May 9, 2022

Ms. Lola Leon Guerrero  
Acting Director  
Bureau of Statistics and Plans  
P.O. Box 2950  
Hagatna, Guam 96932

ATTN: Administrator, Guam Coastal Zone Management Program

SUBJECT: Emergency Shoreline Revetment of Chagamin Lago Road, Inalāhan, Guam  
Guam Coastal Management Program Consistency Determination

Dear Ms. Leon Guerrero:

Hafa Adai! On November 21, 2021, the Department of Public Works constructed a rock revetment wall along the northern shoreline of the Inalāhan Bay, along Chagamin Lago Road. This immediate emergency action was required to protect the heavily eroded access road and critical infrastructure threatened by the inclement weather and accompanying storm surge experienced by Guam on November 21-23, 2021.

The length of the riprap structure was approximately 480 L.F. in length; maintained the existing contour of the existing shoreline; and did not exceed the height of roadway. The construction was performed from the edge of the roadway and did not require access along the shore. We have enclosed for your review a consistency assessment package for the subject project pursuant to the Coastal Zone Management Act and 15 CFR 930. The project was locally funded under DPW’s Guam Highway Fund.

The subject project will comply with the enforceable policies of the Government of Guam’s approved management program and will be conducted in a manner consistent with such programs.

If you have any questions, please feel free to contact DPW’s Chief Planner, Mr. Jose M. Quinata, Jr. directly at 671-929-5162 or via email at josequinata@dpw.guam.gov. Thank you in advance for your consideration.

Sincerely,

VINCENT P. ARRIOLA

Attachment: CZM Program Assessment Package
The GCMP Assessment Format and Supplemental Information Form may be reproduced and submitted along with other required information to the BSP.

GUAM COASTAL MANAGEMENT PROGRAM
ASSESSMENT FORMAT

DATE OF APPLICATION: May 2, 2022
NAME OF APPLICANT: Department of Public Works, Government of Guam
ADDRESS: 542 North Marine Corps Drive, Tamuning, Guam 96913
TELEPHONE NO. 671-646-31311 Fax No. _______ Cell No: 671-929-5162
E-MAIL ADDRESS: jose.quinata@dpw.guam.gov
TITLE OF PROPOSED PROJECT:
Department of Public Works Emergency Shoreline Revetment of Chagamin Lago Road, Inalahan, Guam
(After-the-Fact)

COMPLETE FOLLOWING PAGES
FOR BUREAU OF STATISTICS AND PLANS ONLY:
DATE APPLICATION RECEIVED:
OCRM NOTIFIED: _______ LIC. AGENCY NOTIFIED: _______
APPLICANT NOTIFIED: _______ PUBLIC NOTICE GIVEN: _______
OTHER AGENCY REVIEW REQUESTED:

______________________________

DETERMINATION:
( ) CONSISTENT ( ) NON-CONSISTENT ( ) FURTHER INFORMATION REQUESTED
OCRM NOTIFIED: _______ LIC. AGENCY NOTIFIED: _______
APPLICANT NOTIFIED: _______

ACTION LOG:
1. ____________________________
2. ____________________________
3. ____________________________
4. ____________________________
5. ____________________________
6. ____________________________

DATE REVIEW COMPLETED: ____________________________
DEVELOPMENT POLICIES (DP):

DP 1. Shore Area Development

Intent: To ensure environmental and aesthetic compatibility of shore area land uses.

Policy: Only those uses shall be located within the Seashore Reserve which:
- enhance, are compatible with or do not generally detract from the surrounding coastal area’s aesthetic and environmental quality and beach accessibility; or
- can demonstrate dependence on such a location and the lack of feasible alternative sites.

Discussion: The emergency shoreline revetment of the Chagamin Lago Road is consistent with the opposing coastline of the Inalahan Bay (constructed by the USACE), and does not detract from the surrounding coastal area’s aesthetic and environmental quality. Beach accessibility along the subject road has been significantly enhanced as a result of the project, as the previously existing conditions did not provide safe access.

DP 2. Urban Development

Intent: To cluster high impact uses such that coherent community design, function, infrastructure support and environmental compatibility are assured.

Policy: Commercial, multi-family, industrial and resort-hotel zone uses and uses requiring high levels of support facilities shall be concentrated within appropriate zone as outlined on the Guam Zoning Code.

Discussion: Not Applicable.

DP 3. Rural Development

Intent: To provide a development pattern compatible with environmental and infrastructure support suitability and which can permit traditional lifestyle patterns to continue to the extent practicable.

Policy: Rural districts shall be designated in which only low density residential and agricultural uses will be acceptable. Minimum lot size for these uses should be one-half acre until adequate infrastructure including functional sewerage is provided.

Discussion: The subject project is compatible with environmental and infrastructure support and does not infringe on traditional lifestyle patterns in the subject area.
DP 4. Major Facility Siting

Intent: To include the national interest in analyzing the siting proposals for major utilities, fuel and transport facilities.

Policy: In evaluating the consistency of proposed major facilities with the goals, policies, and standards of the Comprehensive Development and Coastal Management Plans, Guam shall recognize the national interest in the siting of such facilities, including those associated with electric power production and transmission, petroleum refining and transmission, port and air installations, solid waste disposal, sewage treatment, and major reservoir sites.

Discussion: Not Applicable.

DP 5. Hazardous Areas

Intent: Development in hazardous areas will be governed by the degree of hazard and the land use regulations.

Policy: Identified hazardous lands, including flood plains, erosion-prone areas, air installations' crash and sound zones and major fault lines shall be developed only to the extent that such development does not pose unreasonable risks to the health, safety or welfare of the people of Guam, and complies with the land use regulations.

Discussion: The shoreline of the project area (Inalahan Bay) is susceptible to erosion due to inland flooding, ocean surges, and extreme weather events. Erosion of the southern shoreline portion of the Inalahan Bay was addressed by the USACE in the 90s. The opposite shoreline of the bay was excluded from the USACE action and remained at risk for erosion. The emergency shoreline revetment project addressed this northern shoreline portion of the bay to contain and prevent further erosion and to protect critical infrastructure, and is consistent with the intent and policy of the program.
DP 6. Housing

Intent: To promote efficient community design placed where the resources can support it.

Policy: The government shall encourage efficient design of residential areas, restrict such development in areas highly susceptible to natural and manmade hazards, and recognize the limitations of the island's resources to support historical patterns of residential development.

Discussion: Not applicable.

DP 7. Transportation

Intent: To provide transportation systems while protecting potentially impacted resources.

Policy: Guam shall develop an efficient and safe transportation system, while limiting adverse environmental impacts on primary aquifers, beaches, estuaries, coral reefs and other coastal resources.

Discussion: Not applicable.

DP 8. Erosion and Siltation

Intent: To control development where erosion and siltation damage is likely to occur.

Policy: Development shall be limited in areas of 15% or greater slope by requiring strict compliance with erosion, sedimentation, and land use regulations, as well as other related land use guidelines for such areas.

Discussion: The subject project was an emergency response action to prevent the further erosion of the shoreline on Chagamin Lago Road, and to protect critical infrastructure. As a result, the project contained the erosion caused by inland flooding and ocean surge activity.

RESOURCES POLICIES (RP):

RP 1. Air Quality

Intent: To control activities to insure good air quality.

Policy: All activities and uses shall comply with all local air pollution regulations and all appropriate Federal air quality standards in order to ensure the maintenance of Guam's relatively high air quality.

Discussion: Not applicable.
RP 2. Water Quality

Intent: To control activities that may degrade Guam's drinking, recreational, and ecologically sensitive waters.

Policy: Safe drinking water shall be assured and aquatic recreation sites shall be protected through the regulation of uses and discharges that pose a pollution threat to Guam's waters, particularly in estuaries, reef and aquifer areas.

Discussion: The subject project mitigated the loss of shoreline and critical infrastructure and limited the further degradation of recreation waters and is consistent with the intent and policy of the program.

RP 3. Fragile Area

Intent: To protect significant cultural areas, and natural marine and terrestrial wildlife and plant habitats.

Policy: Development in the following types of fragile areas including Guam's Marine Protected Areas (MPA) shall be regulated to protect their unique character.
- historical and archeological sites
- wildlife habitats
- pristine marine and terrestrial communities
- limestone forests
- mangrove stands and other wetlands
- coral reefs

Discussion: Addressed in DP 8, RP 2 above.

RP 4. Living Marine Resources

Intent: To protect marine resources in Guam's waters.

Policy: All living resources within the waters of Guam, particularly fish, shall be protected from over harvesting and, in the case of corals, sea turtles and marine mammals, from any taking whatsoever.

Discussion: Addressed in DP 8, RP 2 above.
RP 5. Visual Quality

Intent: To protect the quality of Guam's natural scenic beauty.

Policy: Preservation and enhancement of, and respect for the island's scenic resources shall be encouraged through increased enforcement of and compliance with sign, litter, zoning, subdivision, building and related land-use laws. Visually objectionable uses shall be located to the maximum extent practicable so as not to degrade significant views from scenic overlooks, highways and trails.

Discussion: Addressed in DP 1 above.

RP 6. Recreation Areas

Intent: To encourage environmentally compatible recreational development.

Policy: The Government of Guam shall encourage development of varied types of recreational facilities located and maintained so as to be compatible with the surrounding environment and land uses, adequately serve community centers and urban areas and protect beaches and such passive recreational areas as wildlife, marine conservation and marine protected areas, scenic overlooks, parks, and historical sites.

Developments, activities and uses shall comply with the Guam Recreational Water Use Management Plan (RWUMP).

Discussion: Not applicable.

RP 7. Public Access

Intent: To ensure the right of public access.

Policy: The public's right of unrestricted access shall be ensured to all non-federally owned beach areas and all Guam recreation areas, parks, scenic overlooks, designated conservation areas and their public lands. Agreements shall be encouraged with the owners of private and federal property for the provision of releasable access to and use of resources of public nature located on such land.

Discussion: The subject project is consistent with the public access intent and policy of the program by provided for the protection of public access and other critical infrastructure in the area due to severe shoreline erosion. As a result, public access has been enhanced significantly.
RP 8. Agricultural Lands

Intent: To stop urban types of development on agricultural land.

Policy: Critical agricultural land shall be preserved and maintained for agricultural use.

Discussion: Not Applicable.

FEDERAL CONSISTENCY
SUPPLEMENTAL INFORMATION FORM

Date: April 16, 2022
Project/Activity Title or
Description: Department of Public Works Emergency Shoreline Revetment of Chagamin Lago Road, Inalahan, Guam (After-the-Fact)
Location: Chagamin Lago Road, Inalahan, Guam
Other applicable area(s) affected, if appropriate:

Est. Start Date: Nov. 21, 2021 Est. Duration: 3 Calendar Days

APPLICANT
Name & Title: Jose M. Quinata, Jr., DPW Chief Planner
Agency/Organization: Department of Public Works, Government of Guam
Address: 542 North Marine Corps Drive,
Tamuning, Guam, Zip Code 96910
Telephone No. during business hours:
A/C (671) 646-3131
A/C (671) 929-5162
Fax (671) NA
E-mail Address: jose.quinata@dpw.guam.gov

AGENT
Name & Title: Not Applicable
Agency/Organization Address__________________________ Zip Code________
Telephone No. during business hours:
A/C (__) __________
A/C (__) __________
Fax (__) __________
E-mail Address:

CATEGORY OF APPLICATION (check one only)
( ) I - Federal Agency Activity
( ) II - Federal Permit or License
( ) III - Federal Grants & Assistance

TYPE OF STATEMENT (check one only)
( ) Consistency
( ) General Consistency (Category I only)
( ) Negative Determination (Category I only)
( ) Non-Consistency (Category I only)
 APPROVING FEDERAL AGENCY (Categories II & III only)  
Agency: U.S. Army Corps of Engineers  
Contact Person: Albert Williams, Regulatory Project Manager, Guam Field Office  
Telephone No. during business hours: 
Area Code (671) 339-2108 - Local  
Area Code (808) 283-0549 – Govt. Cell

FEDERAL AUTHORITY FOR ACTIVITY  
Title of Law: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Regulatory Program of the Corps of Engineers; Final Rule 33 CFR 320-332.  
Section: USACE Nationwide Permit 13 (Bank Stabilization)  
OTHER GUAM APPROVALS REQUIRED:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Type of Approval</th>
<th>Date of Application</th>
<th>Status</th>
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<tbody>
<tr>
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<td>WQC 401C</td>
<td>03/19/2022</td>
<td>WQC Order #2022-06</td>
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<tr>
<td>Guam SHPO</td>
<td>Section 106</td>
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Existing Shoreline Erosion Conditions Prior to Emergency Repair Action

Lago Road, Inlet Area
Federal Consistency Assessment Package: Chagrin
U.S. Army Corps of Engineers (USACE)  
NATIONWIDE PERMIT PRE-CONSTRUCTION NOTIFICATION (PCN)  
33 CFR 330. The proponent agency is CECW-CO-R  

DATA REQUIRED BY THE PRIVACY ACT OF 1974  

Authority  
Rivers and Harbors Act, Section 10. 33 USC 403. Clean Water Act, Section 404, 33 USC 1344. Regulatory Program of the Corps of Engineers (Corps); Final Rule 33 CFR 320-332.  

Principal Purpose  
Information provided on this form will be used in evaluating the nationwide permit pre-construction notification.  

Routine Uses  
This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of the agency coordination process.  

Disclosure  
Submission of requested information is voluntary. However, if information is not provided, the permit application cannot be evaluated nor can a permit be issued.  

The public reporting burden for this collection of information, 0710-0003, is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at whs.mco.alex.csd.mbx.dd-ddd-information-collections@mail.mil. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.  

PLEASE DO NOT RETURN YOUR RESPONSE TO THE ABOVE EMAIL.  

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and/or instructions) and submitted to the district engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.  

 ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS  

<table>
<thead>
<tr>
<th>1. APPLICATION NO.</th>
<th>2. FIELD OFFICE CODE</th>
<th>3. DATE RECEIVED</th>
<th>4. DATE APPLICATION COMPLETE</th>
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 ITEMS BELOW TO BE FILLED BY APPLICANT  

<table>
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<tr>
<th>5. APPLICANT'S NAME</th>
<th>8. AUTHORIZED AGENT’S NAME AND TITLE (agent is not required)</th>
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</thead>
<tbody>
<tr>
<td>First - Vincent</td>
<td>First - Jose</td>
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<tr>
<td>Middle - P.</td>
<td>Middle - M</td>
</tr>
<tr>
<td>Last - Arriola</td>
<td>Last - Quinata</td>
</tr>
<tr>
<td>Company - Department of Public Works</td>
<td>Company - Department of Public Works</td>
</tr>
<tr>
<td>Company Title - Director</td>
<td>E-mail Address - <a href="mailto:jose.quinata@dpw.guam.gov">jose.quinata@dpw.guam.gov</a></td>
</tr>
<tr>
<td>E-mail Address - <a href="mailto:vince.ariola@dpw.guam.gov">vince.ariola@dpw.guam.gov</a></td>
<td></td>
</tr>
</tbody>
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<tr>
<th>6. APPLICANT’S ADDRESS</th>
<th>9. AGENT’S ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address - 542 North Marine Corps Drive</td>
<td>Address -</td>
</tr>
<tr>
<td>City - Tamuning State - GU Zip - 96913 Country - USA</td>
<td>City - State - Zip - Country -</td>
</tr>
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<tr>
<th>7. APPLICANT’S PHONE NOs. with AREA CODE</th>
<th>10. AGENT’S PHONE NOs. with AREA CODE</th>
</tr>
</thead>
<tbody>
<tr>
<td>(671) 646-3131</td>
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STATEMENT OF AUTHORIZATION  

11. Thereby authorize, Jose M. Quinata, Jr. to act in my behalf as my agent in the processing of this nationwide permit pre-construction notification and to furnish, upon request, supplemental information in support of this nationwide permit pre-construction notification.  

[Signature of Applicant]  
2-yy-yy  

NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY  

12. PROJECT NAME or TITLE (see instructions)  
Department of Public Works Chagamin Lago Road Shoreline Revetment Project, Inalahan Bay, Municipality of Inalahan.
NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY

13. NAME OF WATERBODY, IF KNOWN (if applicable)
Pacific Ocean, Inalahan Bay, Municipality of Inalahan

14. PROPOSED ACTIVITY STREET ADDRESS (if applicable)
Chagamin Lago Road (off of Route 4, Inalahan)

15. LOCATION OF PROPOSED ACTIVITY (see instructions)
Latitude 13.27904° N
Longitude 144.74948° W

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions)
State Tax Parcel ID
M05 L117-1-1-1-R1-R/W

17. DIRECTIONS TO THE SITE
Located in the Municipality of Inalahan, along Route 4 southeast coast, Inalahan Bay.

18. IDENTIFY THE SPECIFIC NATIONWIDE PERMIT(S) YOU PROPOSE TO USE
Nationwide Permit 13 (NWP-13) for bank stabilization.

19. DESCRIPTION OF PROPOSED NATIONWIDE PERMIT ACTIVITY (see instructions)
Recover eroded areas along Chagamin Lago Road that are spatially consistent with the Guam 2005 Shoreline Profile through the installation of a rock revetment wall and current dissipaters using natural limestone boulder material with the average sizes of approximately 40 and 28 inches. The total length of the proposed work is approximately 480 L.F., with a width ranging between 8 - 12 feet, and a height of approximately 3.75 feet. The stones will be staged on site and mechanically placed from the edge of the Right-of-Way, creating the new revetment. At no time will equipment enter the water. Fabric filter will not be placed in the interior of the newly filled riprap as the action was an emergency response action and did not afford time to procure the geotextile fabric. Work will be restricted to low tide. No dredging or excavation will be conducted for this project.

20. DESCRIPTION OF PROPOSED MITIGATION MEASURES (see instructions)
The project will incorporate BMPs to include the use of water booms as a erosion control measures and restricting work during low tides. Additionally, the new stones will be rinsed with municipal water prior to installation to mitigate additional sedimentation from the new stones. No known endangered species or essential fish habitat have been identified for this project area or were observed during the construction period. (Note: As the project was an emergency response action, no photos of the water booms and other BMPs were taken.)

21. PURPOSE OF NATIONWIDE PERMIT ACTIVITY (Describe the reason or purpose of the project, see instructions)
The purpose of the NWP-13 is to construct a rock revetment to stabilize the bank along Chagamin Lago Road to prevent further degradation of the critical infrastructure (public access, sewer, water and communications). This project is being submitted "after-the-fact", as immediate emergency action was required to protect the heavily eroded access road and critical infrastructure threatened by the inclement weather and accompanying storm surge experienced by Guam on November 21-23, 2021.

22. QUANTITY OF WETLANDS, STREAMS, OR OTHER TYPES OF WATERS DIRECTLY AFFECTED BY PROPOSED NATIONWIDE PERMIT ACTIVITY
(see instructions)

<table>
<thead>
<tr>
<th>Acres</th>
<th>Linear Feet</th>
<th>Cubic Yards Dredged or Discharged</th>
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<tbody>
<tr>
<td>N/A</td>
<td>480 L.F.</td>
<td>660 CY</td>
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Each PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site.

23. List any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. (see instructions)
Guam Environmental Protection Agency 401C (WQC Order #2022-06 Attached), Department of Parks and Recreation, State Historic Preservation Office Section 106, and Guam BSP CZM Fed. Con. Determination.

24. If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and requires pre-construction notification, explain how the compensatory mitigation requirement in paragraph (c) of general condition 23 will be satisfied, or explain why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required for the proposed activity.

No wetlands will be affected by the proposed project.

ENG FORM 6082, OCT 2019
25. Is any portion of the nationwide permit activity already complete? [ ] Yes [x] No If Yes, describe the completed work:

Installation of a rock revetment wall and dissipaters using natural limestone boulder material ranging from 40 - 28 inches in size, along a portion of Chagamin Lago Road. The total length of the revetment is approximately 480 L.F., with a width ranging between 8 - 12 feet, and a height of approximately 3.75 feet.

26. List the name(s) of any species listed as endangered or threatened under the Endangered Species Act that might be affected by the proposed NWP activity or utilize the designated critical habitat that might be affected by the proposed NWP activity. [see instructions]

No known endangered or threatened species will be affected by the proposed project.

27. List any historic properties that have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic property or properties. [see instructions]

Chagamin Lago Road, Inalah, Guam. The entire village of Inalah is listed in both the Guam (03/23/1977) and National Register (11/07/1977) of Historic Places.

28. For a proposed NWP activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, identify the Wild and Scenic River or the "study river":

N/A

29. If the proposed NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, have you submitted a written request for section 408 permission from the Corps district having jurisdiction over that project? [ ] Yes [x] No

If 'yes', please provide the date your request was submitted to the Corps district:

30. If the terms of the NWP(s) you want to use require additional information to be included in the PCN, please include that information in this space or provide it on an additional sheet of paper marked Block 30. [see instructions]

NWP-13 Vicinity Map and Cross-Section View attached.

31. Pre-construction notification is hereby made for one or more nationwide permit(s) to authorize the work described in this notification. I certify that the information in this pre-construction notification is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

[Signature]

SIGNATURE OF APPLICANT

[Date]

DATE

[Signature]

SIGNATURE OF AGENT

[Date]

DATE

The pre-construction notification must be signed by the person who desires to undertake the proposed activity (applicant) and, if the statement in Block 11 has been filled out and signed, the authorized agent.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and wilfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than $10,000 or imprisoned not more than five years or both.
Exiting Shoreline Erosion Conditions Prior to Emergency Repair Action
Emergency Repair – Shoreline Stabilization
Blk. 30 (NWP-13 Chagamin Lago Road, Inalahan)

Completed Emergency Shoreline Revetment
IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO GUAM DEPARTMENT OF PUBLIC WORKS (DPW)  

TO: Vincent P. Arriola  
Director  
Department of Public Works  
542 North Marine Corps Drive  
Tamuning, Guam 96913  

Contact Person: Mr. Jose M. Quinata, Jr., Chief Planner  
Guam Department of Public Works (DPW)  

WQC ORDER #2022-06  
Emergency Shoreline Revetment  
Project Chagamin Lago Road, NWP 13  
ACOE DA File No. POH-2021-00218  
Inalâhan, Guam  

The Guam Environmental Protection Agency (GEPA) has reviewed the DPW After-the-Fact (ATF) application for a Clean Water Act (CWA) Section 401 Water Quality Certification (WQC) dated March 22, 2022. A §401 WQC is required prior to issuance of the ACOE nationwide permit (NWP) 13 for Bank Stabilization (Department of the Army File No. POH-2021-00218), pursuant to 22 GAR Chapter 5 §5106(b)(2)(B).  

The procedure for application and issuance of a §401 WQC include the Agency’s review, preliminary determination, possible public noticing and public hearing, and a final decision. Accordingly, the Agency reviewed and exempted from public noticing the completed DPW Emergency Shoreline Revetment Project. The Guam EPA Administrator by means of WQC Order No. 2022-06 is issuing this Section 401 WQC Determination for the ATF DPW Project completed November 21-22, 2021.  

Issuance of a §401 WQC does not remove the need for any applicable permits, licenses, or other permissions required by local, state, or federal laws as understood by the agency charged with implementing the laws.
PROJECT DESCRIPTION

The Emergency Shoreline Revetment Project is located in the municipality of Inalāhan, along Chagamin Lago Road.

The activity was completed on November 21-22, 2021, as an emergency response to stabilize the bank along Chagamin Lago Road, and to prevent further degradation of critical public access, sewer, water, and communications infrastructure, resulting from extreme storm surge events on November 21, 2022. The project constructed a rock revetment, approximately 480 feet in length, width ranging from 8-12 feet, and 3.75 feet in height. Limestone boulders ranging from 40 to 28 inches in diameter were mechanically placed from the edge of the right-of-way, to form a riprap wall along the shoreline abutting the road.

Locally quarried Class A1 limestone from the DPW Coral Pit was used to match the existing riprap wall on the opposite side of Inalāhan Bay. No entry onto the shoreline, dredging or excavation was performed or required. Approximately 600 cubic yards of limestone was used.

The project incorporated Best Management Practices (BMPs) to include the use of water booms.

DESCRIPTION OF RECEIVING WATER

Inalāhan Bay, 0.17 square miles in size, is marine bay GUG-17B in Guam’s inventory of waterbodies and located in the Inalāhan Watershed. Waters in this bay are classified as M-2 marine waters which must be of sufficient quality to allow for the propagation and survival of marine organisms, particularly shellfish and other similarly harvested aquatic organisms, corals and other reef-related resources, and whole-body contact recreation. Other important and intended uses include mariculture activities, aesthetic enjoyment and related activities (GWQS 2017).

Impairment and Potential Sources of bacteria. Beaches throughout Guam are impaired for enterococcus. TMDLs for Guam’s southern beaches were adopted in February 2015 and include waste load allocations (WLAs). WLAs for Enterococcus are 35 CFU/100mL (based upon the geometric mean of samples taken in any thirty-day interval) and the Statistical Threshold Value (STV) of 130 CFU/100mL should not be exceeded by more than 10 percent of the samples taken during the same thirty (30) day interval.

The Beach at Inalāhan Bay, Recreational Beach Monitoring Program (RBMP) site S-10 is also part of the Inalāhan watershed in the southeastern region of Guam, north of Inalāhan Pool. Waters at this site are also classified as M-2 marine waters.

The 1.71-mile Inalāhan River is surrounded by Palustrine wetlands and drains to Inalāhan Bay. Inland from the bay’s shore, land cover is mostly evergreen forest, grassland/herbaceous cover, bare, and shrub. The area immediately surrounding the bay is densely populated and zoned for single and multiple family dwellings. A dense sewer line network is located adjacent to the RBMP site S-10. Water quality of the bay is primarily influenced by the immediately surrounding area and drainage received from the Inalāhan River. In addition to the sewer line network, several potential sources have been identified near the Site S-10 area. Untreated sewage discharge, public restrooms, and a
leaching septic tank can be found along the coast of Inalāhan Bay and near the sampling site. Guam EPA staff has also identified SSOs, stormwater runoff, wildlife, and river discharge as potential sources affecting Inalāhan Bay.

AUTHORITIES
The Guam EPA Administrator is the designated issuing authority for §401 Water Quality Certifications. (22 GAR §5106).

Authorities include applicable provisions of CWA sections 208(e), 301, 302, 303, 306, and 307 pursuant to 33 U.S.C. 1341(d);

Appropriate requirements of Territorial law including Guam Water Quality Standards (GWQS) contained in 22 GAR Chapter 5, authorized by 33 U.S.C. § 1313, 10 GCA §47106, and 10 GCA §47108; 10 GCA Chapter 47, Water Pollution Control Act, and Title 22 GAR Chapter 10, Guam Soil Erosion and Sediment Control Regulations.

WATER QUALITY CERTIFICATION CONDITIONS
Through issuance of this After-the Fact WQC Order No. 2022-06 (Order), Guam EPA certifies it has reasonable assurance the completed activity authorized by ACOE Nationwide Permit #13, DA File No. POH-2021-00218, was conducted in a manner that did not violate applicable water quality standards and other appropriate requirements of territorial law. Water quality certification is granted to the Department of Public Works, subject to the conditions within this Order.

This §401 water quality certification does not authorize the Applicant to exceed applicable territorial water quality standards as described in 22 GAR Chapter 5. Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of marine waters, fresh surface waters, ground waters, or sediments occurring as a result of project operations.

The Guam EPA Administrator (Administrator) may, on the Administrator's own motion, or the application of any person, modify, suspend, or revoke the Order, if the Administrator determines that:

1. There is a violation of any condition of the Order;
2. The Order was obtained by misrepresentation, or failure to disclose fully all relevant facts;
3. There is an unreasonable or significant change in the scope of the proposed point source discharge from the proposed activity. (22 GAR §5106(l))

A. General Conditions:

Al. For purposes of this Order, the term "Applicant" shall mean Guam Department of Public Works (DPW) and its agents, assignees, and contractors.
A2. All submittals required by this Order shall be sent to Guam Environmental Protection Agency’s Main Office, Attn: §401 Federal Permit Manager, Non-Point Source Program, EMAS Division, 3304 Mariner Avenue, Bldg. 17-3304, Barrigada, Guam 96913, AND via email to margaret.aguilar@epa.guam.gov and cc: jesse.cruz@epa.guam.gov. The submittals shall be identified with WQC Order #2022-06 and include the Applicant name, project name, and the project contact’s name and phone number.

A3. Discharges authorized by this Order are limited to the discharges described in DPW’s Application for CWA §401 WQC dated March 22, 2022.

Anti-degradation Review

A4. The proposed discharge has been determined to be consistent with the anti-degradation policy as stated in 22GAR 2 §5101(b).

B. Water Quality Conditions:

B1. Mitigation and/or monitoring may be required if site inspections indicate water quality standards have not been met.

C. Project Conditions

General Conditions:

C1. The Applicant shall conduct daily inspections of project operations and take immediate corrective actions or engineering measures to address non-compliance with water quality standards and/or environmental protection requirements and notify Guam EPA within 24 hours from the time the applicant becomes aware of the non-compliance.

C2. The Applicant shall implement Best Judgement and Best Management Practices to prevent or minimize water quality degradation.

In-Water Conditions:

C3. No contamination (trash or debris disposal, introduction of alien species, etc.) of aquatic environments (channels, stream channels, wetlands, etc.) shall result from project-related activities.

Emergency/Contingency Measures:

C4. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project.
C5. The Applicant shall have adequate and appropriate spill response materials on hand to respond to emergency release of oil, petroleum or any other material into waters of the territory.

C6. Any unpermitted discharge into territorial waters or onto land with a potential for entry into territorial waters, is prohibited. If this occurs, the Applicant shall immediately take the following actions:

- Cease operations at the location of the violation or spill.
- Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
- Notify Guam EPA of the failure to comply. All petroleum spills shall be reported immediately to:
  1. Guam’s Emergency 911 system
  2. Guam EPA’s 24-Hour Spill Response Team at (671) 888-6488 or during working hours (671) 300-4751
  3. US Coast Guard Sector Guam (671) 355-4824
  4. National Response Center 1-800-424-8802
- Submit a detailed written report to Guam EPA within five days of noncompliance that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

C7. Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

C8. Submittal or reporting of any of this information does not provide relief from any subsequent enforcement actions for unpermitted discharges to waters of the United States.

D. Timing Requirements

D1. This Order shall be valid for one (1) year from Date of Certification, unless otherwise approved by the Guam EPA Administrator.

D2. All in-water work should be conducted during daily low and mid tides, as practical.
E. Reporting and Notification Requirement Conditions

E1. The Applicant shall provide notice to Guam EPA per Condition A2:
   
   • Immediately upon discovery of noncompliance with the provisions of this Order.

E2. A Notice of Violation/Work Stop Order will be issued if certification conditions are not adhered to or when significant or sustained water quality degradation occurs. Work or discharge shall be suspended or halted until the applicant addresses environmental problems/concerns to Guam EPA’s satisfaction. Guam EPA may also levy penalties and fines (10 GCA §47111). Invalidity or enforceability of one or more provisions of this certification shall not affect any other provision of this certification.
APPLICANT RIGHT TO APPEAL

You have a right to appeal this Order to the Guam EPA Board of Directors, or request a hearing within 30 days of the date of receipt of this Order. Failure to appeal this Order constitutes a waiver of your right to a hearing. Any appeal will proceed pursuant to the provisions of 5 GCA Chapter 9, as provided by 22 GAR §5106(i)(7). Unless a written request for a hearing, signed by or on behalf of the person named as Applicant in the accompanying order, is delivered or mailed to the agency within 30 days after this order is signed, Guam EPA may proceed upon the Notice of Intent to Appeal without a hearing. The request for hearing may be made by delivering or mailing the enclosed form entitled Notice of Intent to Appeal (Appendix B) as provided in §9205 to the address below.

To appeal you must do both of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the Guam EPA Board of Directors (see address below). Filing means actual receipt by the Guam EPA Board of Directors during regular business hours.
- Serve a copy of your appeal and this Order to the Administrator in paper form - by mail or in person at the address below. Email or facsimile is not accepted.

ADDRESS INFORMATION

GUAM EPA Board of Directors
3304 Mariner Avenue, Bldg. 17-3304, Barrigada, Guam 96913

GUAM EPA CONTACT INFORMATION

Please direct all questions about this Order to:

Margaret P. Aguilar
Program Coordinator, EMAS Division
(671) 300-4787
margaret.aguilar@epa.guam.gov

OR

Jesse T. Cruz
EMAS Division Administrator
(671) 300-4795
jesse.cruz@epa.guam.gov

SIGNATURE

WALTER S. LEON GUERRERO
ADMINISTRATOR

APR 27 2022
DATE
APPENDIX A
NOTICE OF INTENT TO APPEAL

I, ________________________________, have received WQC Order # ________________
dated ________________, listing the Water Quality Certification Conditions for my proposed
project: __________________________________________________________________________

I request a hearing with the Guam EPA Board of Directors. The basis for this hearing and appeal
are the following:

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

[Additional Sheets maybe attached if more space is required.]

Mailing address: ________________________________________________________________
______________________________________________________________________________

Print Name

Signature __________________________ Date __________________________

Title __________________________________ Phone Number __________

Company Name

GUAM EPA CASE NO. ______________