping comments on the 2015 MITT Final EIS/OEIS on September 15, 2017. The agency maintains its concerns as stated in the scoping document regarding the environmental implications of MITT activities conducted on Farallon de Medinilla (FDM) and at sea, as well as those that have occurred over time and those associated with emerging technologies. The scope of the draft Supplemental Environmental Impact Statement (SEIS) and any subsequent updates should include rigorous assessment of environmental effects identified in DCRM's initial scoping comments to support meaningful analysis of the impacts and possible mitigation of these impacts. In summary, direct, indirect, and cumulative effects analysis in the SEIS should at minimum address the following using best available scientific data and clear impacts criteria:

- Direct and cumulative mass wasting and sedimentation as a result of bombing activities on Farallon de Medinilla and the secondary impacts on endangered species, nesting seabirds, and nearshore reefs;
- Direct and cumulative impacts from military-expended materials and other marine debris on water quality and marine biota including but not limited to analysis of the timing, duration, and concentration of toxic inputs (both point and non-point source), the residence times of the constituents, effects of deposition, bio-accumulation of metals and other chemical pollutants in individual organisms and on up the food chain, and potential risks stemming from unexploded ordnance;
- Direct and cumulative impacts from active sonar and explosive tests on marine mammals;
- Direct and cumulative impacts on seagrass, coral reef and other invertebrate, sea turtle, and fish populations and habitats;
- Direct and cumulative impacts on cultural resources and the loss of traditional access and use of Farallon de Medinilla;
- Direct and cumulative impacts of restricted areas on recreational and commercial fishing and transport between islands, including but not limited to public access, tourism and an analysis of impacts that would result from fishermen forced to seek alternate work areas;
- Direct and cumulative impacts on terrestrial lands, habitats, and species of the CNMI resulting from activities conducted both at sea and on Farallon de Medinilla;
- Direct and cumulative environmental justice implications of continued expanded training and testing in and near the Commonwealth of the Northern Mariana Islands and the relationship of this proposal to other related training and testing expansions proposed in this region; and
- Cumulative impacts resulting from all Department of Defense activities in the Marianas region, including how ongoing military readiness activities in the MITT Study Area raise the profile of the US Pacific Islands as areas of strategic importance and heighten the risk of pre-emptive or retaliatory strikes from enemies.

Despite DCRM's requests that these impacts be considered thoroughly in the scoping comments we provided, we find data gaps and conclusory analysis plagues the Draft SEIS/OEIS, leaving the impression that these comments were not fully considered in the scoping process. An addendum to any subsequent revisions or to the final report should include where scoping concerns – and, for the final, comments on the draft – have been addressed to further support the review process.

Data Availability and Updates

The MITT-EIS.com website provides five “2019 Supporting EIS/OEIS Supporting Technical Documents”: (i) Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (Phase III), June 2017, (ii) Dive Distribution and Group Size Parameters for Marine Species Occurring in the U.S. Navy’s Mariana Islands Training and Testing Study Area (March, 2018), (iii) Marine Mammal Strandings Associated with U.S. Navy Sonar Activities (June, 2017), U.S. Navy Marine Species Density Database Phase III for the Mariana Islands Training and Testing Area (July, 2018), and (v) Quantifying Acoustic Impacts on Marine Mammals and Sea Turtles: Methods and Analytical Approach for Phase III Training and Testing, (August, 2018). Firstly, it is disconcerting that after several requests to provide data and studies in advance that such reports were not provided as a courtesy to CNMI natural resource managers when they were finalized to support timely review and meaningful engagement in the development of these reports and criteria. Instead, by releasing these reports along with the voluminous draft SEIS/OEIS, insufficient time has been time provided to assess the methods or data supplementing this report, let alone to conduct reviews of other data from non-DOD studies and institutions which would likely be helpful in supporting further discussion regarding effects analysis and related statements made in these reports. In fact, these five documents are not the entire suite of newly cited and relied upon publications, and in practice, it is challenging for small government agencies without professional journal subscriptions to find and access the reports that are being relied on. These shortcomings should be remedied in future reports.

At minimum, reports supporting this draft SEIS/OEIS should be summarized and sections where data was used to support effects analysis should be clearly outlined to support review of this updated analysis. It would be helpful in the revised or updated draft SEIS/OEIS to also indicate where assessment of impacts of “new technologies” are covered by new analysis provided, or to explain how DOD plans to monitor and assess these impacts if no analysis has been done. Where updated local data is available to support this analysis, it should be shared to support this review process, ideally when that data is collected. DCRM and our partner agencies have repeatedly requested data sharing and monitoring access to further address concerns regarding impacts of current and proposed DOD activities – most recently at last year’s scoping meeting when partners were informed that the pending SEIS would be focused on obtaining reauthorization of existing Endangered Species Act (ESA) and Marine Mammal Protections Act (MMPA) authorizations. In general, environmental impact assessment reports in our region would be more effective at enabling technical review if data were provided as studies were published and if all studies could be linked to as PDFs in the report contents to support accessibility of primary documentation.

To this day, raw data and primary reports being relied upon for environmental analysis are not made readily available nor are monitoring activities coordinated, making review of impacts of current activities and proposed future actions challenging. Lack of data availability and timely sharing of updated data when it is collected appears to be contrary to the DOD’s NEPA implementation guidance which states that “[c]lose and harmonious planning relations with local and regional agencies and planning commissions … for cooperation and resolution of mutual land use and environmental-related problems should be established” (32.CFR.775.10). For this and other DOD proposals, DCRM would like to reiterate the request for early information sharing to provide technical staff sufficient time to review and comment on data collection methods and data that is collected. Incorporating local resource managers in study development and report review would greatly enhance the credibility of the methods being applied in existing and updated effects analysis.

Lack of updated data used in the MITT draft SEIS/OEIS is also disconcerting. As discussed below, although new activities and substantial changes in the "tempo" of activities authorized under the 2015 MITT Record of Decision (ROD) are proposed, little new information appears to be analyzed, presenting procedural and substantive concerns. To assist CNMI agencies to identify and review new information, DCRM requests that DOD provide all new studies, reports, and other related data analysis and raw data used in the 2019 SEIS/OEIS as well as a list of these materials and what substantive issues they were relied upon in the supplemental analysis conducted for this proposal. Although we understand discussion of new technologies is privileged information, some demonstration that new impacts of these technologies have been meaningfully considered could also be included in supporting data sharing.

Procedural Concerns

The additional of new technology for training and testing under the MITT has not been meaningfully discussed with CNMI reviewing agencies, raising both substantive and procedural concerns. It is unclear whether the direct, indirect, and cumulative impacts have been considered. As the Department of Defense's procedures for implementing the National Environmental Policy Act details, the "fact that a proposed action is of a classified nature does not relieve the proponent of the action from complying with NEPA and the CEQ regulations. Therefore, environmental documents shall be prepared, safeguarded, and disseminated in accordance with the requirements applicable to classified information" and that "[e]ven though the classified EA/EIS does not undergo general public review and comment, it must still be part of the information package to be considered by the decisionmaker for the proposed action" (32 CFR 775.5). It appears some additional information confirming the consideration of the impacts of these new technologies would be warranted.

Moreover, the proposed increase in use of explosive ordnance and the use of "new technologies" envisioned in this draft SEIS/OEIS appears to be substantial, especially when details regarding what those technologies are remains unknown. DOD's NEPA guidance further states that a "substantial change in a continuing activity (such as a substantial change in tempo, area of use, or in methodology/equipment) which has the potential for significant environmental impacts should be considered a proposal for a new action and be documented accordingly" (32 CFR 775.6(c)(2)). Thus, it is unclear, given the addition of new technology and significant increase in use of explosive ordnance detailed in chart 2.5, why a new DEIS/OEIS has not been prepared to address this action. Should the DOD determine this approach is prudent, DCRM encourages that you work with our office and our agency partners to ensure that issue scoping is conducted and information is shared in advance of the official notice and comment period to support CNMI's ability to review and comment on these activities.

Substantive Concerns

Significance of Effects at FDM

Significance of effects at FDM has primarily focused on coral impacts, although impacts to water quality and public access also remain concerns for DCRM. It appears that the "significance" of effects to coral around FDM has been qualitatively assessed based on surveys from two sets of researchers affiliated with the Navy's Space and Naval Warfare Systems Center Pacific (SSC Pacific). The "Smith and Marx" surveys were conducted between 1999-2012, and the most recent "Carilli et al" survey was conducted in 2017. Although the Carilli et al study was referenced in this draft SEIS/OEIS, this report and supporting data are not included in the 2019 SEIS/OEIS documents, making location of the file itself challenging. DCRM once again requests that supporting reports prepared for the MITT and other DOD build-up activities be provided when they are finalized to support meaningful review, and to this end we request copies of all of the Smith and Marx and Carilli surveys and associated raw data. Moreover, especially given the "discovery" of three new *Acropora* species, DCRM views the 2017 survey efforts as a missed opportunity for locally coordinated monitoring and assessment activities around FDM – a request for coordination that has been made repeatedly by local resource managers and still remains unaddressed. Collected data should be shared with CNMI to further inform discussion of monitoring protocols and impact analysis which are ongoing through this NEPA process as well as Integrated Natural Resources Management Planning dialogs.

Without having access to these raw data and annual reports – and ideally access to the submerged lands around FDM itself for our own monitoring – it is difficult to find the significance assessment relating to impacts to coastal resources to be credible. This is especially true due to conclusory statements made in these studies, which were apparently qualitative in nature and lacking a "control" for comparison of effects in an area that is not experiencing active bombing practice. The Carilli et al. 2018 report distributed from the Navy Marine Species Monitoring resource library identifies 101 occurrences of exploded and unexploded ordnance on the sea floor within the 2017 survey area in Appendix E. That table lists over 4300 photographs, which again, would be helpful data to share with resource management agencies. In discussing "in-water effects of training" Carilli et al. note that "[t]wo bombs were classified as 'fresh' because they had little marine growth on them [and] all other items were classified as 'old', suggesting they had been submerged for at least several months and in some bases probable many years" and also that a "number of large ordnance items (750 and 2,000 pound bombs) which had been repeatedly sighted during past surveys were no longer at the same locations where they had been observed in the past [and] the divers speculated that these items had moved downslope due to wave and/or earthquake events".

Despite noting that large bombs both intact and in pieces are being deposited around the island, and evidence that these bombs are shifting on the sea floor, the paper concludes that there was "overall little evidence of any adverse impacts to coral from training activities" although this conclusion seems primarily based in the qualitative observation that all corals within the study area were actually under stress. With over 77% of corals surveyed in this study showing signs of bleaching, additional stress from physical impacts of bombs bouncing from land and then sliding down the sea floor as well as indirect impacts from increasing erosion and sedimentation from the adjacent island are surely significant cumulatively and warrant at least a serious assessment of possible monitoring, mitigation, restoration, and compensation alternatives.

To remedy observed shortcomings in data sharing and coastal resources effects analysis, DCRM urges the DOD to share all relevant raw data and analysis reports and invite DCRM and other resource managers in CNMI to join in the development and implementation of monitoring protocols at FDM. Additional studies to provide localized data to assess impacts to water quality and public access should also be considered in subsequent monitoring and re-permitting dialogs. In drafting environmental impact statements, clear use of the significance criteria being used would also be most helpful in supporting review of these statements. Robust monitoring should be ensured to provide data to assess whether current mitigation measures are sufficient and document changes relative to local and global events as they occur.

It also appears that the 2017 survey had relatively little coverage of the submerged lands adjacent to Impact Area 3, which would seem to be necessary due to the newly listed coral species that could occur in this area. Quarterly surveys of the full area of potential deposition of ordnance around FDM would seem reasonable given the high frequency of range use and the considerable ramp up in the “tempo” of the use of large explosive ordnance being proposed. More regular survey frequencies could also provide training opportunities to reclaim, disarm, and remove bombs from the terrestrial and marine environment to further reduce concerns regarding direct, indirect, and cumulative impacts of these activities.

<u>Significance of Water Quality Effects</u>

As the draft SEIS/OEIS outlines, explosives and explosive byproducts in addition to other materials expended during the proposed training and testing would “not exceed regulatory thresholds and guidelines” for sediment and water quality. Because it is unclear what guidelines are being referenced here, and what baseline and current data is being used to quantify existing levels of heavy metal load in the jurisdictional waters of FDM, further clarification is requested. Additional details regarding qualitative and/or quantitative criteria being used to assess the “significance” of in-water effects would enable CNMI to better understand the effects analysis supporting claims that existing and proposed increases of explosive ordnance is not having significant effects on coastal resources of concern. An updated or final EIS/OEIS should clearly identify what water pollutants of concern have been tested for on land and in the waters surrounding FDM and provide clear evidence that the ordnance being deposited from training activities does not pose direct, indirect, or cumulative risks to water quality and associated human uses of these coastal resources.

When discussing cumulative impacts, the 2019 DEIS references the 2015 MITT Final EIS/OEIS analysis, stating that training and testing activities under each alternative could result in local, short- and long-term changes in sediment and water quality, but that “chemical, physical, or biological changes remained within standards, regulations, and guidelines” (DEIS, 4-22). It would be very helpful to have some additional discussion regarding what those “changes”, how they are being detected and monitored, and how it is clear that applicable standards are not being and will not be exceeded. The DEIS goes on to rely on 2015 MITT analysis that, for short-term impacts “from explosions and the byproducts of explosions and combusted propellants” it would be “unlikely that these short-term impacts would overlap in time and space with other future actions that produce similar constituents” and “[t]herefore, the short-term impacts did not contribute to cumulative impacts” (DEIS 4-22). This is an unreasonable omission from this environmental impact analysis that may lead to substantially flawed understanding of impacts and necessary mitigation actions.

Cumulative effects analysis should most certainly consider the combine direct and indirect impacts of the currently sanctioned and proposed additional use of munitions on FDM and within the waters of MITT range complex. As previously noted in scoping comments, the revised or final report should include direct and cumulative impacts from military-expended materials and other marine debris on water quality and marine biota including but not limited to analysis of the timing, duration, and concentration of toxic inputs (both point and non-point source), the residence times of the constituents, effects of deposition, bio-accumulation of metals and other chemical pollutants in individual organisms and on up the food chain, and potential risks stemming from unexploded ordnance. This assessment should be conducted for the proposed seven-year extension of currently sanctioned activities at 2015 MITT ROD levels and at leaves of proposed alternatives 1 and 2 to provide for more meaningful analysis of impacts within the MITT range for the duration of the currently proposed action.

When discussing long-term impacts, the DEIS notes that, similar to the 2015 Final EIS/OEIS long-term cumulative impacts would be "negligible" because:

- Most training and testing activities are widely dispersed in space and time.
- Where activities are concentrated (i.e., Farallon de Medinilla [FDM]), marine habitat conditions observed over multiple years through dive studies indicate that ecological services that maintain water quality have not been inhibited at FDM.
- Most components of expended materials are inert or corrode slowly.
- Numerically, most of the metals expended are small-and medium-caliber projectiles, metals of concern comprise a small portion of the alloys used in expended materials, and metal corrosion is a slow process that allows for dilution.
- Most of the components are subject to a variety of physical, chemical, and biological processes that render them benign.
- Potential areas of impacts would be limited to small zones immediately adjacent to the explosive, metals, or chemicals other than explosives.
  (DEIS, 4-23).

To be at least minimally responsive to initial scoping requests, answers to the following questions should be provided:

- How many total tons of munitions and hours of sonar are being proposed for the timeline of the current proposal, which we understand to be though the next MMPA / ESA permitting period which has been extended from five to seven years?
- What studies have been conducted around FDM to demonstrate current water quality and water quality before compared to after explosive munitions use? What parameters have been tested for and at what frequency? Please provide copies of these studies to DCRM.
- Which components of expended materials are inert, which corrode slowly, and which are listed as known pollutants of concern? What would the total volume of these materials left on shore and in the marine environment be if the current 2015 MITT ROD is extended and under Alternative 1 and 2? What best practices are in place on other DOD ranges to ensure these materials do not pose risks to people and the environment? Are

there mitigating actions that could be taken to further reduce risks of large ordnance "bouncing" from land into the marine environment?

- What are current heavy metal loads in sediment and waters surrounding FDM? How does this compare to more remote islands of the CNMI that have not been being used for live fire training since the 1970s? How quickly do these metals corrode in our island environment? What best practices are in place on other DOD ranges to reclaim lead projectiles or otherwise ensure that heavy metals are not left in the terrestrial or marine environment?
- What are the components of the ordnance being used that would be rendered "benign" through physical, chemical, and biological processes? What are these processes and how long do they take? What components are not rendered "benign" through these processes?
- How have the direct, indirect, and cumulative effects on the "small zones immediately adjacent to the explosive, metals, or chemicals other than explosives" been assessed for the impact zones on FDM?

Without robust data to support analysis regarding these questions, it is indefensible to state that the cumulative impacts of the proposed 2019 SEIS/OEIS and future extensions of this proposal for the "foreseeable future" will not have significant impacts on the water quality, sediments, and surrounding coastal resources of FDM and the lands and waters of the CNMI. If information regarding water quality is lacking, data should be gathered, and DCRM would welcome the opportunity to join and support data collection, analysis, and further monitoring efforts.

<u>Significance of Effects to Public Access</u>
The DEIS/OEIS reports that "[a]ccess to waters around FDM between 3 and 12 NM was restricted for an average of 160days per year (peak of 201 in the year 2012)" and "[a]ccess to waters within 3 NM of FDM is restricted at all times to ensure public safety during military activities using explosive munitions" (DEIS 3.12-17). Although the DOD acknowledges that "[t]raining and testing activities have the potential to temporarily limit access to areas of the ocean, which has the potential to impact traditional fishing practice in the Study Area" (DEIS 4.48) these potential effects are not well detailed in the draft DEIS/OEIS. Disconcertingly, the 2019 report states that as "a result of the training and testing activities associated with this SEIS/OEIS, areas within 3 NM of FDM are permanently restricted to maintain public safety. Even when hazardous activities are not occurring at FDM, the potential occurrence of unexploded ordnance in waters surrounding the island is a constant threat to public safety" (DEIS 4-49). If this is the case, the DOD should take steps to ensure dangerous ordnance on land and in the water is regularly controlled to reduce threats to all people within the training area. This is especially true as the DOD is a temporary leasee of this land and has no legal authority to "permanently" restrict access. It is unclear how this SEIS/OEIS can credibly assess direct and cumulative impacts on public access, cultural resources, and the loss of traditional access and use of Farallon de Medinilla, but the treatment of these impacts in the current draft is dismissive and insufficient. Training and testing activities should not be allowed to pose "constant threats to public safety" and the DOD should take necessary actions to ensure training areas do not become permanent waste lands.

<u>Questions Regarding Proposed "Increase in Tempo"</u>
The current MITT proposal seeks a significant increase in use of munitions at FDM in addition to use of "new technologies" throughout the nearly one million nautical mile "MITT range" that

is our exclusive economic zone. It would be helpful if the final EIS/OEIS clarify why substantial increases in the amount of munitions – for example, 1,000 Naval Surface Fine Support Exercise Landbased Targets authorized annually under the 2015 Record of Decision to 4,200 being proposed now. What do these increases in "tempo" mean for activities within the MITT range area and how long is this increase anticipated to continue for? What is the total number of bombs and explosive potential sanctioned under the 2015 ROD and how is this proposal different? How many more tons of payload would proposed increases amount to? What if any alternatives were considered to this "solution" to accomplish training needs while also preserving the physical integrity of FDM and its surrounding waters?

Conclusion

To summarize, we request additional coordination with our office and more effective outreach to garner community engagement on the environmental and socioeconomic impacts to the study area. Where data and analysis are lacking, studies should be done working with CNMI resource management agencies to build trust and ensure we are answering research questions that should be resolved, rigorously assessing impacts, and ensuring mitigating actions are taken should significant impacts be identified. DCRM is appreciative of the opportunity to comment on the Draft Supplemental EIS/ OEIS and we thank you for your consideration. If you have any questions or concerns, please feel free to contact me at jcastro@dcrm.gov.mp.

Sincerely,

JANICE E. CASTRO
Director, Division of Coastal Resources Management

cc: CNMI Office of the Governor