



September 13, 2022

*Via electronic mail*

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Re: Andersen Air Force Base, Guam, Hazardous Waste Management Facility Permit,  
Permit Number: GUS002, Explosive Ordnance Disposal Open Burn/Open Detonation  
Facility

Dear Administrator Guerrero and Deputy Administrator Lastimoza,

We write on behalf of Prutehi Litekyan/Save Ritidian (“PLSR”) to urge the Guam Environmental Protection Agency (“GEPA”) to promptly deny the above-referenced draft permit for Andersen Air Force Base (“AFB”) to open burn and open detonate hazardous waste munitions on Tarague Beach.<sup>1</sup> As the U.S. Environmental Protection Agency (“U.S. EPA”) reaffirmed in its recent memorandum regarding open burning and open detonation (“OB/OD”) permitting, OB/OD cannot be permitted unless the facility demonstrates that no safe alternatives exist.<sup>2</sup> Andersen AFB has not made this required demonstration, and its draft permit thus fails to comply with federal Resource Conservation and Recovery Act (“RCRA”) requirements and must be denied.

Open burning and open detonation are crude and dangerous practices that threaten Guam’s communities, environment, and cultural resources. The OB/OD range at Andersen AFB is located on Tarague Beach, approximately 180 feet from the Pacific Ocean to the north and 90 feet from the jungle to the east, south, and west. Open detonation at the range involves blowing up bombs, rockets, and other hazardous waste munitions directly on the bare sand. Open burning involves placing hazardous waste munitions in an open metal container, pouring diesel on top, and burning them in the open air. By definition, OB/OD is uncontrolled, and “by-products of the burning or detonation are released directly into the environment.”<sup>3</sup> OB/OD operations often result in noise, shock waves, ground tremors, visible plumes of smoke and particulate matter, and

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<sup>1</sup> This letter follows an unsuccessful attempt and several unanswered follow-up requests to meet with you to discuss PLSR’s concerns.

<sup>2</sup> See U.S. EPA, Open Burning and Open Detonation (OB/OD) of Waste Explosives Under the Resource Conservation and Recovery Act (RCRA) (June 7, 2022) (hereinafter “OB/OD Memo”), <https://rcrapublic.epa.gov/files/14946.pdf>.

<sup>3</sup> National Academies of Sciences, Engineering, and Medicine, *Alternatives for the Demilitarization of Conventional Munitions* at 7 (2019) (hereinafter “NAS Report”), <https://doi.org/10.17226/25140>.



ejection of contaminants including heavy metals (*e.g.*, lead).<sup>4</sup> These effects are particularly concerning given the OB/OD range’s location. The range sits above Guam’s sole-source aquifer, which supplies more than 80 percent of the population with drinking water. It is located on ancestral lands taken from indigenous families and near areas for collecting traditional Chamorro medicine. It shares the same beach with endangered green sea turtles, which nest there. It is immediately adjacent to the Pacific Ocean and near culturally significant fishing sites on which local subsistence fishers rely to feed their families and communities.

U.S. EPA has long recognized the dangers of OB/OD, banning the practice in 1980 and carving out only a narrow exception for “[w]aste explosives . . . which cannot safely be disposed of through other modes of treatment.” 40 C.F.R. § 265.382. U.S. EPA reaffirmed that prohibition in its recent memorandum on OB/OD permitting and underscored that permitting authorities, including GEPA, “must . . . [r]equire owners/operators seeking an initial or renewal permit for OB/OD to demonstrate that their waste explosives ‘cannot safely be disposed of through other modes of treatment’ in order to qualify for the exception.”<sup>5</sup> Facilities must make this demonstration—for each particular waste—“through accurate waste characterization and an evaluation of alternative technologies.”<sup>6</sup> Guam has incorporated the requirements of 40 C.F.R. § 265.382 into its hazardous waste program at 22 Guam Admin. Code 6-§ 30107(a).

Andersen AFB cannot receive an OB/OD permit because it has made no attempt to assess alternatives to OB/OD, let alone demonstrate that no safe alternatives are available for each particular waste it seeks to open burn and/or open detonate. Rather, the draft permit summarily dismisses the option of alternatives, asserting—with no supporting analysis whatsoever—that alternatives are not viable on a large scale.<sup>7</sup>

To the contrary, two years prior to Andersen AFB’s application submission, U.S. EPA and the National Academies of Sciences, Engineering, and Medicine (“NAS”) found that there is a wide range of safe alternative technologies available to treat waste explosives that can be—and have been—used in place of OB/OD.<sup>8</sup> Far from being not viable on a large scale, NAS found that “there are no significant technical, safety, or regulatory barriers to the full-scale deployment of alternative technologies for the demilitarization of the vast majority of the conventional waste munitions, bulk energetics, and associated wastes.”<sup>9</sup> Moreover, compared to OB/OD, all of the alternatives the NAS reviewed “would have lower emissions and less of an environmental and public health impact, would be monitorable, and would likely be more acceptable to the

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<sup>4</sup> *Id.*

<sup>5</sup> OB/OD Memo at 7 (emphasis in original).

<sup>6</sup> *Id.* at 7–8 (footnote omitted).

<sup>7</sup> See Andersen Air Force Base, Guam, *Draft Hazardous Waste Management Facility Permit (Permit Number: GUS002) Explosive Ordnance Disposal Open Burn/Open Detonation Facility*, app. I at 1, 9 (May 2021) (hereinafter “Andersen AFB Application”), <http://epa.guam.gov/wp-content/uploads/2021/08/DRAFT-AAFB-EOD-OBOD-Permit.pdf>.

<sup>8</sup> U.S. EPA, *Alternative Treatment Technologies to Open Burning and Open Detonation of Energetic Hazardous Wastes*, at 12 (Dec. 2019), [https://www.epa.gov/sites/production/files/2019-12/documents/final\\_obod\\_alttechreport\\_for\\_publication\\_dec2019\\_508\\_v2.pdf](https://www.epa.gov/sites/production/files/2019-12/documents/final_obod_alttechreport_for_publication_dec2019_508_v2.pdf); NAS Report at 2.

<sup>9</sup> NAS Report at 4.



public.”<sup>10</sup> The recent U.S. EPA memorandum on OB/OD permitting reaffirms these findings and specifically notes that there are safe, available alternatives for hazardous wastes (e.g., “[s]mall arms ammunition (less than .50 caliber)”) that Andersen AFB included in its application to conduct OB/OD.<sup>11</sup>

Andersen AFB’s bald assertions about the lack of safe alternatives cannot satisfy RCRA’s mandate to demonstrate, “through accurate waste characterization and an evaluation of alternative technologies,” that no safe alternatives are available for each particular waste it seeks to open burn and open detonate.<sup>12</sup> Accordingly, Andersen AFB cannot receive an OB/OD permit. Moreover, as noted, OB/OD operations pose serious threats to the communities, environment, and cultural resources of Guam. Time is of the essence as Andersen AFB continues to open detonate its hazardous wastes while its legally deficient permit application is pending. Under its existing authority, GEPA can and must do what is right for the people and environment of Guam—deny Andersen AFB’s permit application immediately.

Thank you for your careful and prompt attention to this matter.

Sincerely,

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*Senior Attorney*  
Thien Chau  
*Associate Attorney*  
Earthjustice

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*Attorney*  
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CC: Kristan K. Finney, *Assistant Attorney General*  
Don Quinata, *Environmental Health Specialist III, Guam Environmental Protection Agency, Air and Land Division*  
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<sup>10</sup> *Id.*

<sup>11</sup> OB/OD Memo at 10; *see, e.g.*, Andersen AFB Application, app. A, att. 4, tbl.III-7 (Ordnances Pre-Evaluated Andersen AFB EOD RCRA Treatment Operations).

<sup>12</sup> OB/OD Memo at 7–8.