

On My Mind

4/13/01

It would be funny - a kind of David and Goliath thing - if it weren't so appalling - since right isn't exactly on David's side here. A small CNMI agency - the Division of Environmental Quality - has sent a letter to the head of the U.S. Department of Defense's legal office in Washington, D.C., informing DOD that the CNMI is considering taking enforcement action against it. According to the letter, DEQ believes that the Department of Defense has endangered the "health or the environment" of the CNMI by "contributing to the handling, storage, treatment, transportation or disposal of solid waste" in Tanapag.

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The letter also tells the Department of Defense that not only a site hazard assessment, but also a remedial investigation/feasibility study, and compliance monitoring at the site, may be required.

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Then the letter tells the Department of Defense that the Department has 15 days to provide its comments.

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What kind of comments? The letter is full of allegations, implications and ambiguities: the agency <I>believes</I> DOD is liable, remedial action <I>may</I> be required, health <I>or</I> environment have been endangered, enforcement action <I>is being considered</I>. (Strangely enough, that's the way DEQ's recently issued emergency hazardous material regulations - from which this letter claims to derive its authority - are phrased. Which is part of the problem with the regs in the first place.)

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Is DEQ going to take enforcement actions or isn't it? Is it going to require an investigation, a feasibility study and monitoring, or isn't it? Does DEQ think all that alleged mishandling of solid waste supposedly done at the hands of the Department of Defense endangered health or environment (which), or doesn't it?

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The letter would be funny - a perfect example of an amateur playing at law, with its vague, undefined charges, its totally inadequate citations, its presumptuous claim on one of the biggest, most powerful agencies in Washington, its utter disregard for the chain of command - if it weren't so appalling. Written on DEQ letterhead but clearly written under the guidance and at the behest of DEQ's PCB legal counsel Murphy Peterson - for such a letter could not be written without AG authorization and approval - the letter sets the CNMI up for ridicule, scorn, and rejection, not to mention possible bankruptcy.

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If DOD should decide to ignore the letter - as well it might - will Peterson then attempt enforcement? In the courts? Does he really have the arrogance to think the CNMI - with its meager budget and limited resources - can prevail over the massive Department of Defense - with its multi-million dollar budget and practically unlimited resources?

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If DOD should simply reject the charges - as being moot, irrelevant, based on questionable <I>ex post facto</I> regulations - will Peterson attempt to pursue the charges? How many years will that take? Where will the money come from to take on the Goliath that is DOD?

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There is, in addition, the possibility that DOD may decide to withdraw its Army Corps of Engineers from such a hostile environment - never to return. After all, there are plenty of other sites across the U.S. in need of Army Corps assistance and remediation. Why should requests from the CNMI even be considered under such circumstances?

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The letter, unfortunately, can't be recalled. But the governor could notify DOD that the April 6 letter from DEQ was ill-advised, and ask DOD to ignore it. Just so long as he doesn't offer DEQ's Acting Director as sacrificial goat. The real culprit is to be found elsewhere.

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Enron's withdrawal from negotiations with the Commonwealth Utilities Corporation for construction of a new power plant is not funny, but it, too, is appalling. Judging from newspaper accounts, at least, the contract was very near to being signed - after years of legal wrangling and endless controversy. What happened?

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Given that timely construction of a new power plant is of such fundamental importance to the CNMI, it is most peculiar that the public has been given no explanation whatsoever for Enron's withdrawal - and that the press hasn't even offered educated guesses. Who's keeping what from whom? Could there be any truth to the rumor that Enron's withdrawal had to do with legal harassment from other than competing vendors?

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It's been very satisfying to sit smugly here on Saipan, suffering only minor, and, mostly, scheduled power outages for system upgrades, while reading about not only Guam's continuing power outages and its poorly maintained generators, but also about the power woes of that big, rich, state of California. Though if the CNMI is now forced to wait two years or more for a new contract to be negotiated before construction of another power plant can even begin, the CNMI may soon find itself even worse off than either Guam or California.

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Not only will there be power shortages for those already on island. The lack of power will also discourage any new development, and thus affect the health of the entire economy as well. No investor in his right mind is going to be willing to deal with the position now faced by the Tinian Dynasty: having to build its own power plant because the government could not provide it power, but being forced to abandon its power plant and pay higher prices for government power once a government plant was in operation.

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Not to mention the fact that no power provider is going to be all that willing to undergo protracted negotiations after watching Enron fall.

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The idea of luring local college graduates back to the CNMI by offering them jobs and waiver of college loans sounds good at first, but a closer examination suggests that it might not be such a good idea after all. The intent, in part, is that these college graduates will replace foreign work-

ers, and thus reduce the need for alien labor in the CNMI.

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But if the goal is to turn over positions of control and authority to the new college graduates, that will not help the CNMI. Indeed, it is more apt to hurt it. Green graduates, without any experience in the real world, simply do not have the skills that are required for administrative positions.

They've never prepared a program budget, they've never hired or fired staff, they've never gone through the exercise of developing goals and objectives in a real setting, of writing grant proposals and project summaries, they've had no leadership experience, they've likely had little substantive knowledge of markets, field practices..... They have, in other words, no experience. Yet it takes experience to run a business, to operate a program.

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Better to encourage local graduates to get some experience before offering them anything other than entry level jobs in the CNMI. They may well be able to earn enough elsewhere - what with pay scales based on a U.S. minimum wage - that would make repayment of college loans more manageable - and thus replenish local scholarship coffers to boot.

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It was bad enough that no review appeared of Mikhail Baryshnikov's rare appearance on Guam last month. It's almost sadder that no review appeared of the recent performance of "Tales of the South Pacific" here on Saipan last week. Involving over fifty people - from students and teachers to government and private sector employees - the popular musical was not only a great evening's entertainment, but also a great production.

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The staging was innovative, the costumes were creative, the casting was wonderful, the sound and lighting quite professional, the performers all well-rehearsed - but not one word of praise or recognition made the papers. Everyone involved - from singers, actors and directors to production managers, stage crew, and assorted techies - earned and deserve broader praise and notice.

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In keeping with the season of spring and re-birth, may the joy of Easter shine upon you!