

ANDERSEN SOUTH CONSTRUCTION OF TRAINING AREAS – J-755

The following are Department of the Navy (DON) responses to Senator Therese Terlaje's comments, dated 3 January 2018, expressed on the DON's CRI Website in a PA Memo Comment Form for PA Memo #2, Determination of Effect and DON's Plan for Resolution, Project J-755, Urban Combat Training Project-Construction, Andersen South, Mangilao, Guam (RC#2013-1101). DON responses are in *italics* immediately following each comment:

- 1) First and foremost, I received an email from the Guam SHPO citing inaccuracies in PA Memo #2 for the J-755, Urban Combat Training Project-Construction, Andersen South, Mangilao, Guam (RC#2013-1101) published November 17, 2017, specifically noting quotations that were erroneously described as official comments from SHPO. These comments instead may be attributed to the State Archeologist, and were not in an official statement from the SHPO. Given the issue that this PA Memo #2 was prepared in direct response to these comments, I propose that this PA Memo #2 be revised and reopened for public comment. Furthermore, the SHPO has requested to review all PA memos before they are made available to the public. I support this request from SHPO as it may help to avoid additional complications in what is currently a complex commenting process.

You are correct that the comments addressed in the DON response were from the State Archaeologist, not the Historic Preservation Officer. The comments were delivered on 24 August 2017, after the 45 day comment period had closed, with an explanation that questions about land ownership had delayed the review. The Guam Historic Preservation Officer contacted the Marine Corps Activity Guam (MCAG) archaeologist the day after the comments were delivered stating that the comments were to be considered as drafts with the intention of getting our response to them before preparing official comments. The PA Memo consultation process defined in Stipulation V.B. of the 2011 PA describes the consultation process utilizing PA Memos. PA Memo #1 for a given project provides a project description, lists DON identification efforts for historic properties and provides a determination of effect to historic properties. The 45 day comment period associated with PA Memo #1 provides PA signatories,

concurring parties, and members of the public with an opportunity to provide comments in relation to these topics. DON is required to submit a PA Memo #2 if a determination that historic properties may be adversely affected by the project is made. PA Memo #2 addresses DON plans to mitigate any adverse effects on historic properties. The 45 day comment period associated with PA Memo #2 provides signatories, concurring parties, and the public an opportunity to comment on these proposed mitigation efforts.

Consultations on J-755 began with PA Memo #1 delivery for Design Studies on August 18, 2013. There was no concern for lancho sites expressed in SHPO's comments dated September 26, 2013. Concern about lancho sites was not expressed by SHPO in their comments on PA Memo #2, dated November 8, 2013. When a revised PA Memo #2 for Design Studies (to include utility corridors) was provided on August 31, 2016, there was no mention of lancho sites in SHPO's comments dated October 7, 2016. On March 9 of 2017, DON delivered PA Memo #1 for construction and operations, to include all of Andersen South. Lancho sites were not mentioned in comments received on March 21, 2017. If there were concerns about efforts to locate lancho sites, comments could have been provided at any time during these reviews of PA Memos over a period of almost four years. Based on comments received, DON was not aware of SHPO's concerns about lancho locations. DON survey efforts did not ignore any category of sites; all sites discovered were recorded.

Following delivery of the semi-annual report on August 31, MCAG requested a meeting on September 6, 2017 to discuss the report per PA Stipulation XII.B, and to discuss SHPO comments on J-755. SHPO preferred to schedule the meeting to include MCAG EV Director, who was off island at the time. MCAG tried unsuccessfully to meet with SHPO to discuss the remarks seven times between 6 September and 29 November due to cancellations.

Finally, MCAG addressed the comments from the 24 August letter in a PA Memo #2 dated November 17, 2017. MCAG Environmental Director subsequently met with SHPO and agreed to respond to follow-on official SHPO comments in a PA Memo #3. The draft PA Memo #3 was provided to SHPO on December 8, 2017 for her review. DON received

SHPO comments January 9, 2018. DON responses addressing these comments are included in PA Memo #3 for J-755 Urban Combat Training Project-Construction, which was delivered to SHPO February 9, 2018.

- 2) Within this PA Memo #2 for the J-755, Urban Combat Training Project-Construction, Andersen South, Mangilao, Guam (RC#2013-1101), there remain a number of concerns including the inclusion of 80 acres of property conveyed to the Guam Department of Education from USDOE in 1992. This property is currently retained by the Guam Department of Education and should not be included in the APE.

DON addressed this issue with Guam's State Archaeologist in an email from MCAG Environmental Director dated 28Aug2017. There is no restriction on including multiple owners in an Area of Potential Effect (APE), as ownership is not a factor in defining an APE.

- 3) The memo indicates that eligible sites may be avoided during construction, however the operational phase may pose adverse effects and will need mitigation. While DOD has determined that mitigation is not needed in this phase, it does not discuss how a mitigation plan may be developed under Section XI, should historic properties be discovered. Although a mitigation plan may be developed under this section, historic properties should be protected and kept in context. The historic properties should be avoided and this project should not proceed without final consensus and explicit approval by Guam SHPO.

The Advisory Council on Historic Preservation (ACHP) guidance found on-line at: http://www.achp.gov/docs/reasonable_good_faith_identification.pdf, clarifies that Federal Agencies do not need "approval" by SHPO or PA parties for their identification efforts. SHPO is an advisory agency that provides assistance for Federal Undertakings. Federal agencies are required to consult with SHPO under the assumption that SHPO represents the local population, maintains and will provide the most complete information available about historic properties

and previous investigations in the area. As such, SHPO is an important participant in consultations. Prompt responses from SHPO are essential in ensuring Guam's cultural heritage is properly accounted for. The information managed by SHPO is critical for project planning and decision making; however, only the federal agency has authority to make final decisions. Neither SHPO, nor other Signatory, or outside party, has the legal authority to make decisions for a federal agency. However, input from Signatories and the public is welcomed and always considered in DON decisions.

Inadvertent discoveries (occur typically during construction after completion of consultations) are covered by a standard operational procedure described in Stipulation XI that you reference. There is no requirement for preparing a mitigation plan, only a requirement to consult with SHPO and ACHP on appropriate actions once an inadvertent discovery occurs. In the event that human remains are encountered, the standard operational procedure contained in Appendix G of the 2011 PA will be followed. This also calls for consultation with SHPO. Note that procedures described in Appendix G are written into all DON contracts.

- 4) The memo mentions two sites (AS-T-2008-01 and AS-T-2008-04) that were recommended as eligible for the National Registry of Historic Places. These historic properties should be avoided and this project should not proceed without final consensus and explicit approval by Guam SHPO.

The two sites were discovered during a 2008 survey by TEC and MARC and presented in a 2011 report. One site (AS-T-2008-01) contains a lusong and a few large limestone rocks that were interpreted as displaced latte elements that had been bulldozed from an unknown location in the past. Shovel tests were placed in the area, but no cultural material was recovered. The other site AS-T-2008-04) is a sparse ceramic scatter located at a distance downslope and to the west of the first site. Shovel tests placed in the area found very shallow soils and no subsurface cultural material. The slope on which the two sites are found has been heavily disturbed; there was no evidence at the time the sites were documented that the two sites are connected. Although heavily disturbed, both sites have been determined eligible and are scheduled for mitigation by

data recovery excavations. Additional investigation conducted for data recovery may provide additional information about the sites.

- 5) Additionally, the PA Memo #2 acknowledges the significance of lanchos in the APE, that the previous survey did not include discussion of lanchos, and instead concentrated on WWII and post-WWII features of the area. A new survey should be conducted to include the information presented by the State Archaeologist. I support his position that, “The identification and protection of lanchos from any and all DoD activities stretch beyond our local and national history into the global reparations that indigenous people have suffered and continue to suffer throughout the world (P. 7, PA Memo #2, J-755).” This new information should also be made available for public review and comment.

Previous surveys in the area did not find any evidence of domestic sites dating to pre-WWII. Archaeologists walked over the area shown on the 1913 map as containing ranches at the time of the Welch 2010 survey. Following receipt of the Aug 24 letter from the State Archaeologist, MCAG archaeologists worked with our GIS specialist to overlay the 1913 map onto a georeferenced satellite image and derive the coordinates of lancho locations.

The GIS specialist advised archaeologists that there could be small errors due to quality of the old map. Archaeologists then went to Andersen South November 2, 2017 and searched for the locations indicated as lancho sites in the area of proposed construction. On arrival at the location, we found that landmarks such as intersections were accurately recorded. We proceeded to locations of two lancho sites shown on the 1913-14 map and found that the areas had been bulldozed many years ago. There were a few pieces of corrugated metal at one location that might have been at or near the location of a former lancho, but no artifacts that dated to the period of use of the ranches were found. What we found throughout the area were piles and scatters of recent household trash where illegal dumping has been occurring. Trash scatters contained refrigerators, stoves, water heaters, recent trash in garbage bags, etc. at any location that could be easily accessed. Recent illegal dumping, in addition to historic bulldozing at possible lancho locations, has obscured any trace of the

ranch's existence. There are no plans to re-survey the area; however, archaeologists will inspect other locations where ranches were depicted on the 1913 map during consultations related to the operation phase of the training complex.

- 6) In reference to the implications of the importance and eligibility of the late Senator Angel Santos' family farm, I support the comments made by the State Archaeologist that reflect the significance of this property, as Senator Santos is an important figure in Guam history and our national identity: "We believe this property needs to be clearly identified and protected in place for future generations based on the stance Senator Santos made with regard to his homeland, the taking of the land, and under United Nations (UN) Resolution 1514 on December 14, 1960 and the "U.N. Resolutions of February 24, 1999", which "mandated the immediate return of ancestral lands from the federal government without any strings attached or conditions imposed (P. 7, PA Memo #2, J-755)."

No evidence of lancho locations was found during previous investigations and no evidence was found during follow up investigations targeting specific locations where lancho sites were indicated on 1913 maps provided by SHPO. National Register eligibility criteria recognize levels of significance. A historic property may be eligible for listing on the National Register for association with important local individuals (criterion b); however, in order to be eligible for listing on the register, a property must also have integrity. Thus far, we have not found a lancho location that could be confirmed by presence of artifacts, building remains, or other indicators of related activities. The locations were bulldozed long ago and lack evidence to confirm that a lancho was present.

In researching Senator Santos, archaeologists found a 1999 newspaper article, a letter from the Senator published in The Daily Republican, Vol. 176, dated September 29, 1999, explaining that he had constructed a concrete building on family land in 1993 as a protest against what he considered to be illegal taking of the land, an act for which he had been arrested for trespassing. In the 1999 letter, he stated that he intended to go back and bulldoze the building as further protest. His statements suggest that there was no building

present on the property in 1993, so he built one; also that he bulldozed it, assuming he followed through on his intentions to do so.

PA Memo consultations are intended to address management of Guam's historic resources; discussions about land ownership disputes are a separate issue outside the purview of the DON.

- 7) This PA Memo does not give specific details of the known historic properties and potentially unknown historic properties that lay within the APE, and the particular ways in which these properties will be impacted. The Eastern coastline of Guam is known to comprise of ancient villages and the APE is located adjacent to other known ancient village sites such as Pãgat. Effective public engagement and participation in the submission of comments is compromised without sufficient information provided to the public and government entities. We need to be informed of the historic properties involved, the potential of unknown historic properties that may occur within these areas, and the ways they will be impacted. For example, the public should be given enough information to effectively comment, in advance of destruction, on the details, including the movement and storage of latte, or the unearthing of burials.

There are two versions of PA Memos, one showing detailed maps and providing detailed descriptions that goes to SHPO. SHPO also receives copies of technical reports and official site forms. Public versions of PA Memos do not divulge specific locations of archaeological sites in order to ensure preservation of those properties. The withholding of site specific locations of archaeological sites is in accordance with confidentiality requirements outlined in section 13-3.6.d of Operational Naval Instruction (OPNAV) 5090.1d and as defined in Section IV.2.b. of the 2011 PA. Information on the location and nature of sites is not subject to release under Freedom of Information Act requests. Locations and nature of significant sites are not provided to the public because the information could be used to target sites for looting. The public receives as much

information as possible without violating policy prohibiting release of detailed information.

Sites along the eastern coastline will not be impacted by construction and operation of the training facility at Andersen South. Proposed construction of the convoy driver training course is more than two miles from the coast and construction related to urban combat training is almost a mile from Pãgat.

Archaeologists discovered two large Latte Period sites located in areas of relatively deep soil at Andersen South. The sites were investigated with subsurface testing, (67 shovel test pits on the larger site, 30 on the smaller site) but no evidence of structures or burials was found. The sites, along with the two sites referenced in comment #4, will be further investigated to learn more about subsistence and land use during the Latte Period. SHPO will review a data recovery plan required under Stipulation VI.A.1 prior to further investigations and all relevant procedures, including Stipulation XI for inadvertent discoveries and Appendix G of the 2011 PA, which describes procedures in the event human burials are encountered, will be followed.

When the draft technical report is completed, as required under Stipulation VI.A.2, it will be provided to SHPO for review, along with a draft public information booklet. The final report addressing internal and SHPO comments, will then be provided to SHPO. The final public information document, required under Stipulation VI.B.1 will describe the work at Andersen South and will place the results in context. The public document will be provided in English and Chamorro language versions. The report will provide SHPO with technical information to increase the body of knowledge about Guam's history and will be available to qualified researchers for future studies; the public document will make the information available to the interested public.