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January 14, 2022

Mr. Richard V. Salas
Acting Director
Division of Coastal Resources Management
CNMI Bureau of Environmental and Coastal Quality
P.O. Box 501304
Saipan, MP 96950

Sent via email to: fedcon@dcrm.gov.mp, rsalas@dcrm.gov.mp

Dear Mr. Salas:

The National Marine Fisheries Service (NMFS) proposes to provide Western Pacific Sustainable Fisheries Funds (SFF) to the Western Pacific Fishery Management Council (Council) to support construction of a limestone rock revetment along Garapan Fishing Base, Saipan, Commonwealth of the Northern Mariana Islands (CNMI). The Council would in turn, provide funds to the CNMI Department of Lands and Natural Resources (DLNR) to construct the revetment along the land-lagoon interface stabilizing 380 feet of shoreline. The project will protect public infrastructure, improve safety and aesthetics, and improve water quality in nearshore Saipan Lagoon. Garapan Fishing Base supports the fishing community with a boat ramp and parking area for boat trailers and vehicles. Other activities that will also continue unchanged after the revetment is built are nearshore fishing, paddling, and community recreation and markets.

Pursuant to section 307 of the Coastal Zone Management Act (CZMA, 16 U.S.C. 1456(c)(1)(C)), I have determined that the proposed action is consistent to the maximum extent practicable with the enforceable policies of the approved Coastal Zone Management Program of the CNMI. I request your review and concurrence with this determination (attached). The draft environmental assessment (EA), also enclosed, supports our determination. Under regulations at 15 CFR 930.41(a), we may presume your concurrence if we do not receive your response within 60 days from receipt of this consistency determination. Please contact Phyllis Ha at 808-725-5174, phyllis.ha@noaa.gov, if you have any questions or need additional information.

Sincerely,

Michael D. Tosatto
Regional Administrator

Encl. (2). CZMA Determination, Draft EA

cc: A. Charfauros, BECQ DCRM



**Coastal Zone Management Act
Federal Consistency Determination**

**Garapan Fishing Base Shoreline Revetment,
Saipan, Commonwealth of the Northern Mariana Islands**

Agency: National Marine Fisheries Service (NMFS)

Relevant Authorities: CZMA (16 U.S.C. 1451 et seq.); CZMA Federal Consistency Regulations (15 CFR 930).

Determination: Consistent to the maximum extent practicable with the enforceable policies of the CNMI Coastal Zone Management Program.

Description of Proposed Activity:

National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) proposes to provide Western Pacific Sustainable Fisheries Funds (SFF) to the Western Pacific Fishery Management Council (Council) to support construction of a rock revetment along Garapan Fishing Base, Saipan, Commonwealth of the Northern Mariana Islands (CNMI). The Council would in turn, provide funds to the CNMI Department of Lands and Natural Resources (DLNR) to construct the revetment along the land-lagoon interface stabilizing 380 feet of shoreline. The proposed activity is consistent with the CNMI government's approved Marine Conservation Plan (DLNR 2019). The proposed activity would protect public infrastructure, improve safety and aesthetics, and improve water quality in nearshore Saipan Lagoon. Garapan Fishing Base supports the fishing community and has a boat ramp and parking area for boat trailers and vehicles. Other activities include shore fishing from the nearby pier, along shore, and in coastal lagoon waters, and community markets.

NMFS prepared a draft Environmental Assessment (draft EA) that provides more detail of the proposed activity and its effects (NMFS 2022, enclosed). This Federal Consistency Determination is based on detailed analyses in the draft EA. Sections cited here reference sections of the draft EA.

Location and Setting (Draft EA, Figures 1): Garapan Fishing Base is public land along the coast of Western Saipan, CNMI. The proposed activity is located at latitude 15°12' North, longitude 145° 43' East (15.202, 145.716). Site conditions are summarized in sections 3.1, 3.2, and 4.1.

Project Design: The revetment was designed by engineers (GHD 2020a) and was approved by CNMI DPW. Select design plans are in the Draft EA, Appendix A-1.

Proposed Best Management Practices: The BMPs are part of the proposed action. DLNR will implement the BMPs in the draft EA, Appendix A-2.

Proposed Construction (Draft EA, Section 3.3): Construction will proceed in phases described in section __. The contractor will operate an excavator and other machinery from shore. The

contractor will follow a number of mitigation measures intended to protect lagoon water quality and other features of the environment. These include following an erosion control plan that includes installing and maintaining silt fences and an in-water silt curtain, and using other sediment control measures such as lined dewatering basins, using clean gear, and preventing and addressing spills of hazardous materials, and measures intended to prevent adverse effects to ESA-listed species. (BMPs, Draft EA, Appendix A-2).

Highlights of the construction work:

- Prior to construction, the site will be evaluated for presence of any unknown historic and/or archeological resource using backhoe testing under the direction of a Secretary of the Interior (SOI)-standards certified archaeologist
- Construction earthworks will be subject to monitoring by an SOI-standards certified archaeologist, in accordance with provisions contained in the CNMI permit
- Installing and maintaining erosion control items including silt fences, silt curtain, and sediment dewatering and retention basins
- Following a CNMI Bureau of Environmental and Coastal Quality water quality monitoring plan before and during construction
- Grubbing and demolition (removing vegetation and built structures, forming the land and subsurface)
- Compacting fill
- Lining the substrate with geotextile barrier fabric
- Adding underlayer stones
- Placing the toe stones at 4.5 feet below sea level, adding the underlayer, geotextile fabric, and armor rocks
- Covering the toe and part of the revetment with local sand/silt/gravel to secure the bottom portion of the revetment and to prevent constraints to maritime vessels
- Sealing the crest with concrete
- Replanting turf grass
- Removing the silt curtain at the end of the project
- Removing silt fences on land when turf grass has become established
- Removing all temporary structures when no longer needed
- Securing the site in advance of storms
- Properly maintaining the site and disposing waste and debris at an approved site.

Timing/Duration: DLNR anticipates construction beginning in early 2022, after permitting and compliance reviews are complete. They estimate construction of the entire project is expected to be complete by the end of 2023; however, the actual timing will be subject to availability of funds and other resources.

Required Permits: DLNR will obtain construction permits required and a Department of the Army Corps of Engineers authorization. (Draft EA, section 3.3.1)

Action Area: The action area is described in section 1.6. The action area encompasses areas to be affected directly or indirectly by the proposed action and not merely the immediate area involved in the action. For the proposed action, the action area will be constrained by the silt curtain and

silt fences. These erosion control items will surround the excavation and work areas and keep turbidity from spreading further in to the lagoon. The silt curtain will prevent a marine mammal, sea turtle, or shark from entering the construction area. The overall action area (land and lagoon areas) is approximately 33,600 ft² or 0.77 acres.

Excavation, grading, and the revetment will occur along the coast and extend out in the lagoon approximately 15–29 feet from the edge of the revetment crest. The area to be excavated is approximately 200 ft² (0.354 acres or three-tenths of an acre) of dry land and submerged land. The constructed revetment will have a smaller footprint below mean high high water (MHHW) estimated as 10 ft x 380 ft or 3,800 ft² (0.087 acres or less than one tenth of an acre). GHD's construction design plans estimate the excavation or "cut" area as 1,324.1 square feet (0.03 acres). This is the amount of cut in navigable waters of the United States.

Note that the use of a silt curtain and silt fences and other BMPs (e.g., following a water quality monitoring plan and stopping work and addressing any issues related to turbidity) will contain the action area to largely within the DLNR property boundary. The proposed action is, therefore, not expected to reach the nearby Garapan Fishing Base pier, which is over 30 m away from the construction site.

Materials: DLNR will use locally mined limestone rock to build the revetment. All materials to be used in water are required to be clean, free of debris, and, if used between work sites, rinsed at an area away from the water.

Alternatives: DLNR considered "soft measures" as alternatives to hard structures such as the revetment to limit coastal erosion. DLNR considered living shorelines, planting native beach vegetation, maintaining or establishing vegetative buffers. DLNR rejected soft measure alternatives because they would be infeasible. Maintenance dredging along shore to ensure continued navigational use makes water depths too deep for vegetation such as mangroves. Furthermore, the proposed ongoing use of the area for fishing vessels makes using a living shoreline (use of strand vegetation to stabilize the shoreline) infeasible. In 2017, the U.S. Army Corps of Engineers studied options for shoreline stabilization including beach nourishment with vegetation at Garapan Fishing Base (USACE 2017a). Their report showed beach replenishment with vegetation would be very costly. The estimates were \$13.7M to build and \$62M to maintain a beach with vegetation over the life of the project for a 0.5 mile-long beach.

DLNR considered using native plants appropriate for current site conditions to restore land areas disturbed by the work, but determined that site conditions and current landscaping make the use of salt-tolerant turf grass more appropriate; it provides the hardiness needed for the uses of the parcel, and is already used broadly at Garapan Fishing Base as groundcover and DLNR did not find a reasonable replacement that would meet this condition.

The stabilized limestone rock revetment was recommended by marine engineers hired by the DLNR. The site is subject to high wave energy during storms and the proposed design (capped revetment, large limestone rocks over stabilized substrate, and buried toe) would be more stable than a dumped rock revetment and would reduce wave energy along the coast rather than reflect it as a cemented seawall might. The Honolulu District Regional Conditions for the 2017 Nationwide Permits (USACE 2017b) describes projects that provide wave dissipation, interstitial

spaces for fish, crustacean and invertebrate habitat to be environmentally sensitive shoreline stabilization techniques, under Regional Condition 9 – Bank Stabilization.

Expected Coastal Effects:

The draft EA describes affected resources and potential effects in section 4. We recognize that Saipan Lagoon is a resource area of substantial ecological and socio-economic value and hosts a rich diversity of marine life and we consulted numerous management plans and local regulations as we prepared the draft EA. The nearby community boat ramp and parking lot support fishing and Garapan Fishing Base supports other activities including community markets and recreation. Within the action area, substrates and water quality have been disturbed by past fill, bank erosion, maintenance dredging, human uses, storms, and storm-water and runoff from inland areas.

Our environmental effects analysis focuses on resources that may be affected and we focus on potential effects of construction on water and benthic habitat quality beyond the silt curtain, seagrasses, marine habitats and wildlife of management concern including ESA-listed sea turtles and hard corals, proposed critical habitat, and on coastal flooding. Table 2 in the draft EA summarizes the relationship between the project and CNMI water quality standards. Table 3 in the draft EA summarizes the effects on resources and topics of concern. Table C-1 in Appendix C lists ESA-listed marine species and indicates those that may be affected. Section 4.4 in the draft EA provides more detail on effects on protected species.

Overall, land areas have been heavily disturbed in the past and do not support native wildlife or provide nesting habitat for sea turtles. There are no ESA-listed species on land areas. Pacific Golden plovers would temporarily be displaced, but would return after construction disturbance is over. Marine areas affected by construction do not support seagrasses or corals. The water and benthic areas are habitat for marine species and would be temporarily disturbed during excavation, but after construction, water quality would improve, benthic areas would be recolonized by benthic species, and the revetment would provide limited 3-dimensional structuring habitat at high tides.

Areas beyond the silt curtain would be protected through a suite of BMPs that include erosion control, procedures requiring checking the erosion barriers and fixing any issues, watching for ESA-listed species, stopping work during a key coral spawning period, water quality monitoring according to a plan, securing the construction site daily and in advance of storms, and other BMPs. Marine mammals would not be affected as none is present in the shallow waters of the action area. Green and hawksbill turtles and possibly scalloped hammerhead sharks would not likely be in the vicinity, but would be protected from construction effects through the silt curtain barrier and BMPs.

After construction, some beach areas would emerge at low tide, so shorebirds could continue to intermittently forage in the areas.

While construction would temporarily inhibit access to the construction area, nearshore fishing and boating could continue.

Water quality would not be degraded due to BMPs that would prevent construction from adversely affecting lagoon water beyond the silt curtain. Water quality would improve in terms of reduced total suspended solids and turbidity once the revetment is built as erosion would be controlled. Improved water quality has the potential to enhance seagrass resilience by improving water clarity and reducing sediment loads.

Designated uses for Class AA marine waters would not be affected. Although water quality would improve after the shoreline is stabilized, land-based inputs from storms would continue to affect the area.

CNMI BECQ water quality monitoring shows there have been and continue to be exceedances of water quality standards in terms of *Enterococci* bacteria. As a result, the waters at Fishing Base are temporarily closed to fishing and swimming (BECQ 2020). The proposed action would not affect levels of bacteria. It also would not change pH.

The proposed action would protect public infrastructure that provides fishermen and other boaters access to the waters around Saipan.

The proposed action would not make flooding worse. Flood waters and storm surge could drain through the storm drain, over and around the revetment, and could percolate through the back of the revetment.

The proposed action is expected to improve aesthetics and allow continued recreational enjoyment of the coastal areas.

We coordinated the proposed action and our evaluation of effects on historic, cultural and archaeological resources and our coordination with the CNMI Historic Preservation Office (HPO) in accordance with the National Historic Preservation Act. By letter dated November 2, 2021, the CNMI HPO notified NMFS of their concurrence with our determination of no adverse effect that was based on a lack of known resources, and BMPs that will be sufficient to protect resources of possible significance that may be uncovered during excavation.

CNMI Coastal Zone Areas of Particular Concern

CNMI's Bureau of Environmental and Coastal Quality (BECQ), Division of Coastal Resources Management (DCRM) exercises regulatory power over the coastal zone including areas designated as areas of particular concern (APCs). The agency works to ensure coastal developments and activities are fairly and effectively regulated to minimize impacts to coastal resources. Under Title 15 of CNMI's Coastal Resources Management Rules and Regulations (Chapter 15-10), the action area falls within the following three APCs: **Shoreline APC** - The proposed action is in located between the mean high water mark and 150 ft inland; **Lagoon and Reef APC** - The proposed action is in the area extending seaward from the mean high water mark to the outer slope of the reef. The action area is adjacent to seagrass beds which is a resource of special management interest for the Lagoon and Reef APC. Erosion control is among uses allowed under the Lagoon and Reef APC. **Coastal Hazards APC** -The project is in an area subject to coastal flooding but is not in a high hazard zone (V or VE) according to FEMA FIRM. We consider the effects of the proposed action on flooding.

We considered effects on the resources in the APCs in the EA. As summarized in Table 2, below, we found that the proposed action was consistent with allowable uses of these APCs.

Climate Change

CNMI is facing effects of climate change and Government agencies and the public continue to work to build understanding about, plan for, and help decrease vulnerability of the community to climate change. We considered studies and recommendation documents as we developed our draft EA.

The project is small and is not expected to change greenhouse gas emissions, air temperature, rainfall, dissolved oxygen, or pH levels. (Draft EA, section 4.7.4). Marine engineers designed the revetment to be stable given site conditions that include a broad, shallow lagoon and the presence of an offshore barrier reef that protect the lagoon and coast from large waves (GHD 2020b). The revetment was designed to withstand waves consistent with the most extreme wave event in the historic record (a 1996 wave) and considered the still-water elevation corresponding to a 100-year flood event of +6.1 ft. The design firm noted the revetment was designed for stability, but was not designed to prevent wave run up. Given the fact that there are sea level fluctuations already occurring and the revetment was designed around a historic extreme wave event, the revetment would likely remain viable and prevent coastal erosion under most conditions in the near to mid-term, depending on the rate of change of sea level rise. Within the near and mid-term, the revetment would stabilize the shoreline and, as would not make coastal flooding more likely or more extensive than under the baseline. Thus, the revetment would not appreciably contribute to bank stabilization and hardening in any large way that would exacerbate sea level rise or its effects. (Draft EA, section 4.7.4.2).

Effects on lagoon water temperature and pH: Periodic low water conditions related to Pacific-wide oceanic processes already affect the project area and have caused a series of coral bleaching events. Ocean warming is projected to increase in the future and ocean water may become more acidic as the ocean absorbs excess carbon dioxide. During construction, water temperatures within the silt curtain may rise temporarily in relation to ambient temperatures due to reduced circulation. The contractor would allow temperatures to normalize before moving or removing the silt curtain. Once built, the revetment is not expected to change ocean currents or water movements in the lagoon and coastal water temperature would not be affected over the mid-to long term. The revetment would not affect the pH of the water. (Draft EA, section 4.7.4.3)

Effects on ecosystem processes: Climate change effects have the potential to affect the marine organisms, their habitat, and food webs. At Garapan Fishing Base, the likely effects to ecosystem processes under the no-action alternative is a continuation and possible increase in erosion. This would reduce water quality and could reduce the resiliency of nearshore seagrasses and offshore corals. The revetment is expected to improve water quality along the coast and increase seagrass resilience in nearby beds by reducing sedimentation of the water column and seafloor. The reduction in erosion could slightly improve the resilience of corals further away from the coast. The revetment could also improve the resilience of marine species that rely on healthy seagrass and coral habitats.

The proposed action would not affect predator-prey relationships. In the short-term, BMPs would prevent the accidental introduction of algae such as *Chaetomorpha* spp. into Saipan Lagoon. The contractor would rinse gear that has been used at other work sites on the island.

Impact of the Proposed Action on the Enforceable Provisions of the CNMI Coastal Management Program

Table 1, below, provides a list of the CNMI Coastal Management Program's enforceable policies and an explanation on how the proposed action complies with the policies. The list of the CNMI CMP Enforceable policies is found in Appendix A of BECQ-DCRM (2018).

Table 1. Relationship of the Proposed Action to CNMI's CMP Coastal Management Policies.

CNMI CMP enforceable policy:	Will comply?	Will not comply?	How the Federal activity complies with the CMP enforceable policy:
NMIAC Chapter 15-10 Coastal Resources Management Rules and Regulations¹			
15-10-020 Definitions	✓		<p>NMFS note these definitions and apply them in our review of effects and consistency determination.</p> <p>We note adjacent property means property within 300 feet of the lot or site of proposed project and will provide a copy of the draft EA to the adjacent landowner to the south and the manager of the market on Garapan Fishing Base to ensure their notification of the proposed action and the opportunity to comment.</p> <p>Our evaluation and effects reviews considered adverse effects as listed. We consider short-term, long-term, and reasonably foreseeable effects that given ongoing actions by others and environmental trends. We consider degree of effects both positive and adverse. We explain that mitigation is part of the proposed action and will not be externally imposed.</p>
15-10-025: Conflicts with Regulations of Other CNMI Government Agencies	✓		<p>No zoning conflicts. The proposed action will not change ongoing uses of this public parcel, which is primarily used to support fishing and recreation. The proposed action will be consistent with Resource and Tourist Zone once compliance is completed and permits are obtained. The project location cannot be changed due to the objective to stabilize the shoreline. According to an email from Corbin Yamada, Permitting Officer II, CNMI Saipan Zoning Office, to Vicente Camacho, CNMI Department of Lands and Natural Resources (DLNR), dated August 9, 2021, CNMI DLNR does not need a zoning clearance from the Saipan Zoning office.</p>
15-10-301: General Standards for all CRM Permits	✓		<p>This Federal Consistency Determination summarizes our review that shows that because of BMPs and the revetment design, the proposed action will not have a significant adverse impact on the coastal environmental or its resources.</p>

¹ [Title 15-10 Coastal Resources Management Rules and Regulations \(cnmilaw.org\)](http://cnmilaw.org)

CNMI CMP enforceable policy:	Will comply?	Will not comply?	How the Federal activity complies with the CMP enforceable policy:
15-10-305: General Criteria for CRM Permits	✓		<p>(a) Our effects review includes consideration of cumulative effects. We considered the watershed setting, future climate change, effects to cultural resources and aesthetic enjoyment of coastal resources. A meaningful suite of BMPs are included in the proposed action and will be followed by DLNR. BMPs reduce the potential for adverse effects even in light of ongoing activities and inputs to the watershed.</p> <p>(b) The proposed action is compatible with existing adjacent uses and is not contrary to designated land and water uses being followed or approved by the CNMI government, its departments and agencies. The revetment secures land at Garapan Fishing Base but will not change use at the Garapan Boat Ramp, Garapan Pier, or affect neighboring properties.</p> <p>(d) Our effects review considered impacts of the proposed action on marine water quality, marine habitats, including physical and chemical characteristics. BMPs during construction will protect water quality in the lagoon particular with respect to preventing widespread sedimentation or pollution from hazardous chemicals or sunscreen. The revetment will improve water quality in nearshore marine areas off of Garapan Fishing Base by preventing continuing erosion.</p> <p>(e) The proposed action will comply with Federal and CNMI laws including air and water quality standards, and land use. The project will not conflict with Federal or CNMI constitutional standards. NMFS will complete required environmental compliance. DLNR will obtain applicable permits required for the project.</p> <p>(f) The proposed action is small and will not conflict with CNMI’s natural beauty and natural resources. Due to BMPs, the proposed action will not adversely affect the health of people or the environment.</p> <p>(g) The proposed action will not change demand for or put pressure on existing facilities and public services. The proposed action will not conflict with Commonwealth interests to improve water quality in Saipan Lagoon, or future plans for a walkway along Garapan Fishing Base or site improvements.</p> <p>(h) In the short term, shore access within the construction site will be limited for safety. Once the revetment is built access to the shore and along the shore will continue.</p>

CNMI CMP enforceable policy:	Will comply?	Will not comply?	How the Federal activity complies with the CMP enforceable policy:
			<p>(i) Setbacks: Not applicable. However, we note the revetment was designed for stability given the project location and storm wave conditions.</p> <p>(j) DLNR will implement a wide range of BMPs to ensure that the proposed action will not result in non-point source pollution impacts on the site, or adjacent or downstream APCs.</p> <p>(k) NMFS considered effects on nearby seagrass beds. DLNR will avoid placing equipment or materials on seagrasses.</p>
15-10-315: Criteria; Areas of Particular Concern; Lagoon and Reefs	✓		<p>(b)(1) The proposed action will not adversely affect subsistence use of coastal areas or resources. At present, CNMI occasionally closes Garapan Boat Ramp for fishing and swimming when a water quality parameter (e.g., Enterococci) is exceeded. The proposed action will not increase enterococci measurements. BMPs will prevent pollution of waters and we find low potential for contamination of lagoon waters and no adverse effect on the health of marine resources, fishermen, or swimmers. Except for limited and temporary restrictions from access to the immediate construction area, fishermen will be able to continue to fish along the shore and pier. Once complete, the revetment will not obstruct access to the coast or along the shore.</p> <p>(b)(2). Sea cucumbers will be removed from within the silt curtain before construction. This will enhance conservation of a living marine resource that is harvested by fishermen.</p> <p>(b)(3)The proposed action will not have the potential for large and adverse effects to reefs or corals. See 15-10-325 (Coral Reef APC, below) for more supporting details.</p> <p>(b)(4) The proposed action is intended to maintain a public facility that supports commercial and recreational fisheries and other small boat users.</p> <p>(b)(5) Natural water flows, circulation patterns will not be affected. Nutrient levels will be reduced slightly when erosion of land-based soils is controlled. Oxygen levels will likely increase slightly with reduced nutrient loads. The degree of improvement will be offset by ongoing inputs of land-based nutrients from nearby storm drain. BMPs will help ensure that siltation will not affect areas beyond the action area and will help ensure that the contractor secures hazardous materials including petroleum products.</p> <p>(b)(6) On November 2, 2021, after a review of the site and potential for historic properties, NMFS received concurrence on its determination of no adverse effects on areas or objects of</p>

CNMI CMP enforceable policy:	Will comply?	Will not comply?	How the Federal activity complies with the CMP enforceable policy:
			<p>historical and cultural significance from the CNMI Historic Preservation Office (HPO). There are no known resources of historic, cultural or archaeological significance in the action area. BMPs will be sufficient to ensure areas of historical and cultural significance that are not known, but could be discovered during excavation, will be protected in coordination with the CNMI HPO, NMFS and the U.S. Army Corps of Engineers in accordance with the National Historic Preservation Act and local laws.</p> <p>(7)(c). The proposed action is consistent with the highest use priority for Lagoon and reef APC, (1)(vi) as it is an activity related to the prevention of beach erosion. Although there is only an intertidal beach and the revetment will be made of limestone, the revetment will prevent sedimentation of nearshore marine areas and sand is expected to continue to accrete in the nearshore areas through natural processes. We note that the area will continue to be dredged for navigational uses.</p> <p>The proposed action is also consistent with other highest use activities. These include:</p> <p>(7)(1)(i). The proposed action will promote the conservation of open space by preventing further loss of land and infrastructure at Garapan Fishing Base; improve water quality along the shore; enhance seagrass resilience (also priority (7)(c)(1)(vii) by reducing sedimentation and improving water clarity.</p> <p>(7)(1)(ii), the proposed action will enhance public recreation by maintaining infrastructure and land used for outdoor recreation and will improve water quality and overall aesthetics of the Garapan Fishing Base and nearshore areas which are important for boaters, paddlers, fishermen, and others.</p> <p>The proposed action will not involve activities that are unacceptable for this APC that are listed in (7)(c)(4). The proposed action includes BMPs for securing materials, daily maintenance, disposing of waste and debris in approved sites, and securing the site prior to storms all of which will prevent trash, litter, garbage, and other construction materials from entering the lagoon.</p> <p>With respect to provisions of law under 15-10-315 (d) Seagrass habitat within lagoon and reef APC, we find the following:</p> <p>(d)(1). The proposed project does not involve modification of seagrass habitat. A pre-activity site survey by DLNR (2021) and other evidence (see above) show seagrasses are beyond the</p>

CNMI CMP enforceable policy:	Will comply?	Will not comply?	How the Federal activity complies with the CMP enforceable policy:
			<p>action area. Water quality and benthic habitat beyond the action area will be protected during construction by BMPs and in the long-term water quality improvements in terms of reduced turbidity and sediments and increased clarity will improve seagrass resilience in nearby areas.</p> <p>(d)(2)(i). The proposed action is consistent with the highest use priority for seagrass habitat within the lagoon and reef APC in that the proposed action will preserve natural seagrass beds, which “protect the shoreline from erosion and prevent the movement of sand in the lagoon.” The proposed action does not involve unacceptable activities listed in (d)(2)(iv).</p> <p>15-10-315(e). The proposed action does not involve removing seagrass or modifying seagrass habitat.</p>
15-10-320: Specific Criteria; Areas of Particular Concern; Managaha and Anjota Islands	✓		APC – Managaha and Anjota Islands. No effect due to geographic separation.
15-10-325: Specific Criteria; Areas of Particular Concern; Coral Reefs	✓		<p>APC – Coral Reefs. Coral reefs are beyond the action area.</p> <p>Coral reefs will not be dredged or subject to breakage from gear or marine debris.</p> <p>Water quality will be protected through a suite of BMPs to prevent chemical and physical degradation.</p> <p>BMPs are sufficient to ensure that erosion from excavation work will be controlled and sedimentation will not extend into the lagoon at levels that exceed permissible thresholds.</p> <p>DLNR will follow a BECQ-approved water quality monitoring plan which will provide for monitoring in a zone of mixing compared with ambient measurements and stop-work provisions if degradation above permissible levels are detected.</p> <p>Construction will temporarily stop during the key coral spawning period to prevent the potential for adverse effects on coral reproduction, settlement and growth.</p>

CNMI CMP enforceable policy:	Will comply?	Will not comply?	How the Federal activity complies with the CMP enforceable policy:
			<p>Once built, the revetment will reduce erosion and improve water quality, and this could potentially improve conditions in nearshore lagoon waters where there is hard substrate.</p> <p>The action area is not included as proposed critical habitat because it is next to an area regularly dredged for vessels using Garapan Boat Ramp. It also lacks hard substrate, an essential feature.</p> <p>BMPs will prevent the proposed action from adversely modifying areas proposed as critical habitat for three coral species. Thus, although the project involves dredging, due to site conditions and BMPs, and ultimate improvement of water quality, the proposed action will be consistent with the maintenance of highest levels of primary productivity.</p>
15-10-330: Specific Criteria; Areas of Particular Concern; Wetlands and Mangroves	✓		APC – Wetlands and Mangroves. No effect due to geographic separation.
15-10-335: Specific Criteria; Areas of Particular Concern; Shorelines	✓		<p>APC–Shorelines. The proposed action is between the high tide line and 150 feet inland on Saipan.</p> <p>(b)(1) Site conditions, temporary nature of construction, and BMPs will prevent adverse effects on wildlife, coastal and marine systems, aesthetic resources.</p> <p>(b)(2) Natural damaging coastal process of erosion would be slowed. Other coastal processes including flooding, ocean circulation, and ecosystem services would not be adversely affected. Minor positive benefits to seagrasses from improved water quality conditions.</p> <p>(b)(3) The proposed action would secure the shoreline and replant turf grass to secure soils on upland areas.</p> <p>(b)(4) No sand, gravel or other aggregates would be mined.</p> <p>(b)(5) Public landholding would not be adversely affected. The proposed action would improve public land and maintain current uses.</p>

CNMI CMP enforceable policy:	Will comply?	Will not comply?	How the Federal activity complies with the CMP enforceable policy:
			<p>(c)(1) The proposed action is water-dependent because it is along shore.</p> <p>(c)(2) The proposed action would facilitate continued fishing, recreational and cultural uses at Garapan Fishing Base by protecting infrastructure and public land from erosion and damage.</p> <p>(c)(3) The proposed action is consistent with current uses of the parcel.</p> <p>(c)(4) n/a. The proposed action is not a private dwelling and does not force a sale or trade of private land to the government.</p> <p>(c)(5) n/a. The action area is not on a rocky shoreline.</p> <p>(c)(6) The proposed action is designed to prevent and mitigate shoreline erosion.</p> <p>(c)(7) The proposed action could not be relocated.</p> <p>With respect to Shoreline APC standards (d), although not specifically a marina or small boat harbor action, the project meets the environmental protection standards of this subsection through BMPs. Runoff control measures will be effective. The proposed action will stabilize the shoreline to prevent chronic shoreline retreat. The DLNR considered but did not select living shorelines due to a conflict with uses, and costs (see above). BMPs would prevent spills and leaks from the construction site and allow for efficient and effective cleanup of spills.</p> <p>The proposed action meets the following use priorities for Shoreline APC: (e)(1) (vi), Highest use priority tier that includes (e)(1)(ii) compatible water-dependent development which cannot be reasonably accommodated in other locations. The proposed action does not involve unacceptable activities listed in (e)(4).</p>
15-10-340: Specific Criteria; Areas of Particular Concern; Ports and Industrial Areas	✓		APC – Ports and Industrial Areas. No effect due to geographic separation.
15-10-345: Specific Criteria;	✓		APC– Coastal Hazards. This APC is defined as “Areas identified as a coastal high hazard Flood Zones (V & VE) in the FEMA (Federal Emergency Management Act) FIRMs (Flood Insurance Rate Maps).” Note that the project is not within a V or VE flood zone, but is within

CNMI CMP enforceable policy:	Will comply?	Will not comply?	How the Federal activity complies with the CMP enforceable policy:
Areas of Particular Concern; Coastal Hazards			<p>Flood Zone AE (EL 7); therefore, we considered effects on coastal flooding. We consider the management standards applicable to this APC because the area has historically flooded and is in a flood zone.</p> <p>(b) (3) The revetment was designed by marine engineers in coordination with CNMI Department of Public Works.</p> <p>(b)(4) The proposed revetment will not endangered human life or safety due to its design or siting.</p> <p>(c)(1). The proposed action is shoreline dependent</p> <p>(c)(3) The proposed action is receiving Federal and CNMI funds for construction</p> <p>(c)(4) The proposed action will enhance or facilitate recreational or cultural activities by protecting public lands used by fishermen and coastal recreation.</p> <p>(c)(5) Access to the shoreline would not change, but safety would be increased by removing falling vegetation and stabilizing the bank.</p> <p>(c)(6) The revetment design was reviewed by CNMI engineers and was designed for stability.</p> <p>(c)(7). The proposed action was designed to prevent or mitigate for shoreline erosion.</p> <p>(c)(8). The proposed action was designed withstand coastal flooding conditions consistent with a high wave event.</p> <p>(d) The project is consistent with highest use priorities that include: (d) (ii) Projects which conserve or enhance native coastal vegetation or mitigate impacts of natural coastal processes;</p> <p>(iii) Projects which conserve or enhance native coastal vegetation or reduce risks of impacts through implementation of adaptation projects;</p> <p>(iv) Projects which result in the improvement of existing structures in terms of increasing resilience to coastal hazards.</p> <p>The project is not an unacceptable project, as listed in (d)(4). The project is hard shore protection associated with boating facilities. The project is inland of a dredged channel. Although the revetment will absorb wave energy, it will not interfere or disrupt the natural shoreline processes such as littoral transport or coastal dynamics with the exception of the southern flank which is intended to prevent changes to shoreline processes on the adjacent area.</p>

CNMI CMP enforceable policy:	Will comply?	Will not comply?	How the Federal activity complies with the CMP enforceable policy:
15-10-350: Height Density, Setback, Coverage, and Parking Guidelines	✓		The proposed action does not involve a building. Consistent with (b)(2) Shoreline setbacks (i) and (ii), the proposed action would protect a public access and recreation zone along the coast. The proposed action would remove a derelict structure built at the water' edge. The removal of trees and derelict structures would open the visual openness of the shoreline area.
15-10-501: Determination of Major Siting	✓		<p>By definition, the proposed action is not a major siting under 15-10-20 (uu) because, based on site conditions, the temporary nature of construction, BMPs, and ultimate improvement of the shoreline and nearshore water conditions, it does not have the potential to directly and significantly impact coastal resources.</p> <p>(3) The project is a shoreline modification 80 feet longer than the 300 linear feet guideline and construction will be less than 0.5 acre in area. Excavation will affect 0.35 acres of offshore areas. DLNR will follow BMPs to prevent large and adverse effects on coastal resources.</p> <p>(4) The proposed action does not have the potential for significant adverse effects on submerged lands, groundwater recharge areas, cultural areas, historic or archeological sites and properties, reefs, beaches, recreational areas, endangered or threatened species or marine mammal habitats. We include supporting evidence in our effects review above.</p> <p>The proposed action will not affect designated conservation and pristine areas, uninhabited islands, sparsely populated islands, mangroves, wetlands, lakes, areas of scientific interest, or limestone, volcanic or Cocos forest.</p> <p>(11) The proposed action will modify areas that are particularly susceptible to erosion and sediment loss (an area along the coast). The project intends to secure the shoreline and prevent erosion. BMPs will prevent sedimentation of the lagoon during construction.</p>
15-10-505: Specific Criteria for Major Sitings	✓		Although the project will not have the potential for significant adverse effects, we note that the proposed action meets specific criteria for Major Sitings in 15-10-505 (a) – (i), nonetheless.

CNMI CMP enforceable policy:	Will comply?	Will not comply?	How the Federal activity complies with the CMP enforceable policy:
o 15-10-610: Mandatory Conditions	✓		If a CRM permit is required, the proposed action would proceed in accordance with all mandatory provisions of this subsection as well as conditions of other permits.
Public Law No. 3-47			
CNMI Coastal Zone Management Act of 1983.	✓		<p>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 policies as approved by the National Oceanic and Atmospheric Administration.</p> <p>The Act provides CNMI’s Policy for coastal resources management.</p> <p>This Federal Consistency Determination was prepared in accordance with section 307 of the Federal CZMA and herein considers effects on the enforceable policies of the CNMI’s CZMA.</p> <p>For the information of the BECQ-DCRM, NMFS is preparing a draft environmental assessment in accordance with the National Environmental Policy Act (NEPA) which will be released to the public in early 2022 that contains more detail on the analyses summarized here.</p> <p>NMFS is also responsible for complying with a number of laws intended for the conservation of the environment.</p> <p>Our planning, coordination with DLNR and other agencies of the CNMI, and environmental effects analysis will help ensure the proposed action will conform with CNMI PL 3-47.</p>

CNMI CMP enforceable policy:	Will comply?	Will not comply?	How the Federal activity complies with the CMP enforceable policy:
Air and water quality standards and regulations of the CNMI, including:			
DEQ Underground Injection Control Regulations (NMIAC, title 65, chapter 90)	✓		n/a. The proposed action does not involve underground injection of wastes or fluids regulated under NMIAC, Title 65-90.
DEQ Drinking Water Regulations (NMIAC, title 65, chapter 20)	✓		The proposed action will not adversely affect the CNMI public drinking water resource or system. Although the action area is over the freshwater lens, BMPs would prevent spills of hazardous materials and would require immediate response to be implemented in case of an accidental release of hazardous wastes into the environment.
DEQ Well Drilling and Well Operations Regulations (NMIAC, §65-140-005, §65140-010)	✓		n/a. The proposed action does not involve well drilling or operation and will not affect a well.
DEQ Wastewater Treatment and Disposal Rules and Regulations (NMIAC, §65-120-010, and §65-120 Part 1700)	✓		The proposed action does not involve sewage or wastewater generation, treatment, or disposal. We note that engineers have included lined de-watering cells as part of the proposed action. The return of water to the lagoon will be reviewed and permitted, as required by law.
Any additional policies, regulations, standards, priorities and plans that are approved by NOAA's Office for Coastal Management as enforceable policies of the CNMI Coastal Management Program for CZMA federal consistency review purposes.			

CNMI CMP enforceable policy:	Will comply?	Will not comply?	How the Federal activity complies with the CMP enforceable policy:
Additional policies:	✓		n/a (none)
<p><i>15 CFR 930.39 (e): Federal agencies are not required to obtain State permits unless otherwise required by a Federal law, other than the CZMA. Even when Federal agencies are not required to obtain a state permit, they shall still be consistent to the maximum extent practicable with the enforceable policies that are contained in such State permit programs that are part of a management program. (15 C.F.R. § 930.39 (e)).</i></p>			

DETERMINATION

Based upon the information and analysis above, NMFS finds that the proposed action is consistent to the maximum extent practicable with the enforceable policies of the CNMI Coastal Management Program.

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