



**PORT OF GUAM**

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Eddie Baza Calvo  
Governor of Guam

Ray Tenorio  
Lieutenant Governor

February 29, 2012

Mr. David Matsuda  
Administrator  
U.S. Department of Transportation  
Maritime Administration (MARAD)  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590

**Subject: Risk Mitigation at the Port Authority of Guam.**

Dear Mr. Matsuda:

Thank you for taking the time to host our meeting at the MARAD offices in Washington, D.C. on February 24, 2012.

In follow-up to the meeting we would like to take this opportunity to summarize what we think we learned at the meeting and what we tried to convey to all stakeholders about our desired path forward.

After hearing your presentation, we now think we understand MARAD's position and approach to be as follows:

1. **Final Action on EA Postponed Pending Completion of Studies.** MARAD is holding off final action on the previously tendered (May 2011) Environmental Assessment document (which was focused on uplands work only) while MARAD performs geotechnical analyses and a seismic risk assessment related to the performance of the existing wharf structures during future earthquakes of varying magnitude. MARAD is doing this for the following reasons:
  - a. In response to the DOD-IG expressed concerns about waterfront facility risks,
  - b. MARAD's desire to provide the best risk management solution,
  - c. MARAD's expectation that these studies could lead to MARAD making recommendations to do more and spend more on wharf risk mitigation measures, and
  - d. Therefore MARAD cannot fully define the project Proposed Action until these issues are settled.
  
2. **Wharf Risk Mitigation Focused on Up-Lands Only Measures.** MARAD is focusing potential wharf risk mitigation on uplands-only measures and staying away from doing anything in and above the water in order to avoid further extending the Environmental Documentation Process. *[It should be noted that in doing this MARAD is ignoring the Port's prior request to address the repairs of F-5 Wharf structures in the Proposed Action.]* This would seem to point to two separate interpretations of what MARAD may be thinking about the F5 work:
  - a. Repairs of F-5 Wharf structures are separate M&R and need not be addressed in the Environmental Assessment, or
  - b. MARAD made a recent determination to not address this work and had not yet informed the Port of MARAD's thinking in this regard.

Please clarify if we are interpreting this incorrectly.

3. **Partial Replacement of Wharf Not Financially Feasible.** MARAD has concluded, as the Port has, that partial replacement of wharf structures at this time is not financially feasible. MARAD further clarified that the \$48M and \$98M cost figures MARAD provided in October 2011, associated with partial or full replacement of Berth F4 and extending the fender system of F5, were raw cost figures. MARAD additionally clarified that it has concluded that “all-in” costs for replacing all F4 and F6 wharf structures is on the order of \$ 200M.
4. **Further Internal [MARAD] Consultation Needed re. De-linking M&R.** In response to the Port’s proposal to de-link the M&R work, you informed us that you understand our issues and concerns but would like to confer with your internal environmental staff to clarify the process for satisfying NEPA documentation.
5. **MARAD to Continue Studies.** MARAD would like to continue with the Geotechnical Evaluation and Risk Assessment to ensure that MARAD has optimized the focus on risk mitigation and essentially “answer the mail” in response to DOD-IG concerns. Furthermore, MARAD believes it can complete the final reports by March or April of this year.
6. **EA Completion by September.** MARAD believes it can complete the Environmental Assessment, sans in-water work, by late August or September.
7. **Groundbreaking by 4<sup>th</sup> Quarter 2012.** MARAD believes it can have some kind of ground-breaking by 4<sup>th</sup> quarter of 2012. *[It should be noted that it was not clear to us if MARAD was referring to Fiscal Year quarter (Jul-Sep 2012) or Calendar Year quarter (Oct-Dec 2012).]*
8. **Lighting Design (an Upland Improvement) Is In Progress.** MARAD is working on the lighting design for the Container Yard related to the Security Grant.

The Port’s objectives and understanding as partly expressed during the meeting and further expounded upon herein are as follows:

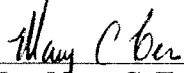
1. **Scope of Wharf Related Service Life Extension.** Regardless of what the findings are for the final risk assessment, the Port would like to limit the near-term investment in wharf-related service life extension measures to those previously proposed, i.e. repairs to F5, cathodic protection, and soil stabilization.
2. **Wharf M&R to Commence ASAP.** The Port wants to get started as soon as possible on the repairs to F5 in order to address accelerating deterioration and the adverse impacts that would have on sustainable operations, facility insurability, and service life expectations related to the operation of, and loan term provisions for the purchase of, the Gantry Cranes operating on this and adjacent wharf structures.
3. **Use of Port Enterprise Funds (PEF) for Wharf M&R.** The Port would like to use PEF Funds to accomplish wharf-related Service Life Extension work as soon as possible. The Port understands that to do this the Maintenance & Repair work may need to be de-linked from the Port Modernization Program in order to accelerate permitting. This would entail removing Wharf M&R work from under the umbrella of the broader NEPA documentation (Environmental Assessment) being conducted for Modernization Program uplands work.
4. **Wharf M&R Can Be Performed Under a Nationwide Permit Clearance.** The Port is of the opinion that the level of environmental documentation required for a stand-alone project performing wharf M&R

work in or above the water, specifically cathodic protection, the restoration of deteriorating concrete structures, and the restoration of damaged fenders, is simply a Nationwide Permit issued by the Army Corps of Engineers. By definition, the Nationwide Permit declares the environmental impacts for these “replacement/restoration-in-kind” activities to have routine and minimal temporary construction impacts that can be controlled through the application of best management practices.

5. **Wharf M&R, a Financially Feasible and Necessary Option.** Should MARAD not find it feasible to support the Port-prescribed M&R activities at the waterfront, **then** the Port is prepared to go it alone using non-federal funds with the Port firmly in control of managing risk-mitigation scope and expense.
6. **Operating Under Calculated Risks.** The Port is appreciative of both DOD-IG and MARAD concerns about risk mitigation at the wharf. The Port understands forward-looking and performance-based risk assessment and looking at risk mitigation in the light of updated codes. At the same time, the Port also understands that there has been no significant change in regional seismic activity that would make the collapse of current bulkhead structures more likely today than it has been in the past. Within that context, the Port is willing to continue operating with at the current level of calculated risks, albeit with a slight improvement related to addressing the liquefiable soils issue.
7. **Wharf Risk Mitigation and Forward Movement on Uplands Improvements.** The Port understands that the supporting pro-forma for the USDA Loans was built upon a large increase in cargo volumes and associated revenues and efficiency improvements that would allow the large cargo volumes to be managed effectively. The Port is cognizant of the fact that it is now in a position of having to spend less on uplands improvements than originally envisioned when Phase 1-A of the Modernization Program was first defined. USDA has made it clear that spending money on wharf mitigation work, while it does impact sustainability of operations, does nothing to support operational efficiency and expanded revenue capture. With this in mind, the Port wants to proceed with the limited marginal gains to wharf risk mitigation without compromising its ability to move forward on the downsized Phase 1-A package estimated at \$46.3M (as of October 2011). The Port believes this can be accomplished without the \$25M Guaranteed Loan currently obligated by USDA. Whether it can also be accomplished without the \$25M USDA Direct Loan, depends on whether the Port will have to secure a commercial loan to pay for wharf M&R work. Until that determination is made, the Port will hold open the option of executing the \$25M Direct Loan, provided it has USDA concurrence that accomplishing the downsized Phase 1-A Program at \$46M in parallel with \$15M M&R (SLE), \$20M for Cranes and \$7M for Systems Upgrades, can still be justified.

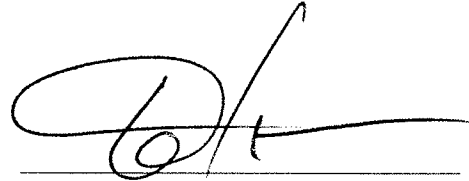
As we mentioned in the meeting, the Port has pressing waterfront issues that need immediate attention. This needs to take some precedence in our collective thinking as we continue to refine the approach to advancing the Port Modernization program. Accordingly, the Port will continue discussions with potential lenders and its insurance underwriter in preparation for the possibility of proceeding near-term on its own with this critical work. Meanwhile, in consideration of the request made to MARAD, we anticipate hearing from you shortly on whether we can instead make the requested adjustments to the packaging of projects, use of funds, and optimizing the environmental clearances process.

Again, the Port hopes it clearly expressed its plan of action during the Feb. 24th meeting, and is appreciative of MARAD’s continuing efforts on behalf of our stakeholder group and the people of Guam. We know we expressed with some emotion our frustration at the pace at which things are moving. Please know that we also understand that you have your own process and due-diligence requirements to attend to and that our continuing and evolving attempts to advance this program are not meant to undermine our partnership.



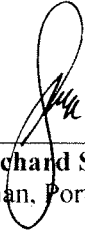
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**Mrs. Mary C. Torres**  
General Manager  
Port Authority of Guam



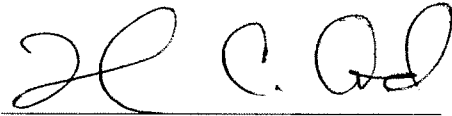
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**Mr. Daniel J. Tydingco**  
Chairman, Board of Directors  
Port Authority of Guam



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**Mr. Richard Sablan**  
Chairman, Port Users Group Guam



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**Senator Thomas C. Ada**  
Chairman, Transportation, Utilities,  
Public Works, Veterans Committee



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**Governor Eddie Baza Calvo**  
Governor of Guam

cc: Congresswoman Madeleine Z. Bordallo, U.S. House of Representatives  
Deputy Secretary of Defense Dr. Ashton B. Carter  
Under Secretary of the Navy Robert O. Work  
Assistant Secretary Anthony M. Babauta, OIA-DOI  
Mr. Marcos Melendez, DOD-IG  
Mr. Joe Ludovici, Executive Director JGPO-Guam  
Mr. Chris J. Kanazawa, State Director, USDA