

Coastal Zone Management Act (CZMA) Consistency Determination

Permanent Housing Construction Program (PHC) – Repair and New Construction within Coastal Areas of Particular Concern (APC)

Tinian and Saipan, MP

December 9, 2019

1. AUTHORITY

This document provides the Commonwealth of the Northern Mariana Islands (CNMI) Coastal Management Program with the U.S. Department of Homeland Security Federal Emergency Management Agency's (FEMA) Consistency Determination under CZMA §307(c)(1) [or (2)] and 15 C.F.R. Part 930, Subpart C, for the Permanent Housing Construction (PHC) – Repair and New Construction Program within Coastal Areas of Particular Concern (APC). CNMI's Federal Consistency Listed Federal Actions includes construction or reconstruction of permanent or semi-permanent housing under FEMA's Individuals and Households Program (IHP). The information in this Consistency Determination is provided pursuant to 15 C.F.R. §930.32.

DETERMINATION

BACKGROUND: During the incident period of October 24, 2018, Super Typhoon Yutu passed directly over the islands of Saipan, Rota, and Tinian as a Category 5 Super Typhoon with 185-200 mph winds and dropping about 12 inches of rain. The high winds and torrential rains from Super Typhoon Yutu threatened public safety, disrupted critical infrastructure and services, and damaged and destroyed public and private property.

PROJECT DESCRIPTION: The PHC Program consists of direct assistance under Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. § 5121 et seq.) (Stafford Act) for either permanent repairs to private dwellings (Repairs/ Repair Program) or demolition of destroyed dwellings and complete reconstruction (New Construction Program).

Repairs will include any necessary work to return the property back to a safe, sanitary, and functional condition and will allow for minor improvements. Specifically, work will include repairs to interior walls, doors, ceilings, floors, windows, HVAC, generator, bathrooms, utilities, appliances, stairs and kitchens. Improvements and additions may include sanitation systems, meters, storm shutters, hurricane clips and straps, generators, shatter-proof glass windows, and adaptations for persons with special access and functional needs. All work performed under the PHC Repair Program will be within the footprint of an existing structure and will comply with Federal and State laws and permits.

The PHC New Construction Program will include the demolition of destroyed dwellings and the reconstruction of all structural elements within the footprint of the demolished dwelling. Debris on the site(s), including buildings and or remnants of buildings that will be demolished, and debris generated during construction, will be removed to an existing, licensed landfill, currently limited to

the Marpi Solid Waste Facility (MSWF) on Saipan; permit issued on November 15, 2015 (SWMF-S-LF-01-2015). PHC New Construction work will potentially extend beyond the footprint of the demolished dwelling in instances where the approved footprints are larger than the demolished dwelling, or where the foundation of the demolished dwelling differs in type from the approved New Construction slab-type foundations. Work will include the reconstruction of all structural housing elements such as slab foundation, interior and exterior walls and ceilings, wall and ceiling insulation, windows, doors, roofing, accessibility related upgrades, and utilities. Utility repairs or replacements will be limited to the existing alignments and within areas of ground previously disturbed by their original installation and will tie-into preexisting utility lines. Standard 1, 2, and 3-bedroom dwellings will be constructed with approved footprints of 711 sq. ft., 818 sq. ft. or 1,013 sq. ft., respectively, with slab foundation types, which will overlap the previous dwelling footprint.

Approximately 500 dwellings will be included in the PHC Program with 39 located within a Coastal Area of Particular Concern (APC). Twenty-two (22) of these dwellings are New Construction and seventeen (17) are Repair. The Coastal APCs that would potentially be impacted are Shoreland, Wetlands and Mangrove, and Port and Industrial areas. Work will occur incrementally over an extended period of time. Contractors will obtain individual building permits for each property through the CNMI Bureau of Environmental and Coastal Quality.

National Environmental Policy Act (NEPA) DETERMINATION: FEMA has determined that the PHC Repair Program is Categorically Excluded from NEPA review in accordance with Section 316 of the Stafford Act with Categorical Exclusions N13 and N7. Likewise, FEMA has determined that the PHC New Construction is Categorically Excluded from NEPA review in accordance with Section 316 of the Stafford Act with Categorical Exclusions N13, E2, and E4.

ANALYSIS OF EFFECTS: FEMA has determined that the PHC Program (Repair and New Construction) affects the land, water, and natural resources of the CNMI in the following manner:

Land: All work performed under the PHC Repair Program will be within the footprint of an existing structure and impacts to land will be inconsequential. Work performed under the PHC New Construction Program will absorb and potentially expand slightly beyond the footprint of the demolished dwelling. Heavy equipment used for demolition and reconstruction will potentially impact land immediately surrounding demolished dwellings but will be limited to hard-surfaced and previously disturbed ground wherever possible. There will be minimal clearing and grubbing of vegetation. Existing in ground elements such as driveways and walkways will be left in place. There will be minimal grading of sites beyond the footprint of the original disaster-damaged dwellings. Any fill (soil or gravel) will be clean fill obtained from a previously disturbed commercial borrow source. There will be no site improvements including drives, walks, drains and drainage systems, etc. Because New Construction activities will be limited to hard-surfaced areas and areas of ground previously disturbed by construction associated with the original destroyed dwelling, impacts to land associated with the PHC New Construction Program will be inconsequential.

Water: Soil disturbance is a likely consequence of operating heavy machinery, demolition of foundations, and construction activities associated with Repair, but especially with New Construction. Sedimentation and erosion controls will be installed prior to construction activities when working near shoreline, and wetlands and mangroves to prevent downgradient transport of sediment into adjacent wetlands and waters.

Air Quality: Impacts to air quality are expected to be short-term and from the demolition of dwellings and operation of heavy equipment associated with the PHC New Construction Program but will be limited to the period of demolition and construction per property.

2. CONSISTENCY WITH PROVISIONS OF CNMI CRM ENFORCEABLE POLICIES:

§ 15-10-305 General Criteria

Cumulative Impact:

Each property existed previously as a family dwelling. The repair of these dwellings or demolition and reconstruction of destroyed dwellings is consistent with their prior use. Construction related to repair or demolition and reconstruction would be a temporary added activity “use” for this area with impacts related to traffic and the operation of heavy machinery. The cumulative impact of these activities would not be a significant detrimental effect.

Compatibility:

Adjacent uses to Permanent Housing Construction sites include recreation, undeveloped natural areas, and urban residential areas. People using recreation or undeveloped natural areas and neighbors in urban residential areas may notice construction related to repair or demolition and reconstruction. However, this would be a temporary and limited to the period of construction.

Alternatives:

PHC Repair and New Construction Programs consist of direct assistance to conduct permanent repairs or demolition and new construction to owner’s dwellings where no alternative housing is available, and temporary housing is unavailable, infeasible, or not cost effective. Thus, no reasonable possible actions could substitute or replace the proposed action and fulfill the same or a similar purpose. Moreover, the specific locations for each property slated for either the PHC Repair or PHC New Construction Programs is limited to the former footprint of the pre-existing structure and by land ownership for Program participants.

Conservation:

The Island-wide impacts of Super Typhoon Yutu are immense and have affected all the inhabitants of CNMI. Full recovery from this Typhoon will take years. The significant amount of damaged and destroyed properties by the event will require some environmental trade-offs to make the island habitable. Construction effects will be short-term; however, the beneficial effects to the quality of life of CNMI human inhabitants would be long-term.

Compliance with Local and Federal Laws:

PHC Repair and New Construction are direct federal actions in which FEMA is required to comply with all pertinent federal laws and regulations. FEMA documents compliance with federal laws with the completion of a Record of Environmental Consideration (REC). The pertinent laws and Executive Orders (EO) in which FEMA will comply include but are not limited to: National Environmental Policy Act, Clean Water Act, Clean Air Act, National Historic Preservation Act, Endangered Species Act, Fish and Wildlife Coordination Act, Migratory Bird Treaty Act, Magnuson-Stevens Fishery Conservation and Management Act, Coastal Zone Management Act, Resource Conservation and Recovery Act, Executive Order (EO) 11988 Floodplain Management, EO 11990 Wetlands Protection, EO 12898 Environmental Justice for Low Income and Minority Populations, and EO 13112 Invasive Species.

Right to a Clean and Healthful Environment:

Repair and reconstruction of damaged and destroyed properties is an important action to make the developed areas of Saipan more habitable. Improving the resilience of individual households to similar storms will ultimately enhance and protect the Commonwealth's inherent natural beauty and natural resources.

Effect on Existing Public Services:

Repair and reconstruction of damaged and destroyed properties would lessen pressure on existing facilities and services by restoring functional independence for individual families and strengthening resilience in the face of future, similar storms.

Adequate Access:

Repair and reconstruction of damaged and destroyed properties would not affect coastal access.

Setbacks:

PHC Repair and New Construction does not pose unreasonable risks to the health, safety, and welfare of the people of the Commonwealth, and complies with applicable laws. While the Program is spatially limited to the footprint of currently or previously existing dwellings, to property rights granted to applicants, and to modern zoning laws, mitigation is built in to the program to increase resilience against hazardous lands including floodplains, erosion-prone areas, storm wave inundation areas, air installation crash and sound zones, and major fault lines.

Management Measures for Control of Nonpoint Source Pollution:

PHC Repair and New Construction of damaged and destroyed properties will cause some initial soil disturbance. Heavy equipment will be used during construction. It is reasonable to assume that some sediment may leave the area dependent on weather conditions during and immediately after construction activities. However, minimal sediment is expected to leave these previously disturbed areas.

§ 15-10-311 Specific Criteria; Areas of Particular Concern; Impact Avoidance, Minimization, and Mitigation Required

All properties submitted as a part of this Consistency Determination are located fully or in part within a Coastal APC. Since the proposed work consists of Repair or New Construction of existing family dwellings located within a Coastal APC, avoiding work within the APC is not feasible. Impacts will be minimized to the maximum extent practicable and consistent with the management standards listed in DCRM Rules and Regulations (Chapter 15-10).

§ 15-10-315 Specific Criteria; Areas of Particular Concern; Lagoon and Reefs

Consistent: No properties are in the lagoon or reefs APC which is the area extending seaward from the high tide line to the outer slope of the reef.

§ 15-10-320 Specific Criteria; Areas of Particular Concern; Managaha and Anjota Islands

Consistent: No properties are on Managaha or Anjota Islands.

§ 15-10-325 Specific Criteria; Areas of Particular Concern; Coral Reefs

Consistent: All properties are landward of the high tide line and in terrestrial areas and construction will have no effect to any of Saipan's or Tinian's lagoons or reefs.

§ 15-10-330 Specific Criteria; Areas of Particular Concern; Wetlands and Mangroves

The Wetlands and Mangrove APC includes a 100-foot buffer area to areas permanently or periodically covered with water and where species of wetland or mangrove vegetation can be found. Construction activities associated with Repair and New Construction of damaged and destroyed dwellings may temporarily impact a wetland and/or its 100-foot buffer.

The scope of work for Repair properties is limited to the areas within and around existing structures. The scope of work for New Construction properties includes the demolition and removal of any remaining ruins, and reconstruction of properties within the previously disturbed footprint of the former demolished structure. Neither Repair nor New Construction is expected to impact natural drainage patterns, destroy important habitat, or cause the discharge of toxic substances, nor is either program expected to disrupt adequate water flow, nutrients, or oxygen levels within wetlands. Critical wetlands as well as public landholdings would be maintained. While ecologically protective buffers have not been established, construction will be limited to existing structures and the footprint of previously existing destroyed structures, and associated construction activities such as staging of equipment and debris will be limited to hard (paved or gravel) surfaces. Wetland resources will be maintained for appropriate compatible uses. No wetlands delineations or valuations will be performed. No loss of wetlands is expected to be associated with the Repair of existing damaged homes or the reconstruction of destroyed homes.

The most applicable Use Priority listing for the Repair and New Construction program is § 15-10-330.c.3.i or the "lowest priority" for *residential development designed to avoid adverse environmental impacts and which is not susceptible to damage by flooding*. It is FEMA's opinion however, that the proposed activities included as a part of Repair and New Construction fall outside the intended scope of the Use Priority ranking, which, generally, serves to direct *new developments* within the Wetlands and Mangrove toward conformation to the above discussion.

In summary, permanent impacts to wetlands would be limited to impacts that have previously existed since the original construction of each individual home; no new permanent impacts are expected within jurisdictional wetlands and mangroves.

Consistent: Permanent Housing Construction sites will be consistent with the management standards listed in § 15-10-330 concerning Wetlands and Mangroves other than for Repair of existing dwellings located within the Wetlands and Mangrove APC.

§ 15-10-335 Specific Criteria, Areas of Particular Concern; Shorelines

The APC Shoreline is located between the high tide line and 150 feet inland. Impacts to the shoreline APC will be limited to Repair and New Construction of an existing family dwelling in an existing residential area and on private property located within the Shoreline APC since there are no reasonable alternatives open to the landowners to rebuild dwellings elsewhere. New Construction of a destroyed dwelling will be within or adjacent to the existing building footprint and, therefore, will not impact coastal and marine systems, aesthetic resources, or natural

coastal processes. Likewise, shoreline morphology and vegetation will not be impacted. There will be no taking of sand, gravel, or other aggregates and minerals from the beach or near shore areas within the APC. There will be no impact to public landholdings as all work is on private property.

The most applicable Use Priority listing for the Repair and New Construction program is 2.i and 2.iii or the “moderate priority” for *single family dwellings in existing residential areas and projects that result in enhancements of existing structures that may include upgraded building standards or on-site hazard mitigation or adaptation projects*.

Consistent: The Repair and New Construction Program is consistent with management standards for shoreline. Repair and New Construction of properties will not result in new impacts or loss of shoreline since the work will be contained within or surrounding an existing structure or within or surrounding the footprint of a previously existing structure. No new Permanent Housing Construction sites are proposed as part of this Project.

§ 15-10-340 Specific Criteria; Areas of Particular Concern; Ports and Industrial Areas

Work associated with Repair properties will be contained within and surrounding an existing structure. Work associated with New Construction properties will occur within and surrounding the footprint of a previously existing, but currently destroyed structure. The scope of work for Repair and New Construction properties located within the Ports and Industrial Areas will not detract from the Commonwealth’s inherent natural beauty or natural resources, nor threaten the people’s constitutional right to a clean and healthy environment, nor result in significant adverse impacts or cumulative impacts on coastal resources, nor impinge on the conservation of shoreline or the viability of any future shoreline or water-dependent projects. The Program aligns with the economic and social expectations of the Commonwealth by aiding individual homeowners who wish to return to their homes and by strengthening infrastructure and increasing resilience against any future destructive weather events. Repair and New Construction thereby increases the security of Saipan’s residents and helps to assure that families remain to safely live and work in Saipan.

The Repair and New Construction of properties will not result in new impacts to port and industrial resources since the work will be contained within or surrounding an existing structure or within or surrounding the footprint of a previously existing structure. Neither Repair nor New Construction has any bearing on the potential exercise of military retention area options affecting port resources, nor do the scopes of work for either Repair or New Construction have the potential to locate petroleum based coastal energy facilities within the port and industrial APC. FEMA has considered this development proposal from the perspective of federal port related opportunities and constraints, which are applicable to the Commonwealth and has determined that Repair and New Construction are necessary for the recovery of the Commonwealth from a natural disaster and that work associated with Repair and New Construction will not overly burden the Commonwealth.

The most applicable Use Priority listing for the Repair and New Construction program is arguably 3.iii or the “lowest priority” for *uses or activities which are acceptable in other APCs and which do not enhance or are not reasonably necessary to support permissible uses, activities and priorities in the port and industrial APC*. However, FEMA argues that work associated with the

Repair and New Construction of individual private homes falls within 3.iii or the “lowest priority” only because the proposed activities included as a part of Repair and New Construction fall outside the intended scope of the Use Priority ranking, which, generally, serves to direct *new developments* within the Ports and Industrial Areas toward conformation to the above discussion.

Consistent: Permanent Housing Construction sites will be consistent with the management standards listed in § 15-10-340 concerning Ports and Industrial Areas.

§ 15-10-345 Specific Criteria; Areas of Particular Concern; Coastal Hazards

Consistent: None of the properties in the PHC Repair and New Construction Program are located within the Coastal Hazard APC and therefore there will be no impact on Saipan’s or Tinian’s V or VE coastal Special Flood Hazard Areas (SFHA).

§ 15-10-350 Height Density, Setback, Coverage, and Parking Guidelines

Consistent: The PHC Repair and New Construction Programs will occur in areas already subjected to dwelling construction. Height Density, Setbacks, Coverage, and Parking Guidelines are not applicable for consideration.

DETERMINATION: In accordance with the Federal Coastal Zone Management Act of 1972, as amended, FEMA has determined that the PHC Repair and New Construction Programs within Coastal APC are consistent to the maximum extent practicable with CNMI Coastal Management Program (CMP), pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, (CZMA) and CNMI CMP of 1980.

Pursuant to 15 C.F.R. §930.41, the CNMI Coastal Management Program has 60 days from the receipt of this letter in which to concur with or object to this Consistency Determination, or to request an extension under 15 C.F.R. §930.41(b). The CNMI Coastal Management Program response should be sent by email to:

Subject line: PHC Repair and New Construction within Coastal APCs CZMA Consistency Determination

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Figure 1: Overview PHC Properties within APC



Figure 2: Tanapag Area PHC Properties within APC

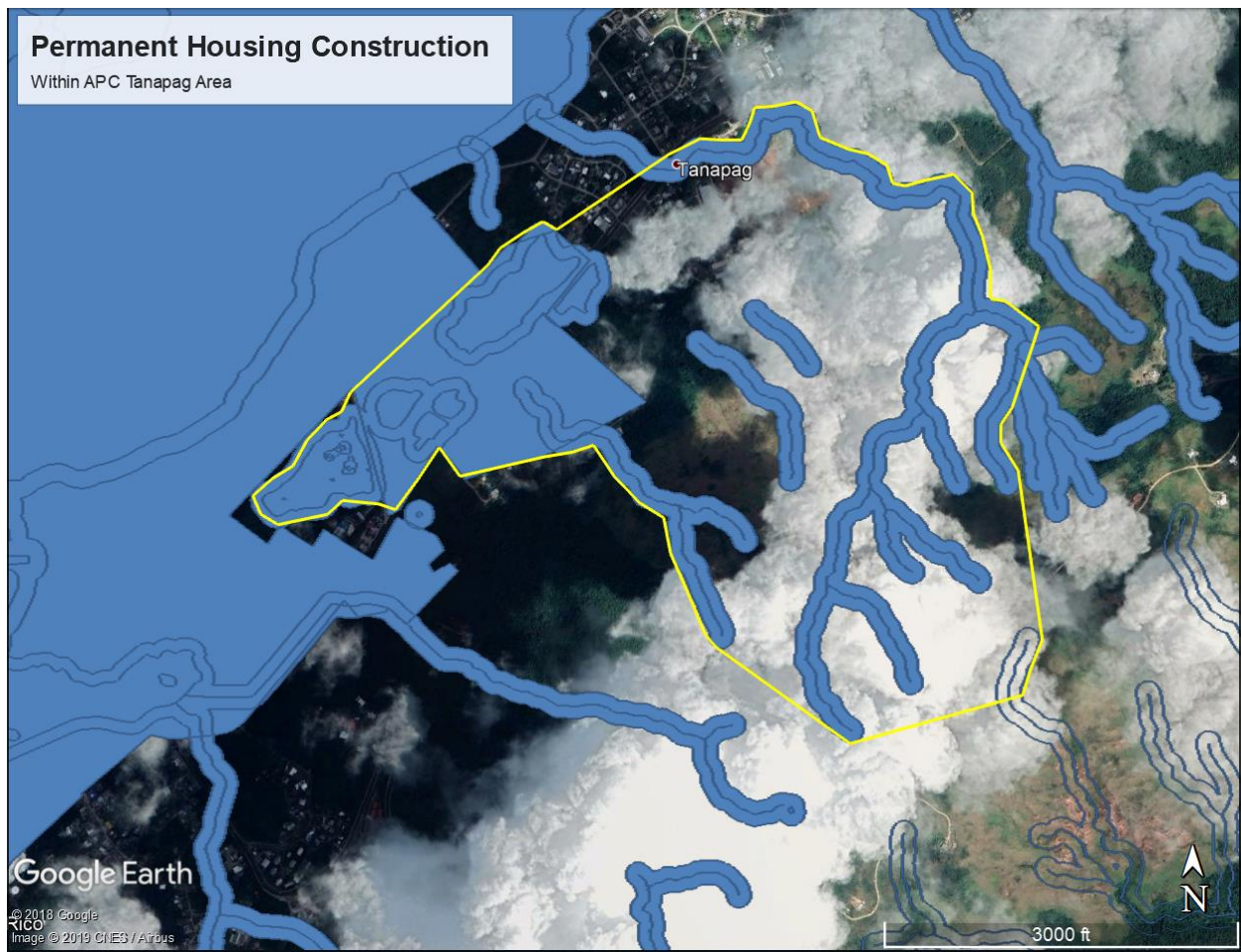


Figure 3: Mt. Tapachao PHC Properties within PHC



Figure 4: Kagman II Area PHC Properties within APC



Figure 5: Oleai Area PHC Properties within APC

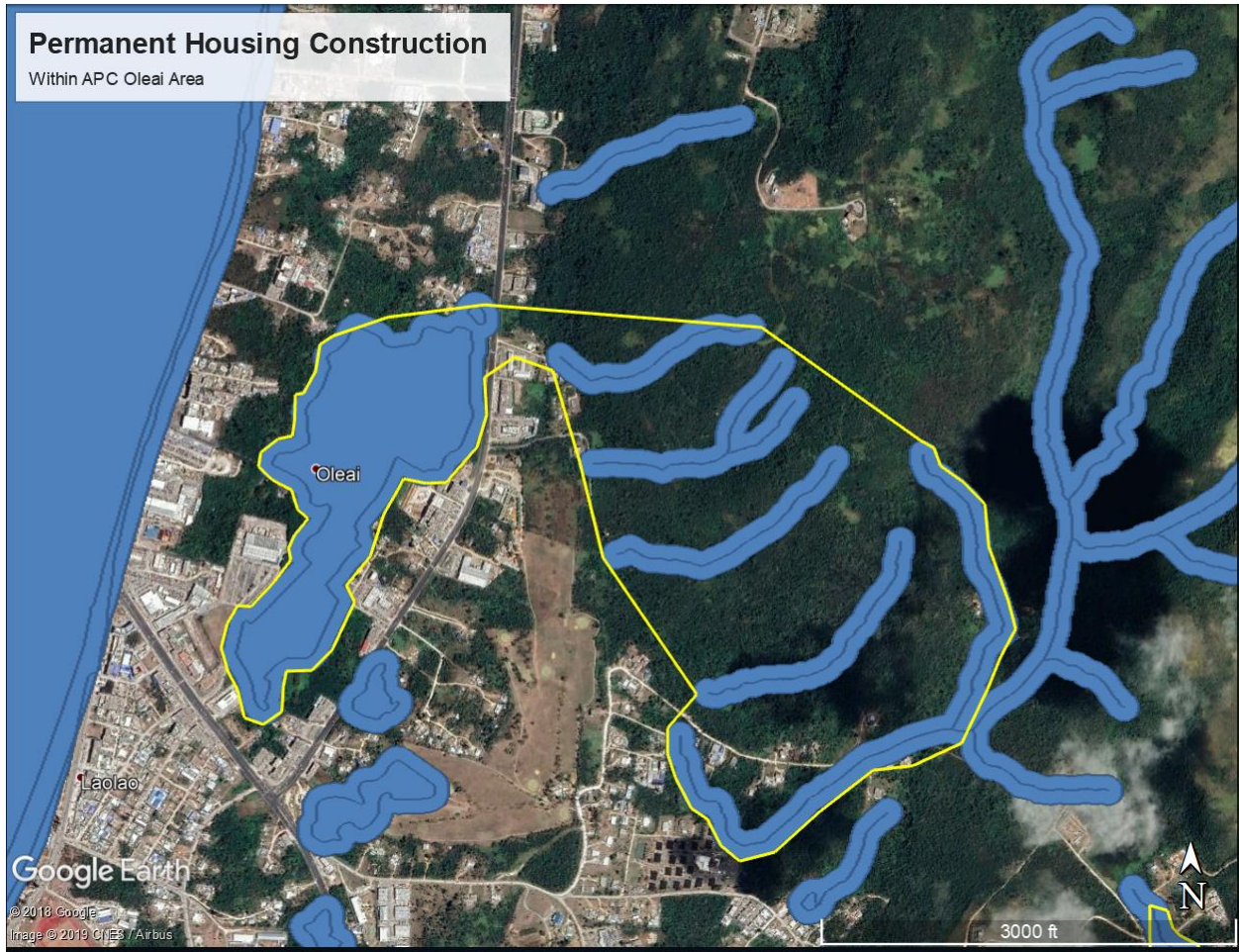


Figure 6: San Vicente Area PHC Properties within APC

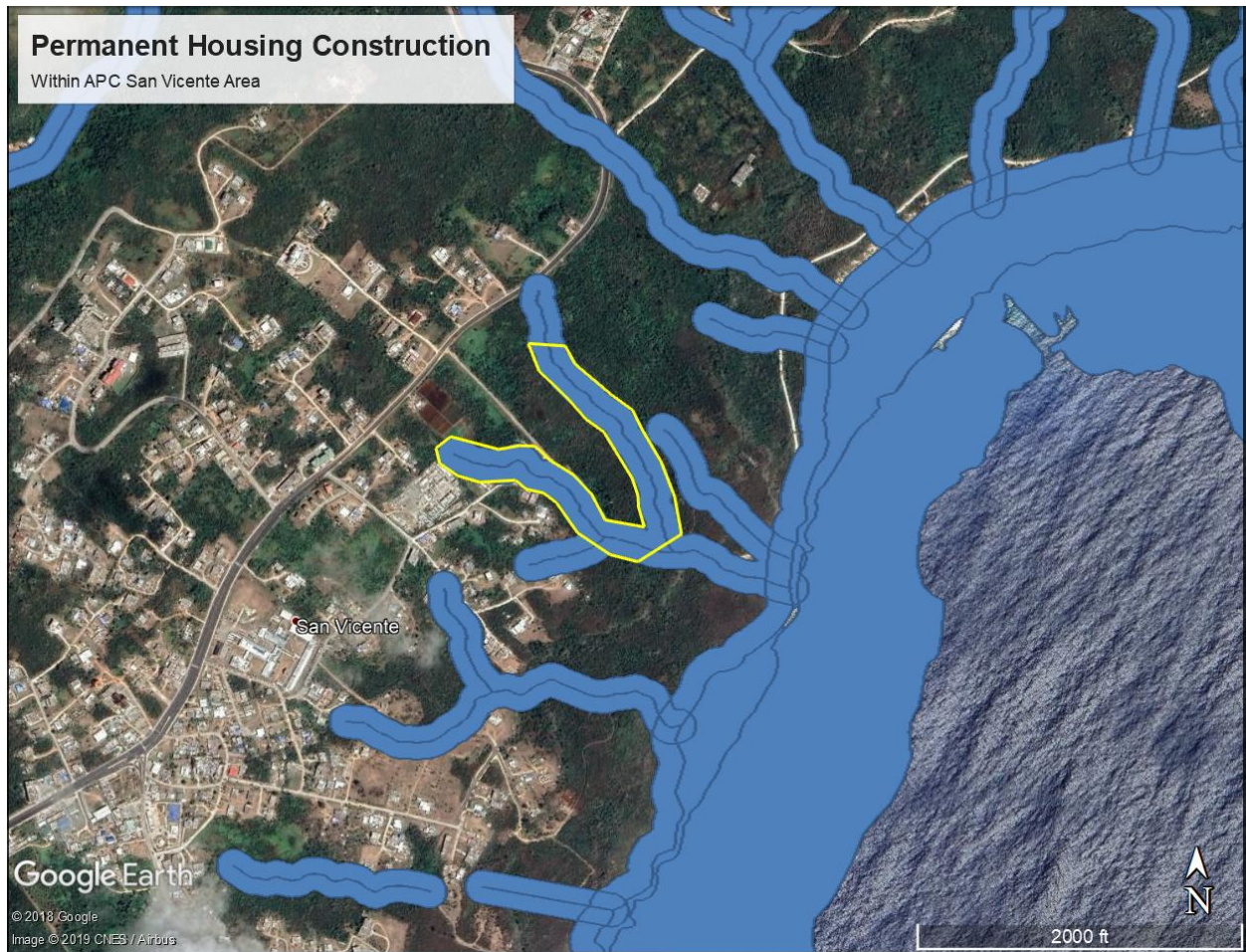


Figure 7: Chalan Monsignor Guerrero Area PHC Properties within APC

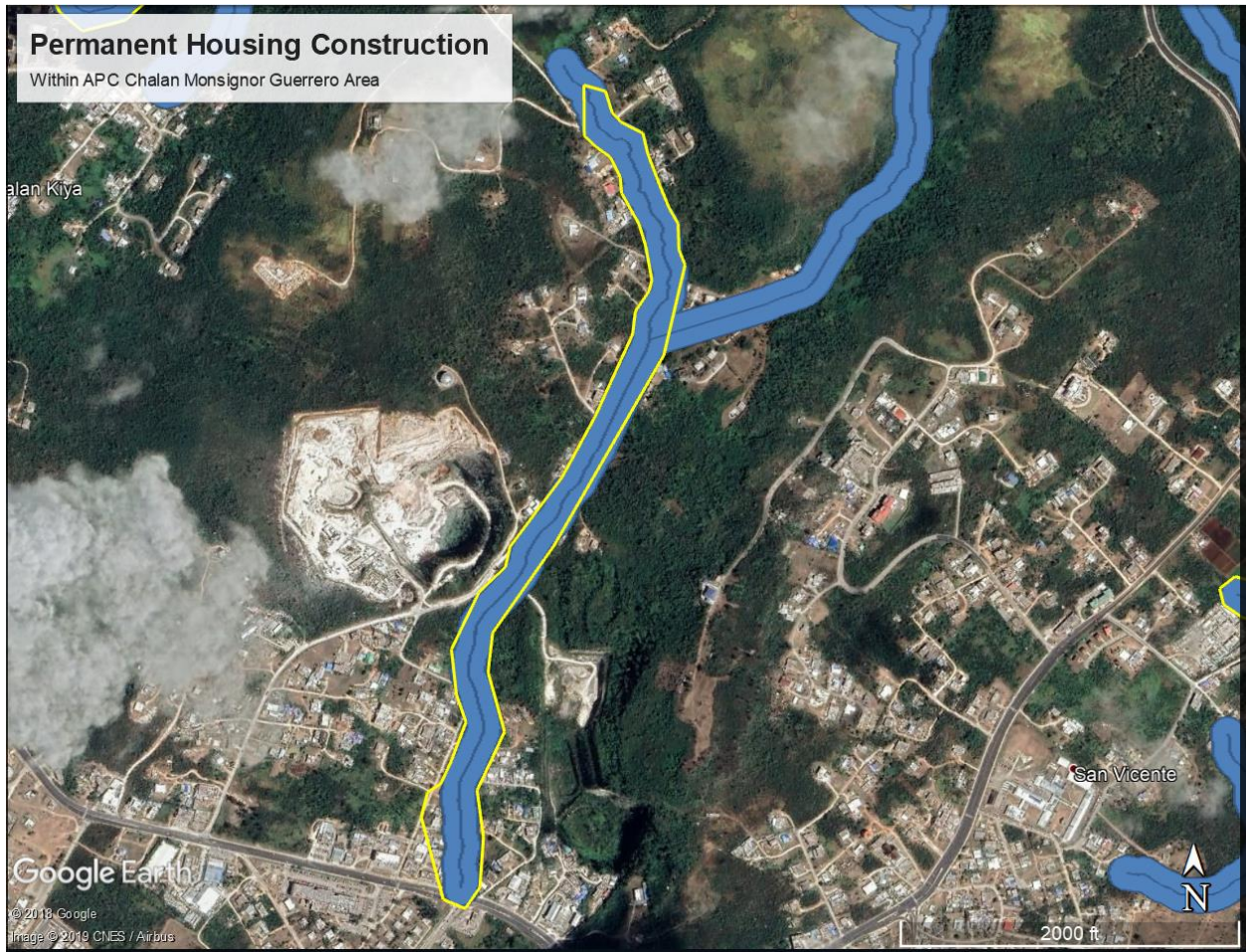


Figure 8: Afetna Area PHC Properties within APC

