

From: [Czeska Cabuhat](#)
To: [CRIWebComment](#)
Subject: [URL Verdict: Neutral][Non-DoD Source] PA Memo 1 : Opposition
Date: Sunday, March 20, 2022 2:40:59 PM

ATTN: CRI Web Comments, Code EV23
Naval Facilities Engineering Command Pacific
258 Makalapa Drive, Suite 100
Pearl Harbor, Hawaii 96860-3134

Project: J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool

PA Memo 1

Hafa adai:

Thank you for the opportunity to comment on the Department of Defense's ("DoD") Programmatic Agreement ("PA") Memo, "J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool." I respectfully submit these comments **opposing** the PA Memo's projects, "Identification of Historic Properties;" and "Determination of Effect" for the reasons provided:

First, NAVFAC is violating the NHPA and 2011 PA by combining five individual projects into a single PA memo. The language in the NHPA regulations and the 2011 PA makes clear that each "individual project" must undergo the PA Memo process. The 2011 PA, which applies to "all individual projects," requires the federal agency to take into account the effects of their undertaking for each individual project through the PA Memo Process.

Second, The CRI Website lacks the information necessary to support the DoD's PA Memo. Under the 2011 PA, the DoD expressly agreed to use the CRI website so that supporting information can properly provide the public with "opportunities to comment." However, the DoD's CRI Website does not make the supporting materials cited in the PA Memo publicly accessible.

I also state the following concerns for each project:

J-014 Physical Training Complex – I am concerned that the Outdoor Swimming/Training Pool to support the Underwater Egress Trainer (UET) and Physical Readiness program poses threats of contamination to the Guam Northern Lens Aquifer. I am also concerned that chlorine and other pool treatments may impact other historic properties. The PA Memo does not discuss the associated environmental and health risks and appears to have not been assessed. Despite a lack of discussion on impacts of a chlorinated swimming pool, NAVFAC reaches the conclusion that the undertaking will have "no effect" on the present historic properties.

J-035 Education Center – I object to this project and any earthwork in areas with historic properties.

J-318 Public Works and Maintenance Shops – I am concerned that impacts on historic properties and natural resources may not have been evaluated regarding the operational hazardous/flammable storage building and a short-term hazardous waste storage building and associated supporting facilities as well as the impacts of excavation, cut and fill work and wastewater release on historic properties. The PA Memo does not discuss the associated environmental and health risks and appears to have not been assessed. Despite a lack of discussion on activities related to hazardous/flammable and short-term hazardous waste storage, NAVFAC reaches the conclusion that the undertaking will have "no effect" on the present historic properties.

J-323 Base Motor Pool – I am concerned that impacts on historic properties and natural resources may not have been evaluated regarding the hazardous materials storage. PLSR raises concerns that hazardous waste storage may harm historic properties. Additionally, issues of erosion, soil stabilization and sediment control associated with the project will pose threats to the Guam Northern Lens Aquifer. Furthermore, the steady presence of large vehicles and heavy machinery in this area will also impact invaluable cultural and natural resources. The PA Memo does not discuss the associated environmental and health risks and appears to have not been assessed. Despite a lack of discussion on activities related to hazardous waste storage, NAVFAC reaches the conclusion that the undertaking will have “no effect” on the present historic properties.

I object to the determination of DoD that “the subject construction will have no historic properties affected because while historic properties have been identified in the APE, the properties will no longer retain integrity and will have had qualifying characteristics altered.” All properties, including those previously disturbed must be protected.

More and more human remains are being uncovered and desecrated at construction sites. PLSR raises concerns that DoD has not engaged with oral history or conversations with original landowners to gain a comprehensive understanding of the areas of impact. An article published in the Guam Pacific Daily News on March 10, 2022 reflects this deficiency. Therefore, the determination of effect is inadequate. The PDN article can be read at: https://www.guampdn.com/news/descendants-of-previous-base-land-owners-come-forward-military-discloses-details-on-latest-unearthed-human/article_755275f6-9b83-11ec-b96f-dfa5c936170a.html.

For the reasons above, we respectfully **oppose** the PA Memo’s “Identification of Historic Properties;” and “Finding of Effect.”

Sincerely,

Czeska Cabuhat--

Czeska 'SES-kah' Cabuhat

she/her/hers

call/text: (415) 823-4082



From: [I Hagan Famalão'an Guåhan](#)
To: Richard.Moore@fe.navy.mil; Joanna.Delfin@fe.navy.mil; litekyan.opa@gmail.com; [CRIWebComment](#)
Subject: [URL Verdict: Neutral][Non-DoD Source] IHFG Comments: MAMIZU Verticals
Date: Monday, March 21, 2022 1:52:56 AM

March 20, 2022

Via Email – criwebcomment@navy.mil

ATTN: CRI Web Comments, Code EV23
Naval Facilities Engineering Command Pacific
258 Makalapa Drive, Suite 100
Pearl Harbor, Hawaii 96860-3134

Project: J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool

Subject: PA Memo 1

Håfa Adai,

I Hagan Famalao'an Guåhan (IHFG), Incorporated, as the indigenous CHamoru Women's Association of Guåhan is founded on the collective mission to enhance, promote, protect and foster the social, economic, cultural, spiritual and political well-being of CHamoru women, girls and gender-diverse people within the overall Guåhan community.

Thank you for the opportunity to comment on the Department of Defense's ("DoD") Programmatic Agreement ("PA") Memo, "J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool." We respectfully submit these comments **opposing** the PA Memo's projects, "Identification of Historic Properties;" and "Determination of Effect" for the reasons below:

IHFG honors the CHamoru women of Guåhan as the link of their mangåffa and the predecessors of todu i nanan-måmi (our mothers). IHFG is sustained by the kåhna (spirit force) of our ancestors and our sacred connection to our lands and waters. Therefore, we oppose any projects that lead to the desecration of our ancestors and harm our important natural and cultural resources. I present our opposition in hopes of protecting the lands, waters, and heritage that we have inherited from our ancestors for all future generations.

IHFG is concerned that NAVFAC is violating the NHPA and 2011 PA by combining three individual projects into a single PA memo. The language in the NHPA regulations and the 2011 PA makes clear that each "individual project" must undergo the PA Memo process. The 2011 PA, which applies to "all individual projects," requires the federal agency to take into account the effects of their

undertaking for each individual project through the PA Memo Process.

Furthermore, we did not locate the information necessary to support the DoD's PA Memo within the CRI Website. Under the 2011 PA, the DoD expressly agreed to use the CRI website so that supporting information can properly provide the public with "opportunities to comment." However, the DoD's CRI Website does not make the supporting materials and necessary studies cited in the PA Memo publicly accessible.

IHFG also supports the concerns of project components below:

J-014 Physical Training Complex – IHFG is concerned that the Outdoor Swimming/Training Pool to support the Underwater Egress Trainer (UET) and Physical Readiness program poses threats of contamination to the Guam Northern Lens Aquifer. I am also concerned that chlorine and other pool treatments may impact other historic properties. The PA Memo does not discuss the associated environmental and health risks and appears to have not been assessed. Despite a lack of discussion on impacts of a chlorinated swimming pool, NAVFAC reaches the conclusion that the undertaking will have "no effect" on the present historic properties.

J-035 Education Center – IHFG objects to this project and any earthwork in areas with historic properties.

J-318 Public Works and Maintenance Shops – IHFG is concerned that impacts on historic properties and natural resources may not have been evaluated regarding the operational hazardous/flammable storage building and a short-term hazardous waste storage building and associated supporting facilities as well as the impacts of excavation, cut and fill work and wastewater release on historic properties. The PA Memo does not discuss the associated environmental and health risks and appears to have not been assessed. Despite a lack of discussion on activities related to hazardous/flammable and short-term hazardous waste storage, NAVFAC reaches the conclusion that the undertaking will have "no effect" on the present historic properties.

J-323 Base Motor Pool – IHFG is concerned that impacts on historic properties and natural resources may not have been evaluated regarding the hazardous materials storage. PLSR raises concerns that hazardous waste storage may harm historic properties. Additionally, issues of erosion, soil stabilization and sediment control associated with the project will pose threats to the Guam Northern Lens Aquifer. Furthermore, the steady presence of large vehicles and heavy machinery in this area will also impact invaluable cultural and natural resources. The PA Memo does not discuss the associated environmental and health risks and appears to have not been assessed. Despite a lack of discussion on activities related to hazardous waste storage, NAVFAC reaches the conclusion that the undertaking will have "no effect" on the present historic properties.

IHFG objects to the determination of DoD that "the subject construction will have no historic properties affected because while historic properties have been identified in the APE, the properties will no longer retain integrity and will have had qualifying characteristics altered." All properties, including those previously disturbed must be protected.

More and more human remains are being uncovered and desecrated at construction sites. We raise concerns that DoD has not engaged with oral history or conversations with original landowners to gain a comprehensive understanding of the areas of impact. An article published in the Guam Pacific Daily News on March 10, 2022 reflects this deficiency. Therefore, the determination of effect is inadequate. The PDN article can be read at: https://www.guampdn.com/news/descendants-of-previous-base-land-owners-come-forward-military-discloses-details-on-latest-unearthed-human/article_755275f6-9b83-11ec-b96f-dfa5c936170a.html.

For the reasons above, we respectfully **oppose** the PA Memo's "Identification of Historic Properties;" and "Finding of Effect."

Si Yu'os Ma'åse',
IHFG Board and Membership

From: [Jeremy Leon Guerrero](#)
To: [CRIWebComment](#)
Subject: [Non-DoD Source] PA Memo 1
Date: Sunday, March 20, 2022 11:18:42 AM

ATTN: CRI Web Comments, Code EV23
Naval Facilities Engineering Command Pacific
258 Makalapa Drive, Suite 100
Pearl Harbor, Hawaii [96860-3134](tel:96860-3134)

Hafa adai:

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I also state the following concerns for each project:

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issues of erosion, soil stabilization and sediment control associated with the project will pose threats to the Guam Northern Lens Aquifer. Furthermore, the steady presence of large vehicles and heavy machinery in this area will also impact invaluable cultural and natural resources. The PA Memo does not discuss the associated environmental and health risks and appears to have not been assessed. Despite a lack of discussion on activities related to hazardous waste storage, NAVFAC reaches the conclusion that the undertaking will have “no effect” on the present historic properties.

I object to the determination of DoD that “the subject construction will have no historic properties affected because while historic properties have been identified in the APE, the properties will no longer retain integrity and will have had qualifying characteristics altered.” All properties, including those previously disturbed must be protected.

For the reasons above, we respectfully **oppose** the PA Memo’s “Identification of Historic Properties;” and “Finding of Effect.”

Sincerely,
Jeremy Leon Guerrero

March 20, 2022

Via Email – criwebcomment@navy.mil

ATTN: CRI Web Comments, Code EV23
Naval Facilities Engineering Command Pacific
258 Makalapa Drive, Suite 100
Pearl Harbor, Hawaii 96860-3134

Project: J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool

Subject: PA Memo 1

Hafa adai:

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I also state the following concerns for each project:

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J-035 Education Center – I object to this project and any earthwork in areas with historic properties.

J-318 Public Works and Maintenance Shops – I am concerned that impacts on historic properties and natural resources may not have been evaluated regarding the operational hazardous/flammable storage building and a short-term hazardous waste storage building and associated supporting facilities as well as the impacts of excavation, cut and fill work and wastewater release on historic properties. The PA Memo does not discuss the associated environmental and health risks and appears to have not been assessed. Despite a lack of discussion on activities related to hazardous/flammable and short-term hazardous waste storage, NAVFAC reaches the conclusion that the undertaking will have “no effect” on the present historic properties.

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For the reasons above, I respectfully **oppose** the PA Memo’s “Identification of Historic Properties;” and “Finding of Effect.”

Sincerely,
Joanne Messier



From: [Kristan Santos](#)
To: [CRIWebComment](#)
Subject: [Non-DoD Source] PA Memo 1
Date: Sunday, March 20, 2022 11:16:46 AM

ATTN: CRI Web Comments, Code EV23
Naval Facilities Engineering Command Pacific
258 Makalapa Drive, Suite 100
Pearl Harbor, Hawaii [96860-3134](#)

Project: J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool

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For the reasons above, we respectfully **oppose** the PA Memo’s “Identification of Historic Properties;” and “Finding of Effect.”

Sincerely,
Kristan S. Leon Guerrero

From: [Mr. KYLE G DAHLIG](#)
To: [CRIWebComment](#)
Subject: [URL Verdict: Unknown][Non-DoD Source] PA Memo 1
Date: Sunday, March 20, 2022 12:01:48 AM

March 20, 2022

Via Email – criwebcomment@navy.mil

ATTN: CRI Web Comments, Code EV23
Naval Facilities Engineering Command Pacific
258 Makalapa Drive, Suite 100
Pearl Harbor, Hawaii 96860-3134

Project: J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool

Subject: PA Memo 1

Håfa adai:

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Second, The CRI Website lacks the information necessary to support the DoD’s PA Memo. Under the 2011 PA, the DoD expressly agreed to use the CRI website so that supporting information can properly provide the public with “opportunities to comment.” However, the DoD’s CRI Website does not make the supporting materials cited in the PA Memo publicly accessible.

I also state the following concerns for each project:

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For the reasons above, we respectfully **oppose** the PA Memo’s “Identification of Historic Properties;” and “Finding of Effect.”

Si Yu'os ma'åse',

Kyle Dahilig

University of Guam

College of Natural and Applied Sciences, Integrative Biology Major

website: <http://thecolorearth.com>



The content of this email is confidential and intended for the recipient(s) specified in the email thread only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If

you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

From: [Natalie Velasco](#)
To: [CRIWebComment](#)
Subject: [URL Verdict: Neutral][Non-DoD Source] Project: J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool.
Date: Tuesday, March 22, 2022 12:08:28 PM

Hafa adai:

Thank you for the opportunity to comment on the Department of Defense's ("DoD") Programmatic Agreement ("PA") Memo, "J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool." I respectfully submit these comments opposing the PA Memo's projects, "Identification of Historic Properties;" and "Determination of Effect" for the reasons provided:

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For the reasons above, we respectfully oppose the PA Memo’s “Identification of Historic Properties;” and “Finding of Effect.”

Sincerely,
Natalie Velasco

From: [Odyessa San Nicolas](#)
To: [CRIWebComment](#)
Subject: [URL Verdict: Neutral][Non-DoD Source] PA Memo 1
Date: Sunday, March 20, 2022 2:41:33 PM

March 20, 2022

Via Email – criwebcomment@navy.mil

ATTN: CRI Web Comments, Code EV23
Naval Facilities Engineering Command Pacific
258 Makalapa Drive, Suite 100
Pearl Harbor, Hawaii 96860-3134

**Project: J-014 Physical Training Complex; J-035 Education Center; J-318
Public Works/Maintenance Shops; J-323 Base Motor Pool**

Subject: PA Memo 1

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properties.

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For the reasons above, we respectfully **oppose** the PA Memo’s “Identification of Historic Properties;” and “Finding of Effect.”

Sincerely,

Odyessa L. San Nicolas

Military Relocation to Guam and CNMI PA Memo Comment Form 2022

If submitting via e-mail, scan and send to: criwebcomment@navy.mil

If submitting via postal mail, send to:

Attn: CRI Web Comments
Code EV23, NAVFAC Pacific
258 Makalapa Drive, Suite 100
JBPHH, Hawaii 96860-3134

Submitted comments will be posted on the Navy's Cultural Resources Information (CRI) web site. Information presented on the CRI web site is considered public. The sections highlighted in red are required to be completed in order for a comment to be posted.

Privacy Act Statement

Personal information will only be used to contact you regarding the comments you submit. This information will only be shared with another government agency if your inquiry relates to that agency, or as otherwise required by law. We will not create individual profiles or give your information to any private organization. While you must provide a valid e-mail address or postal address, please DO NOT include personally identifying information such as a social security number.

By submitting this comment form, you agree not to include content that is offensive in nature, such as profanity, personal attacks on individuals, and racist or abusive language.

PROJECT: J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/
Maintenance Shops; J-323 Base Motor Pool

SUBJECT: PA Memo #1

Date: March 23, 2022

Name: Speaker Therese M. Terlaje

CRI User Name (if you don't want your real name to be posted with your comment on the CRI web site): _____

E-Mail Address: senatorterlajeguam@gmail.com

and/or

Postal Mail Address: Guam Congress Building, 163 Chalan Santo Papa, Hagatña, Guam 96910

COMMENTS:

It is concerning that the project J-014 Physical Training Complex, a permanent, low rise Physical Training Complex structure with Antiterrorism (AT) features and a separate Operational Trainer Facility and Outdoor Swimming/ Training Pool to support the Underwater Egress Trainer (UET) and Physical Readiness program, is located on land containing archaeological site discoveries.

Per the project's "Identification of Historic Properties," J-014 APE contains J-001B-004 and J-001B-005 which were both identified during archaeological monitoring for the Camp Blaz U&SI project. J-001B-004, per "Appendix B: Table of Archaeological Site Discoveries (Potential Historic Properties)", is located immediately adjacent to north and east boundaries of 66-08-2303 or the Mågua' settlement site. The appendix goes further, saying that J-001B-004 is "almost certainly part of [the Mågua' settlement] site." The features of the J-001B-004 discovery were visible probable cooking pits.

J-001B-005, per "Appendix B: Table of Archaeological Site Discoveries (Potential Historic Properties)", is located some distance east and north of 66-08-2303 and was classified as not being geographically part of the Mågua' settlement site. This discovery included a dark soil feature which was a possible cooking pit.

I believe that preservation-in-place is necessary for all CHamoru ancestral remains and archaeological site discoveries located within Camp Blaz. Further, I am opposed to any extensive construction and infrastructural changes to the area, even if it does not directly impact CHamoru ancestral remains and archaeological site discoveries, because these changes will alter the landscape. Landscape alterations can lead to the erasure of CHamoru history, disconnecting present CHamorus from their ancestors' burials, history, and knowledge.

It is also concerning that studies of these areas have taken place without consultation of Machanao landowners who have been identified in the press. I urge Joint Regions Marianas to pause all projects planned for Camp Blaz till the Machanao landowners are consulted, especially regarding family members potentially buried in the area and the human remains that have already been disturbed.

From: [Tatiana Ananich](#)
To: [CRIWebComment](#)
Subject: [URL Verdict: Neutral][Non-DoD Source] PA Memo 1
Date: Sunday, March 20, 2022 2:19:51 PM

Hafa adai:

Thank you for the opportunity to comment on the Department of Defense's ("DoD") Programmatic Agreement ("PA") Memo, "J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool." I respectfully submit these comments **opposing** the PA Memo's projects, "Identification of Historic Properties;" and "Determination of Effect" for the reasons provided:

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Sincerely,
Tatiana Ananich

From: [Teresa Laguana](#)
To: [CRIWebComment](#)
Subject: [Non-DoD Source] PA Memo 1
Date: Sunday, March 20, 2022 2:28:48 AM

Hafa adai:

Thank you for the opportunity to comment on the Department of Defense's ("DoD") Programmatic Agreement ("PA") Memo, "J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool." I respectfully submit these comments **opposing** the PA Memo's projects, "Identification of Historic Properties;" and "Determination of Effect" for the reasons provided:

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Sincerely,

Teresa Lagunaña

March 20, 2022

Via Email – criwebcomment@navy.mil

ATTN: CRI Web Comments, Code EV23
Naval Facilities Engineering Command Pacific
258 Makalapa Drive, Suite 100
Pearl Harbor, Hawaii 96860-3134

Project: J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool

Subject: PA Memo 1

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For the reasons above, we respectfully **oppose** the PA Memo’s “Identification of Historic Properties;” and “Finding of Effect.”

Sincerely,



Theresa Arriola, PhD



**Prutehi Litekyan - Save Ritidian
A Direct-Action Group**

March 20, 2022

Via Email – criwebcomment@navy.mil

ATTN: CRI Web Comments, Code EV23
Naval Facilities Engineering Command Pacific
258 Makalapa Drive, Suite 100
Pearl Harbor, Hawaii 96860-3134

Project: J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool

Subject: PA Memo 1

Hafa adai:

Thank you for the opportunity to comment on the Department of Defense’s (“DoD”) Programmatic Agreement (“PA”) Memo, “J-014 Physical Training Complex; J-035 Education Center; J-318 Public Works/Maintenance Shops; J-323 Base Motor Pool.” All five projects are located within the J-001B U&SI Area of Potential Effects (APE), at MCBCB, Finegayan, Guam also known as the village of Machanao. On behalf of Prutehi Litekyan: Save Ritidian (“PLSR”), we respectfully submit these comments **opposing** the PA Memo’s projects, “Identification of Historic Properties;” and “Determination of Effect” for the reasons provided below.

I. Interests of Prutehi Litekyan: Save Ritidian (PLSR)

Established in 2017, PLSR is a community-based organization dedicated to protecting and preserving the natural and cultural resources of Guam. This includes the areas proposed to be used for relocating U.S. Marine Corps forces currently located in Okinawa, Japan to Guam, and for military live-fire training. PLSR’s members and network (collectively referred to as “members”) comprise of the indigenous CHamoru, the residents of Guam, allies, and concerned citizens with the interest of protecting the beliefs, the culture, the language, the air, the water, and the land of the CHamoru. More specifically, PLSR’s members comprise of Yo’ãnte, fishermen, business people, college students, farmers, teachers, social workers, cultural practitioners, and environmentalists.

PLSR represents its members, in addition to 25,000 petition signatories, by actively engaging in the legislative, administrative processes and has consistently demonstrated a special interest in the areas of controversy. “Since its inception, PLSR has organized more than 450 different actions, including letter-writing campaigns, meetings with lawmakers, school visits, rallies, comment drives, protests, tours, press conferences, legislative roundtables, meetings with

military officials, public hearings, election surveys, media interviews, podcasts, webinars, and other efforts to raise public awareness.” PLSR’s advocacy efforts were recognized internationally: on March 30, 2021, the United Nations Human Rights Council acknowledged human rights violations by the U.S. military against the CHamoru people, as provided in PLSR’s petition to United Nations.

Accordingly, PLSR and its members have a direct interest in ensuring that federal actions and decisions do not harm or have a potential to harm cultural resources and historical properties of the indigenous CHamoru people. These interests extend to environmental resources that could constitute as a historic property, including sources of water and water bodies. DoD’s environmental review in connection with actions and decisions that inadequately consider the effect of their undertaking on cultural resources would impair PLSR’s interests. As part of its environmental review, DoD’s PA Memos—if deemed procedurally or substantively flawed—may further injure PLSR’s interests. Thus, PLSR and its members have a significant interest in ensuring that (1) DoD fulfills its mandates under applicable federal laws and regulations to prevent the destruction or loss of cultural resources and historic properties; and (2) PLSR and its members have public “access to information and appropriate supporting documentation regarding DoD’s identification and evaluation efforts and findings, to provide the public opportunities to comment.

II. Historic CHamoru Villages

The indigenous CHamoru people settled in Guam, the southernmost and largest island in the Marianas archipelago, over 3,500 years ago. The CHamoru people of Guam were an organized cultural and linguistic society marked by advanced seafaring, horticulture, hunting, and fishing. By 800 A.D., CHamoru villages were characterized by unique latte structures, one-story houses resting on sizable limestone, basalt, or sandstone pillars and capstones. As indigenous Pacific Islanders, the historic CHamoru people developed a unique culture with a legacy of historical sites throughout Guam. These prehistoric and historic sites include the historic CHamoru villages of Fafalog, Caiguat, Måguak (Magua), Sabanan Fadang, Haputo, Pugua Point, Taguac, and Machanao.

III. Legal Standards

A. National Historic Preservation Act

The National Historic Preservation Act of 1966 (NHPA), 54 U.S.C. §§ 300101 to 300321, requires federal agencies to “take into account the effect” of an undertaking on any historic property for proposed projects that are “federally assisted[.]” 54 U.S.C. § 306108 provides in pertinent part:

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking, *prior to* the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, shall take into account the effect of the undertaking on any historic property.

“Historic property” means “any prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on, the National Register, including artifacts, records, and

material remains relating to the district, site, building, structure, or object. 54 U.S.C. § 300308. Consistent with the regulatory definition, this may include Traditional Cultural Properties, sacred sites, and culturally important natural resources determined to meet the National Register Criteria of Eligibility. 36 C.F.R. § 60.4. “Undertaking” means “a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including-- (1) those carried out by or on behalf of the Federal agency[.]” 54 U.S.C. § 300320(1). The requirement for federal agencies to “take into account the effect of an undertaking” is often referred to as the “Section 106” process. And compliance with the Section 106 procedural obligations applies solely to federal agencies “prior to” receipt of federal funding. The “prior to” language in Section 106 “establishes the time during which the agency is required to conduct an NHPA review[.]” As noted by the Ninth Circuit, Section 106 review must occur “prior to” the disbursement of federal funds. In short, before the approval of the expenditure of any Federal funds on the “undertaking,” Section 106 of the NHPA provides that the federal agency “shall take into account the effect of the undertaking on any historic property.”

B. NHPA Regulations

This “take into account” requirement is often referred to as the “Section 106” process and is typically implemented through the “Protection of Historic Properties” regulations. Generally, NHPA requires federal agencies to take into account the effect of their undertaking by complying with the following steps provided in the regulations:

- consult with the SHPO to determine the area of potential effects, 36 C.F.R. § 800.4(a);
- make a reasonable and good faith effort to identify historic properties, 36 C.F.R. § 800.4(b);
- determine whether identified properties are eligible for listing on the National Register based on criteria in 36 C.F.R. § 60.4;
- determine whether the effect will be adverse, 36 C.F.R. §§ 800.5(c), 800.9(b); and
- avoid or mitigate any adverse effects, 36 C.F.R. §§ 800.8(e), 800.9(c).

Area of potential effects (“APE”) is defined as “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.”

C. 2011 Programmatic Agreement

In the alternative, the regulations allow Federal agencies to develop other “Program Alternatives” to fulfill their Section 106 compliance responsibilities, such as a Programmatic Agreement (“PA”). “Compliance with the procedures established by an approved programmatic agreement satisfies the agency's section 106 responsibilities *for all individual undertakings* of the program covered by the agreement[.]” Courts analyze PAs to determine whether an agency’s action is compliant with its terms. “Where an agency or a party violates a provision of an agreement substituting for Section 106, like the project PA in this case, the violation of the agreement can constitute a violation of the NHPA.” In this case, the 2011 PA governs the Section 106 responsibilities. The 2011 PA applies to “all individual projects[.]”

Under the 2011 PA, the DoD expressly agrees to use a Cultural Resources Information (CRI) website so that supporting information can properly provide the public with “opportunities to comment.” The 2011 PA expressly requires DoD to “utilize a publicly accessible CRI website to *make information available to the public*[.]” Specifically, Stipulation IV.E.2. of the 2011 PA requires the DoD to include the following on its website:

- “[1] information and [2] appropriate supporting documentation” regarding DoD’s identification and evaluation efforts and findings;
- supporting information on “study areas;”
- supporting information on “the scope of DoD identification efforts;” and
- supporting information on “DoD’s determinations of eligibility[.]”

DoD stipulates that disclosing information is necessary to “provide the public opportunities to comment.” However, the DoD’s CRI Website does not make the supporting materials cited in the PA Memo publicly accessible. Additionally, the PA Memo is required to “contain concise summaries of project information with a map showing the project footprint and results of cultural resources review, subject to the limitations defined under Stipulation IV.E.2.b.”

D. DoD and Navy Directives on Cultural Resources Management

The DoD and the Department of Navy (Navy) have respective directives on the maintenance and management of cultural resources. The DoD directives impose several requirements for “All DoD operations [and] activities,” including consultation requirements and making information publicly available. For example, the directives state that the DoD “shall start consultation to explain the undertaking and work with stakeholders to define the area of potential effects, identify cultural resources, and determine potential effects to those resources.”

The DoD’s directive echoes the requirement for “Public Access” to Cultural Resource Information. For example, the DoD Directives require that the Head of the DoD Components:

- f. Ensure that current information on known cultural resources is collected . . . to support informed decisions about the management of cultural resources. The Department of Defense *will ensure that this information is also available* (subject to the appropriate confidentiality and security considerations) to consulting parties, as well as residents, visitors, scholars, and the general public, to increase awareness of the significance of archaeological resources on DoD lands[.]
- g. Maintain complete and current information on cultural items . . . *including those uncovered through inadvertent discovery or intentional excavation.*

In another example, the DoD must have a management plan that includes “Provisions for *sharing appropriate cultural resources information* with . . . nongovernmental organizations . . . and the general public[.]” Making information available supports the Navy’s policy to “[e]ncourage effective and practical public participation in environmental decision-making that may affect public interests[.]”

IV. Comments in Opposition to the PA Memo, and the Identification and Evaluation of Historic Properties

For the following reasons, PLSR opposes NAVFAC and DoD's (collectively referred to as "NAVFAC") PA Memo on the five proposed "vertical" construction projects. First, NAVFAC is violating the NHPA and 2011 PA by commingling five individual projects into a single PA memo. The plain text of the NHPA regulations and the 2011 PA is clear: each "individual project" must undergo the PA Memo process. The NHPA regulations provide that "[c]ompliance with the procedures established by an approved programmatic agreement satisfies the agency's section 106 responsibilities *for all individual undertakings* of the program covered by the agreement[.]" The 2011 PA, which applies to "all individual projects," requires the federal agency to take into account the effects of their undertaking for each individual project through the PA Memo Process.

In 2015, DoD echoed its process that each "individual project" must go through the PA Memo process. The DoD's 2015 supplemental environmental impact statement provides that "[i]ndividual project reviews are conducted via a PA Memo process[.]" Then on August 28, 2015, DoD restated in its Record of Decision that "Individual project reviews are conducted via a PA memo process for the purpose of soliciting additional comments regarding the DoD's determination of effect." There are no exceptions in the 2011 PA—each individual project must undergo the PA Memo process.

PLSR repeats its concerns over the lack of information available on the CRI Website necessary to support the DoD's PA Memo. Under the 2011 PA, the DoD expressly agreed to use the CRI website so that supporting information can properly provide the public with "opportunities to comment." However, the DoD's CRI Website does not make the supporting materials cited in the PA Memo publicly accessible.

A formal request and a second FOIA request for the relevant studies made by PLSR have not been fulfilled in advance of the deadline for this comment period. As of the date of this comment letter, NAVFAC has not provided the referenced materials for public review. Accordingly, PLSR raises concerns over that the lack of supporting materials on the CRI Website, which consequently undermines the principles of public participation. Furthermore, PLSR is concerned that it could not provide meaningful comments due to NAVFAC's inaction to make the information accessible for inspection and public review. Put simply, PLSR is concerned that NAVFAC's ongoing withholding of access to information on historic properties is contrary to the 2011 PA, NHPA requirements, and DoD directives.

PLSR raises further concerns for the following project components:

J-014 Physical Training Complex - PLSR objects to the construction of the Outdoor Swimming/Training Pool to support the Underwater Egress Trainer (UET) and Physical Readiness program. The placement of a swimming pool over the Guam Northern Lens Aquifer, the island's sole source aquifer poses threats for contamination. PLSR is concerned that chlorine and other pool treatments may impact this as well as other historic properties. The PA

Memo does not discuss the associated environmental and health risks and appears to have not been assessed through the NEPA process. Despite a lack of discussion on impacts of a chlorinated swimming pool, NAVFAC reaches the conclusion that the undertaking will have “no effect” on the present historic properties.

J-035 Education Center - PLSR objects to this project and any earthwork in areas with historic properties. PLSR

J-318 Public Works and Maintenance Shops – PLSR is concerned that impacts on historic properties and natural resources may not have been evaluated regarding the operational hazardous/flammable storage building and a short-term hazardous waste storage building and associated supporting facilities. PLSR raises concerns that hazardous waste storage may harm historic properties. Furthermore, PLSR states concerns of the impacts of excavation, cut and fill work and wastewater release his project on historic properties. The PA Memo does not discuss the associated environmental and health risks and appears to have not been assessed through the NEPA process. Despite a lack of discussion on activities related to hazardous/flammable and short-term hazardous waste storage, NAVFAC reaches the conclusion that the undertaking will have “no effect” on the present historic properties.

J-323 Base Motor Pool - PLSR is concerned that impacts on historic properties and natural resources may not have been evaluated regarding the hazardous materials storage. PLSR raises concerns that hazardous waste storage may harm historic properties. Additionally, issues of erosion, soil stabilization and sediment control associated with the project will pose threats to the Guam Northern Lens Aquifer. Furthermore, the steady presence of large vehicles and heavy machinery in this area will also impact invaluable cultural and natural resources. The PA Memo does not discuss the associated environmental and health risks and appears to have not been assessed through the NEPA process. Despite a lack of discussion on activities related to hazardous waste storage, NAVFAC reaches the conclusion that the undertaking will have “no effect” on the present historic properties.

V. Comments opposing the PA Memo’s Finding of Effect

PLSR objects to current regulations and argues that the limited surveys of the APE are inadequate. PLSR also objects to the determination of DoD that “the subject construction will have no historic properties affected because while historic properties have been identified in the APE, the properties will no longer retain integrity and will have had qualifying characteristics altered.” PLSR argues that all properties, including those previously disturbed are evidence of our history and considered sacred and therefore should be maintained in place.

PLSR raises concerns that the “identification of historic properties” and determination of “no effect” provided in the PA Memo are arbitrary and capricious, not in accordance with law, and are not rationally or factually supported. “Cultural resources are not renewable--once lost, they are lost forever.” And protecting “cultural resources is essential for tribes [and indigenous people] to continue their cultural identity, beliefs, ways of life, and to maintain their sovereignty.” Accordingly, it is in the interest of PLSR to protect and preserve cultural resources

from federal actions and decisions that are not in compliance with federal laws and regulations, including the 2011 PA.

More and more human remains are being uncovered and desecrated at construction sites. PLSR raises concerns that DoD has not engaged with oral history or conversations with original landowners to gain a comprehensive understanding of the areas of impact. An article published in the Guam Pacific Daily News on March 10, 2022 reflects this deficiency. Therefore, the determination of effect is inadequate. The PDN article can be read at:

https://www.guampdn.com/news/descendants-of-previous-base-land-owners-come-forward-military-discloses-details-on-latest-unearthed-human/article_755275f6-9b83-11ec-b96f-dfa5c936170a.html.

For the reasons above, we respectfully **oppose** the PA Memo's "Identification of Historic Properties;" and "Finding of Effect."

Sincerely,
Monaeka Flores, PLSR Core Member
Maria Hernandez, PLSR Core Member
Jessica Nangauta, PLSR Core Member

Attachments:

PLSR Email Request to NAVFAC, dated March 9, 2022 through March 18, 2022

Guam PDN Article, March 10, 2022, "Descendants of Previous Base Land Owners Come Forward, Military Discloses Details on Latest Unearthed Human Remains"

Dave Lotz, *The Saga of Magua Village*, 2020

Response to Comments Received

PA Memo #1: J-014 Physical Training Complex, J-035 Education Center, J-318 Public Works/Maintenance Shops, and J-323 Base Motor Pool

The Cultural Resources Information (CRI) website was established in accordance with the Programmatic Agreement Among the Department of Defense (DOD), the Advisory Council on Historic Preservation (ACHP), The Guam State Historic Preservation Officer (SHPO), and the Commonwealth of the Northern Mariana Islands (CNMI) State Historic Preservation Officer Regarding the Military Relocation to the Islands of Guam and Tinian (2011 PA) for collecting public input regarding the identification and evaluation of historic properties, and to comment on DoD's identification and evaluation efforts and findings (Stipulation IV.E.2). The website is intended to receive concerns related to the National Historic Preservation Act (NHPA) its implementing procedures 36 CFR Part 800. Responses to comments received on the title projects are presented by relevant topic below.

Cultural Resources Information (CRI) Website

To reiterate the Department of the Navy's (DoN) response to previous comments on this subject, as a federal agency the Navy is required to uphold historic preservation laws, including confidentiality provisions that protect information on the nature and location of historic properties, including archaeological resources. To ensure confidentiality provisions are adhered to, historic property information in the public programmatic agreement (PA) memos is presented in general terms. The SHPO has a consultative role in the National Historic Preservation Act (NHPA) 36 CFR Part 800 (Section 106) process that reflects the interests of the citizens of Guam, and SHPO staff provide expertise on historic properties during consultation. SHPO versions do include detailed information regarding the nature and location of properties. In accordance with federal regulations, the SHPO is responsible for working with the DON in taking into consideration historic properties at all level of planning and development.

While the Archaeological Resources Protection Act (ARPA) and NHPA have confidentiality requirements that prevents publicly disclosing the exact nature and location of archaeological resources and historic properties, the CRI website makes other information available to the public. The website requests public input regarding the identification and evaluation of historic properties within project-specific Area of Potential Effects (APEs) for direct and indirect effects. Additionally, the public has the opportunity to comment regarding DOD's identification and evaluation efforts and findings. Comments received are displayed on the CRI website. In addition to the Semi-Annual Report, a number of resources are provided within the CRI website, under Public Education and Interpretation Series Booklets, in order to assist the public with the opportunity to comment. These resources include:

- 2011 PA Glossary of Commonly Used Terms
- Criteria to Evaluate Properties (36 CFR part 60.4)
- Section 106 (36 CFR Part 800)
- ACHP – Meeting the “Reasonable and Good Faith” Identification Standard in Section 106 Review
- ACHP – A Citizen's Guide to Section 106 Review
- National Historic Preservation Act of 1966
- Department of Interior and National Park Service (NPS) – National Register Bulletin: How to Apply the National Register Criteria for Evaluation

Identification and Evaluation of Historic Properties

Consultation for the Undertaking has been completed in accordance with Section 106 of the NHPA. The 2011 PA is the guiding document for procedures and mitigation measures to resolve adverse effects that the PA parties committed to for the Undertaking. Additionally, members of the public, including Machanao landowners, have the opportunity to comment and provide input on the identification and evaluation of historic properties through the PA Memo process, as outlined in the 2011 PA. Notices to the public on ways to provide input are distributed through press releases sent to local print and broadcast media outlets. PA parties are provided direct written notice.

Response to Comments Received

PA Memo #1: J-014 Physical Training Complex, J-035 Education Center, J-318 Public Works/Maintenance Shops, and J-323 Base Motor Pool

Violation of the NHPA and 2011 PA by commingling multiple individual projects into a single PA memo.

Per Section 106 (36 CFR §800.14(b)) programmatic agreements allow federal agencies to govern the implementation of a particular agency program or the resolution of adverse effects from complex projects or multiple undertakings similar in nature through negotiation of an agreement between the agency, appropriate SHPO(s) and the ACHP. As a result, the Section 106 process for multiple projects encompassed under one large undertaking are streamlined under one Programmatic Agreement document.

As stated in the DoN's previous responses, the 2011 PA applies to all individual projects associated with the Guam and CNMI Military Relocation, as identified in the Final Environmental Impact Statement and listed in Appendix A of the 2011 PA, as added or modified pursuant to Stipulation I.E. These projects are collectively referred to as the "Undertaking," per the definition of that term in 36 CFR §800.16(y). While supplemental review is required for these supporting projects, the 2011 PA does not require individual PA Memos on each project. The 2011 PA states that in the course of supplemental reviews pursuant to Stipulations IV and V, the Signatories and Invited Signatories may request that additional project-specific APEs be defined consistent with 36 CFR §800.16(d) to address potential direct and indirect effects of individual projects. Consistent with the 2011 PA, project-specific APEs are represented in PA Memos.

Objections to the project(s) and any earthwork in areas with historic properties

In accordance with 36 CFR Part 800 and the 2011 PA, the Agency has:

- Conducted extensive archaeological and architectural surveys and evaluations in planning for the Undertaking, and, in consultation with the Guam and CNMI SHPOs, ACHP, NPS, and Concurring Parties, applied the results to the siting/lay down of individual projects to avoid, minimize and mitigate effects to historic properties. The DOD provided this documentation, as requested by the applicable SHPO, of these efforts to the Signatories and Invited Signatories;
- Taken into account the effects of the projects covered under the Undertaking on historic properties and afforded the Council a reasonable opportunity to comment;
- Reviewed existing information on historic properties within the APEs and sought ways to avoid, minimize or mitigate any adverse effects on historic properties, and;
- Mitigated all post-review discoveries in accordance with the stipulations in the 2011 PA and the ACHP's Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites.

Pursuant to the 2011 PA and the Section 106 process, post review discoveries are assumed eligible (without prior testing) for the purpose of the undertaking so that that the appropriate mitigation measures may be implemented. Mitigation to resolve adverse effects for archaeological sites assumed eligible under Criterion D are data recovery level investigations. Data recovery is conducted in order to obtain and preserve any data that may yield information important in prehistory or history. The presence of an archaeological site, a potentially eligible historic property, or a property listed on the National Register of Historic Places does not result in the termination of a project under Section 106. All sites eligible or assumed eligible within the subject APEs have been mitigated in accordance with the agreed upon methods in the 2011 PA and are no longer extant. The information potential from these sites has been exhausted, but the potentially important information is retained in the data collected.

Report requests

Per the DoN's previous responses, the requested resources can be accessed at the SHPO office for research purposes. Their office is located at the Department of Parks and Recreation, 940 Chalan Palasyo, Agaña Heights, 96910, across from the U.S. Naval Hospital. The DON has permitted the access of these resources for academic and research purposes, but is prohibited by law in allowing recording/reproduction for general public distribution. Individuals seeking access to these reports are advised to inquire with the SHPO.