APPENDIX B

AGENCY CONSULTATION

Commonwealth of the Northern Mariana Islands
Department of Lands and Natural Resources
Division of Fish and Wildlife
P.O. Box 10007, Saipan, MP 96950
Telephone: (670) 664-6000/664-6001

June 17, 2011

FW-11-L-035

Ms. Thelma B. Inos
Director
Energy Division
Department of Public Works
Saipan, MP 96950

Dear Ms. Inos:

Thank you for your letter dated June 10, 2011 regarding U.S. Fish and Wildlife Service Loyal Mehrhoff's letter to your office with regards to wildlife concerns as a result of your proposed project activities.

Accordingly, the Division of Fish and Wildlife (DFW) has undertaken and completed full review and assessment of your alternative energy proposal which include amount others site inspections to determine the presence of any wildlife species including migratory birds, height and width of the wind turbines, design and installation configurations and bird flight-patterns within the proposed sites.

Based on our reviews and assessments of the designs, sizes and functionality of the proposed solar panels and wind turbines and the site-locations where they would be installed and/or erected on Saipan and Tinian, we have determined that your proposed project would not harm or cause any disturbance to any of our protected wildlife species such as the Nightingale Reed-Warbler (Acrocephalus luscinia) and the Micronesian Megapodes (Megapodius laperouse).

In addition, your decision not to pursue for the installation of the wind turbine equipment on Rota has also relieved us of potential concerns, especially with the fact that Rota has some of the most endangered listed species in our Commonwealth. With regards to the solar panels, your proposal to install them on the island does not pose any concerns to our office.

However, because your alternative energy project involves equipments that have not been in operation here in our islands before, it is highly critical that we take extra precautionary measures during installation and operation stages to ensure that we avoid any unforeseen harm that may occur.

As such, I would require that your stated proposed measures as recommended by the U.S. Fish and Wildlife Service be incorporated into the overall project scope of work which should include amount others the followings:

- No additional land will be cleared for the wind turbines or solar panels. All identified sites for such equipments are within existing school campuses that have already been cleared for quite sometime;
- No wind turbine will be installed on Rota;
- All wind turbine projects will have pre-construction wildlife surveys and post-construction monitoring;
- All meteorological towers installed above ground shall be equipped with a bird-flight diverters and to avoid the use of artificial lights.;
- DFW personnel shall be allowed full access to all designated project-sites to perform regular inspections;
- Any inter-action between wildlife species and the alternative energy equipments shall be documented and notified to DFW;

My office also appreciates your understanding of the importance of preserving existing wildlife and its habitats and that you will be making every effort for such accommodation.

Should you have any questions or concerns, please feel free to contact me at my office at 664-6025 or 664-6000.

Thank you very much for your understanding and best of luck on your important projects.

Sincerely,

Richard B. Seman
Acting Director

Department of Energy
Golden Field Office
1617 Cole Boulevard
Golden, Colorado 80401-3393

October 13, 2011

Rachel Rounds
U.S. Fish & Wildlife Service
Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard
Room 3-122, Box 50088
Honolulu, HI 96850

Subject: **Commonwealth of the Northern Mariana Islands Green Energy School Project; 2011-TA-0258**

Dear Ms. Rounds:

The U.S. Department of Energy (DOE) has determined the following species have potential to occur in the Commonwealth of the Northern Mariana Islands: the endangered nightingale reed-warbler, Mariana crow, Mariana swiftlet, Micronesian megapode, Mariana moorhen, the threatened Mariana fruit bat, the endangered Rota white-eye, the Green sea turtle, the Hawksbill turtle, and three species of plants (*Nesogenes rotensis*, *Osmoxylon mariannense*, and *Serianthes nelsonii*).

The Green Energy School Project is receiving federal funding from the DOE's State Energy Program and will develop renewable energy as a reliable source of power. The projects selected will provide energy to power CNMI schools. CNMI is proposing to install six (20 kW) and ten (2.4 kW) unit wind turbines at public schools on the islands of Saipan and Tinian.

DOE has determined that the turbines to be located at Tinian schools, consisting of four 2.4 kW turbines, and the turbines to be located at Garapan schools, consisting of two 2.4 kW turbines will have *No Effect* on any of the above-listed species. These sites will not require monitoring.

As discussed, the smaller turbines to be located at: Kagam High, Cha Cha Oceanview Junior High, Gregorio T. Comacho Elementary School, and Koblerville Elementary will likely receive a determination of *Not Likely to Adversely Affect*. However, the final decision regarding these turbines is pending the reed-warbler surveys being conducted around these schools. Additionally, DOE will continue to work with your office to development appropriate monitoring plans for these turbines.

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DOE will also continue to work with your office as we develop the Biological Assessment required for the 20 kW turbines to be located at Saipan Southern High School.

DOE's determination of *No Effect* for Tinian and Garapan is being sent to your office for your record-keeping purposes.

Please contact me at 720-356-1566 or Melissa.Rossiter@go.doe.gov with any questions regarding this determination or our ongoing consultation. .

Sincerely,

Melissa Rossiter
Environmental Protection Specialist

cc: Peter Ashley, SEP Project Officer
Thelma Inos, Director, Energy Division

Department of Energy
Golden Field Office
1617 Cole Boulevard
Golden, Colorado 80401-3393

January 5, 2012

VIA U.S. MAIL
Loyal Mehrhoff
Field Supervisor
U.S. Fish & Wildlife Service
Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard
Room 3-122, Box 50088
Honolulu, HI 96850

Subject: Initiation of Formal Consultation under Section7 of the Endangered Species Act: Commonwealth of the Northern Mariana Islands Green Energy School Project; 2011-TA-0258

Dear Mr. Mehrhoff:

Through this letter, the U.S. Department of Energy (DOE) is initiating formal consultation pursuant to Section 7 of the Endangered Species Act of 1973 (ESA). DOE has awarded federal funding to the Commonwealth of the Northern Mariana Islands (CNMI) through the State Energy Program (SEP), which is funded by the *America Recovery and Reinvestment Act of 2009*. CNMI will use a portion of its SEP grant to fund its "Green Energy School Project" Market Title.

The Green Energy School Project would develop renewable energy as a source of power that would provide energy to CNMI schools. CNMI is proposing to install six (20 kW) and seven (2.4 kW) unit wind turbines at public schools on the islands of Saipan and Tinian. In addition, roof-mounted photovoltaic solar panel arrays will be installed at Sinapalo Elementary School and Rota High School on the island of Rota (proposed project).

DOE has obtained a list of the threatened, endangered, proposed species, and designated or proposed critical habitat that may occur within or near the proposed project sites. From this list, DOE has determined the following species have potential to occur in the vicinity of the proposed project: the endangered nightingale reed-warbler, Mariana crow, Mariana swiftlet, Micronesian megapode, Mariana moorhen, and the threatened Mariana fruit bat.

DOE has concluded the proposed project on the island of Saipan, at Saipan Southern High School and Koblerville Elementary School may adversely affect the Mariana Swiflet and the Nightingale Reed Warbler. Therefore, pursuant to the requirements under Section 7(a)(2) of the ESA and U.S. Fish and Wildlife Service's (USFWS) implementing regulations (50 CFR Part 402), DOE is submitting the attached Biological Assessment for your review.

Based on previous discussions with your office, DOE respectfully request that a Biological Opinion be issued as soon as is practicable.

Furthermore, DOE is preparing a draft Environmental Assessment (EA) under the National Environmental Policy Act of 1969 for the proposed project. The EA will describe the potential impacts to biological resources. DOE is seeking this formal consultation process to allow the proposed project to move forward in a timely manner. USFWS will be given the opportunity to review and comment on the draft EA.

If you have any questions regarding this consultation, please contact me at 720-356-1566 or via email melissa.rossiter@go.doe.gov.

Sincerely,

Melissa Rossiter
Environmental Protection Specialist
Enclosure

cc: Peter Ashley, Project Officer, U.S. Department of Energy (via email)
Thelma B. Inos, Director, CNMI Energy Division (via email)
Rachel Rounds, U.S. Fish and Wildlife Service (via email)

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Division of Environmental Quality
P O Box 501304 Saipan, MP 96950-1304
670-664-8500/01 670-664-8540 (fax)
environment@deq.gov.mp www.deq.gov.mp

March 15, 2012

Dr. Rita Sablan (Permittee)
Commissioner
CNMI Public School System

Enrique Cruz (Auth. Rep.)
Pacific-green Integrated Technology Inc.
P.O. Box 1370 CK
Saipan, MP 96950

RE: **Commercial Earthmoving & Erosion Control Permit No. 2011 COM 058**

Dear Dr. Sablan:

The Division of Environmental Quality (DEQ) has reviewed your earthmoving permit application to install Wind Turbine System, and has approved issuance of this permit. Thus, under the authority granted to DEQ by the Commonwealth Environmental Protection Act (CEPA), PL 3-23, 2 CMC §3122, and the CNMI Earthmoving and Erosion Control Regulations, NMIAC §65-30, and taking into consideration the comments and conditions requested by the other "ONE START" permitting agencies (including the CNMI Division of Fish and Wildlife, Historic Preservation Office, and Coastal Resource Management Office), DEQ hereby grants approval for your earthmoving activity provided you adhere to the following conditions:

APPLICABILITY

1. This permit applies to the proposed **Installation of Wind Turbines only on Gregorio Camacho Elementary School, Koblerville Elementary School, Saipan Southern High School, Cha-cha Ocean View Jr. High School and Kagman High School Campus**, Saipan site. Construction methods, which will be employed in this project, include excavation, trenching, backfilling, construction and use of heavy equipment.

GENERAL CONDITIONS

GENERAL OBLIGATIONS AND LIMITATIONS

2. **The permittee must notify DEQ at least two (2) working days prior to commencement of the permitted activity.**

3. **The permittee shall keep this permit readily available at the project site, at all times. The permittee may be ordered to cease all work if the earthmoving and**

erosion control permit is not available during inspection by DEQ staff or inspectors from other ONE-START agencies.

4. If the permittee is not the same person as the final owner or operator of the final facility, activity, and/or lot for which this permit is being issued, the permittee shall be responsible for providing the final facility/activity/lot owner and operator with a copy of this permit; for notifying them of all requirements of this permit, and all post-construction maintenance requirements that may be associated with the permanent stormwater control and ESC systems; and any post-construction requirements that may be included as conditions of this permit by any other ONE-START agency (including, but not limited to land clearing restrictions and archeological resource protection requirements.)

5. **All earthmoving operations shall be conducted in accordance with the plans and specifications stated in your DEQ approved earthmoving application package, including all revisions that may have been approved by DEQ.** Should there be any deviation from the approved plans and specifications, DEQ must be notified in writing within ten (10) working days prior to the planned commencement of construction work related to the revisions. Commencement of construction related to any revisions may not start without approval by DEQ.

6. The earthmoving permit applies to land clearing and/or earthmoving activities for the proposed **Installation of Wind Turbines on Gregorio Camacho Elementary School, Koblerville Elementary School, Saipan Southern High School, Cha-cha Ocean View Jr. High School and Kagman High School Campus** only. DEQ must be notified in writing if the permittee plans to revise or expand the approved project prior to commencement of any work related to the proposed revisions or expansion. DEQ may require additional submission of plans and specifications, or may require the permittee to apply for an amendment or a new permit.

7. The permittee shall immediately cease further earthmoving and/or landclearing activity upon the discovery of any hazardous or unusual substance or objects (e.g. ordinance, old drums, oils, chemicals, etc.), and shall immediately report the discovery to DEQ. Failure to immediately report such findings may result in enforcement proceedings and penalties, including permit revocation.

8. Excavated material may only be re-used on-site, as part of the approved grading plans, or at a designated landfill facility operated by the CNMI government. Disposal or re-use of excavated material on any other location may only occur if in accordance with an approved Earthmoving and Erosion Control Permit for each additional location.

9. The permittee shall apply for an Individual Wastewater Disposal System (IWDS) or Other Wastewater Treatment System (OWTS) permit prior to construction of any

type of on-site wastewater treatment and disposal system, such as a septic system or on-site package treatment plant.

10. The permittee shall apply for and obtain a Pesticide Structural Treatment permit from DEQ, prior to conducting applications of any type of pesticide treatment on concrete structure or building foundation projects. Failure to comply with this permit condition may result in enforcement proceedings and penalties, including permit revocation.

11. The permittee shall be responsible for preventing discharge of construction site chemicals through the proper use of Best Management Practices, such as storage, material use, spill prevention and control, hazardous waste management, concrete waste management, vehicle and equipment cleaning, and maintenance and fueling. The permittee is directed to internet resources provided at no cost by the U.S. Environmental Protection Agency for guidance as to how to apply such best management practices, which can be found at the following URL:

    http://cfpub1.epa.gov/npdes/stormwater/swppp.cfm

12. Earthmoving or land clearing activities which disturb one or more acres of land are regulated by the Federal government, and are required to obtain coverage under the "Construction General Permit" (CGP), administered by the U.S. Environmental Protection Agency (USEPA), under the National Pollutant Discharge Elimination System (NPDES) permit system. All permittees are responsible for determining whether they are responsible for obtaining coverage under this permit, and for submittal of all application documents as required, including the Notice of Intent (NOI) form to USEPA, and the preparation of a Stormwater Pollution Prevention Plan (SWPPP), which must be submitted and approved by DEQ prior to receiving coverage under the CGP.

    On-line instructions for applying for coverage under the CGP may be found here:
    http://cfpub1.epa.gov/npdes/stormwater/application_coverage.cfm

    Instructions and guidance on preparing an SWPPP may be found here:
    http://cfpub1.epa.gov/npdes/stormwater/swppp.cfm

13. For projects that include clearing of trees and other vegetation on public land, CNMI Forestry Office permitting regulations may apply. Applicant shall contact the Commonwealth Forestry Office for further details.

14. The Division of Environmental Quality (DEQ) reserves the right to impose additional mitigating measures as deemed necessary to protect the welfare of the public or the environment.

TEMPORARY EROSION AND SEDIMENT CONTROL (ESC)

15. All earthmoving operations shall be conducted in accordance with the approved ESC plans and in a manner that prevents accelerated land erosion, off-site runoff, and/or off-site discharge of sediment and other pollutants. Erosion & Sediment Control Plans must be readily available on-site.

16. The area affected by earthmoving operations at any one time during activities shall be kept to a minimum by either selective clearing; incremental phasing of development, or other means.

17. No land clearing and/or earthmoving activities shall be conducted during periods of heavy rainfall or storm events, unless discharge of runoff, sediment, or other pollutants is not possible, and the permittee receives written permission from DEQ to continue operations in such conditions.

18. All areas disturbed by earthmoving operations must be stabilized (e.g., by re-vegetation, paving, slope stabilization, or other approved means) as soon as possible after final grade has been established. DEQ must be notified in writing in the event that stabilization measures within any area disturbed by construction are delayed by more than fourteen (14) calendar days.

19. The approved temporary erosion and sediment control (ESC) measures or structures (silt fence, ponding basin, swale, earth berm etc.) must be installed prior to commencement of other construction, land clearing and/or earthmoving activities at the project site. **DEQ must be notified for inspection no less than two (2) working days following implementation of the approved temporary erosion and stormwater control structures.**

20. All ESC measures (for example, silt fence, swales, sedimentation basins, etc.) shall be maintained in good working order by the permittee, until such time that final stabilization of all disturbed areas has been achieved (e.g., by re-vegetation, paving, slope stabilization, or other approved means). Inspection of all ESC measures must be conducted and recorded by the permittee at least weekly, and after every runoff event. Inspection and maintenance records shall be kept by the permittee on-site and readily accessible to DEQ inspection personnel. Failure to adequately maintain ESC measures and/or keep records may be grounds for enforcement proceedings and penalties, including permit revocation.

PERMANENT STORMWATER CONTROL SYSTEM

21. **Stormwater run off** from areas disturbed by earthmoving operations shall be collected and diverted to a temporary or permanent ponding basin.

POST-CONSTRUCTION REQUIREMENTS

22. All unused materials and debris (e.g. large rocks and construction waste materials or debris-concrete, hollow blocks, rebar, tin roof, wooden frames, scaffolds, cement and asphalt slabs, pipes, plastic sheets, electrical material, etc.) must immediately be removed from the project site and disposed at the Lower Base Transfer Station or Marpi Landfill. No other disposal site or method of debris disposal is permitted, without prior, written approval from DEQ.

23. Long-term maintenance of any permanent ESC measures and/or permanent stormwater control system components is the responsibility of the owner and/or operator of the final facility, activity, or lot. The owner and/or operator shall be responsible for timely correction of any failure or damage to any component of the permanent ESC or stormwater control system.

AGENCY CONDITIONS

DIVISION OF FISH & WILDLIFE CONDITIONS:

The Division of Fish & Wildlife has reviewed the above referenced permit. Please refer to the attached United States Department of the Interior Fish and Wildlife Service, Formal Consultation for the Green Energy School Wind Turbine Project (2012-F-0140 & 2008-F-0033).

HISTORIC PRESERVATION CONDITIONS:

1. The permittee shall notify the Division of Historic Preservation no less than five (5) working days prior to the commencement of this proposed landclearing project. Proper scheduling for monitoring services is needed for the project."

2. No excavation or earthmoving activities shall commence in the absence of HPO personnel.

3. In the event that significant historic or archaeological deposits or features be discovered during the project's earthmoving activities, the permittee is

required to immediately cease all work and notify the Division of Historic Preservation Office for proper consultation and/or the development of appropriate mitigative measures."

4. Once HPO determines that appropriate mitigative measures be implemented, the permittee shall ensure that the project site is monitored, tested, surveyed, or thoroughly undergo archaeological activities by a qualified archaeologist meeting the Secretary of the Interior's Standards 36 CFR Part 61."

5. All cost for the mitigation shall be borne or the responsibility of the permittee.

6. The permittee shall comply with the above HPO conditions, failure to comply will result in a violation of HPO conditions, upon which a fine may be assessed.

OTHER GOVERNMENT PERMITS AND REQUIREMENTS

24. This permit does not relieve the permittee or the final owner or operator of any obligations imposed by other CNMI or Federal Laws, either statutory or otherwise.

TERM OF PERMIT

25. This permit expires one year from the issued date. DEQ must be notified in writing at least one (1) month before to the expiration date for any renewal or extension of this permit.

RIGHT OF ENTRY AND INSPECTION

26. As provided for under the Earthmoving and Erosion Control Regulations at NMIAC §65-30-600, and 2 CMC §3132, the permittee shall allow DEQ personnel, as well as inspection personnel from other ONE-START agencies, prompt access to the premises covered by this permit for the purposes of inspecting the premises for compliance with the terms of this permit. Inspections may be made with or without advance notice to the permittee.

PENALTIES

Failure to comply with the above conditions shall constitute a violation of the CNMI Earthmoving Rules and Regulations, and may result in enforcement action, including civil penalties of up to $25,000 per violation, per day; or criminal penalties, as authorized under the Earthmoving and Erosion Control Regulations at NMIAC §65-30-700 and 2 CMC §3131.

If you have any questions regarding the conditions of this permit, please contact our office at telephone numbers 664-8500 & 8501.

Sincerely,

FRANK M. RABAULIMAN
Director

Attachment