

BRIEFING PAPERS

ON

VARIOUS ISSUES

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IMPACT OF THE COMPACT OF FREE ASSOCIATION

The Compact of Free Association Act of 1985, P.L. 99-239, sec. 104(e), stipulates that the President shall report to the Congress with respect to the impact of the Compact on the United States territories and commonwealths and on the State of Hawaii. The purpose of the reports is to identify any adverse consequences resulting from the compact and to make recommendations for corrective action.

The section was added in response to concerns of the U.S. Pacific representatives that certain provisions in the Compact could adversely affect them. We support the self-determined political status of the freely associated states, and we wish to support the efforts of Freely Associated States citizens who seek the opportunities available to them on Guam under the provisions of the Compact.

The compact exempts citizens of the Freely Associated States from passport, visa, and work permit requirements, and enables unrestricted entry, residence, employment, and attendance at schools in the United States. Guam is currently struggling to keep pace with its rapid growth. Immigration now accounts for most of Guam's population growth. Between 1980 and 1987, it is estimated that Guam's population increased in size by 24%, far more than any other state or territory.

Immigration from the Freely Associated States makes up a large share of Guam's recent population gains. However, Guam does not currently have a method for tracking the entrance and departure of FAS citizens, and therefore cannot keep track of the total amount of immigration. FAS

citizens present their identity documents to the Immigration and Naturalization Service upon arrival in Guam. INS then issues an I-94 card to individuals, authorizing their legal entry into the United States. The I-94 card also serves as proof of work eligibility in the U.S. It would be possible for the INS to keep a tally of these documents as they are issued, which would assist the Government of Guam to determine the amount of immigration occurring.

Most of Guam's previous immigrant groups have assimilated into the Guam community easily and well. It is obvious, however, that FAS citizens are having a more difficult time adjusting. Many children from the FAS entering Guam's schools are educationally disadvantaged to the point that they cannot be placed in an age-appropriate grade level. Extensive remedial education and English language instruction is necessary to permit these students to catch up to their grade level. Data collected by the Department of Education shows an increase in the number of Micronesian students from 402 in 1985 to 615 in 1988, an increase of 53%. More students arrive daily, particularly from Truk State in the Federated States of Micronesia.

Arrests of FAS citizens have increased by 300 percent since the implementation of the Compact, from 68 in 1986 to 286 in 1988. In 1986, arrests of persons from the FAS represented less than 4 percent of all arrests. This proportion jumped to 11 percent by 1988. Alcohol related arrests are common, over 87% of all arrests of FAS citizens. This points to a possibly large alcohol abuse problem.

Health care is becoming the responsibility of the government, as most FAS immigrants are not covered by health insurance. FAS citizens are often employed in low-wage or part-time work, without the benefit of health insurance. The Guam Memorial Hospital shows an outstanding debt of \$230,000 in FY1988 incurred by FAS citizens.

Local health officials have noticed pockets of group housing occupied by FAS citizens that do not meet local building code. In addition, it is common for recent FAS immigrants to live together in extended families of up to 20 persons per apartment unit. The conditions of substandard and overcrowded housing could contribute to an unhealthy living environment, detrimental to the entire community.

In the area of social services, there are programmatic problems where FAS citizens qualify for some federal programs, yet are ineligible for others. Despite local concern to the contrary, FAS citizens are not drawing welfare or foodstamps. While it is possibly justified to say that FAS citizens are not entitled to receive public assistance, it is a fact that recent immigrants tend to be at the lower end of the income scale. Their children are therefore potentially at risk of the conditions of poverty. A special effort needs to be made to locate at-risk children to evaluate their special needs and to monitor whether potential problems exist. This is especially true of pre-school aged children and children who are not enrolled in school for other reasons, who may slip through the cracks in the system.

Congress maintains that it will "act sympathetically and expeditiously to redress the adverse consequences identified" by the President's yearly impact report. Funds may be appropriated for fiscal years beginning after

September 30, 1985, to cover the costs, educational and social services by immigrants from the Marshall Islands and the Federated States of Micronesia.

The Government of Guam will most certainly need federal assistance to plan for and to respond responsibly to meet the needs of its new immigrants from the FAS. These persons are seeking the promise of the Compact, to pursue opportunities not available on their home islands. The federal government must ensure that this promise does not become a state of crisis of poverty, illiteracy, and disease for FAS citizens on Guam.

Guam urges the Department of Interior to ensure that our needs for federal assistance are heard by the Congress through the yearly impact reports prepared by the Government of Guam.

RELOCATE NAS

SUMMARY

Available statistics on aircraft operations and related activities demonstrate a declining Navy use of Naval Air Station (NAS), Agana and an increasing need for space and facilities at the Guam International Air Terminal (GIAT). Recent events in the Pacific theater however, signify that the decline at NAS may only be temporary, depending upon the outcome of negotiations for overseas basing.

Whether activities at NAS continue to diminish could be the subject of wide debate. At present however, its diminution offer an immediate opportunity for relocation based upon one simple fact - NAS is inappropriately located given current conditions. It hampers expansion at GIAT and restricts off-station development. Although NAS is not an ideal location for current as well as future GIAT operations, civilian aircraft operations do not adversely impact surrounding areas as extensively as military operations. Previous studies have shown that alternative sites for GIAT were not feasible.

The Government of Guam therefore recommends that Navy air operations at NAS be relocated to Andersen Air Force Base (AAFB) and that all lands and facilities at NAS be transferred to the Government of Guam.

INTRODUCTION

The President and the Congress of the United States have consistently recognized that the pursuit of economic self-sufficiency for Guam through improved transportation networks is in the national interest. (DOT 1985 transportation study). It was in recognition of this national interest that Congress transferred military landholdings at Apra Harbor to GovGuam (Public Law 96-418). It is also in recognition of the national interest that GovGuam is requesting the transfer of military landholdings and facilities at Naval Air Station, Agana to the Government of Guam.

Recent forecasts have shown a doubling of commercial air traffic in the next 20 years, a tripling in the number of civilian passengers and a trifold increase in civilian cargo and mail. The principal impediment in accomodating this growth is the availability of space.

The Government of Guam also recognizes the strategic importance of maintaining the operational capabilities of the U.S. Armed Forces in this region. While this role should not diminish, it can be more efficiently accomodated through colocation of operational capabilities at AAFB in the spirit of cost containment espoused in the Base Closure and Realignment Act of 1988.

GUAM INTERNATIONAL AIR TERMINAL (GIAT)

The Government of Guam, through the Guam Airport Authority operates the GIAT which is located on 170 acres of land at the northwestern boundary of Naval Air Station, Agana (Map 1). Civilian airport facilities currently in place have a total value (less depreciation) of almost \$50 million. A description of existing facilities at GIAT is provided in Appendix 1.

Available statistics show an increase in all categories of air transportation demand. By the end of FY87, total terminal passengers grew to 1.19 million movements (Table 1). This growth, from 546,500 movements in 1978, represents an overall increase of 119% or an average annual growth of 9.1%. By FY2008, a 2.7 fold increase in passenger movements to 3.27 million passenger is projected.

Commercial aircraft movements are also expected to increase. Between 1980 and 1986, GIAT averaged 6,868 movements. By FY2008, annual aircraft movements are projected to double to 14,200 movements (Table 2).

Air cargo is expected to increase from 14,800 tons in FY87 to 40,500 tons in FY2008 while air mail volumes are projected to increase from 5,600 tons in FY86 to 15,300 tons in FY2008 (Tables 3 and 4).

These projected increases result in the need for more space and more facilities over those currently available. At present, specific needs have been identified for an arrivals terminal building; a parallel taxiway; aircraft maintenance hangars; and cargo and maintenance areas. Other land uses such as parking areas for visitors and car rentals, commercial and industrial areas have not been assessed because all previous plans have assumed that a minimal amount of land would be available for such uses.

The basic constraining factor in GIAT expansion is the existence of Naval Air Station, Agana as described in the succeeding section.

NAVAL AIR STATION, AGANA

NAS Agana (or Brewer Field) is situated on 2,343 acres in the heart of the island (Map 2). Its mission is to maintain and operate facilities required to provide services and material support for transiting aircraft and tenants. Major tenants include VQ-1 which provides fleet electronic reconnaissance, Patrol Wing One which conducts anti-submarine operations, and HC-5 which is a helicopter squadron used for combat resupply and search and rescue operations. A listing of NAS facilities (as of September 1984) is provided in Appendix 2.

There are approximately 17 aircraft assigned to NAS Agana including 10 helicopters and 7 patrol craft (P-3). However, during most of their assignment, these aircraft are deployed to other bases in the Pacific such that only 2 helicopters remain on-island at any one point in time. There has been a report of the planned assignment of 7 additional aircraft (S-3) in the 1990-1991 period, however details on this assignment are not available. It is possible that these aircraft are designed to replace existing patrol craft, such that the total contingent of 17 aircraft will remain unchanged.

Statistics provided by FAA show that military aircraft operations at NAS/GIAT constitute about one-fourth of the total air operations there. The bulk of these operations may be from transient aircraft.

Operations at Airports *

<u>NAS</u>	<u>FY84</u>	<u>FY85</u>	<u>FY86</u>	<u>FY87</u>
Air Carrier	7,771	8,202	3,366	9,040
Air Taxi	4,199	3,202	5,574	5,531
General Aviation	499	568	446	571
Military	<u>4,766</u>	<u>3,859</u>	<u>4,038</u>	<u>4,905</u>
TOTAL:	17,185	15,831	18,424	20,047

* Excludes operations that remain within a 5 mile radius of NAS and those that do not follow instrument flight rules which are not significant in number according to FAA.

Source: FAA Activity Reports FY84, FY85, FY86 and FY87

Based upon published Navy reports, a 20% decline in the number of personnel assigned to NAS from 1978-1988 has been experience as shown in the table below.

Personnel Assigned to NAS, Agana

	<u>1978</u>	<u>1988</u>
Officers	234	198
Enlisted	1,772	1247
Civilian	<u>132</u>	<u>279</u>
TOTAL:	2,138	1726

Sources: Guam Regional Profile of Navy Activities July 1978 and ComNavMar Shareholders Report, 1988.

There are 488 single family housing units (excluding group quarters) located along the cliffline overlooking Agana Bay, of which 136 are officers housing and 352 are enlisted housing.

Even with the apparent decline at NAS, the military still operates aircraft out of this installation. As a result, the civil government is required to comply with numerous Navy regulations affecting GIAT operations and land uses off-base. These regulations are embodied in the Joint Use Agreement which is presented in the next section.

JOINT USE AGREEMENT (JUA)

As a result of the military mission at NAS, Guam's civilian airport is allowed to operate under a Joint Use Agreement (JUA) which is an agreement between the USA and Guam that provides for limited civilian use of the air navigation facilities at NAS Agana. It was signed on July 19, 1974 for a term of thirty years. It has since been amended for a term of an additional ten years to the year 2014.

While the JUA provides tremendous benefits for the local populace, there are certain restraints as it applies today.

Since land at both ends of the runways cannot be developed due to the attendant safety areas, lands on both sides of the runways are the only areas available for airport or aviation related activities. Currently located in these areas are Navy housing to the west and Navy aviation related facilities, recreational facilities, and personnel support facilities to the east (Map 3). So long as the Navy operates aircraft at NAS and given the difficulty of securing replacement housing and personnel support facilities, the lands on both sides of the runways would probably not be available for civilian use.

Additional, major restraints imposed by the JUA are described below.

Fiscal Restraints: The JUA provides for Guam to determine landing and use fees provided the fees are not less than those established by SECNAVINST 3770.1. Of the landing fees collected, Guam remits a portion of the landing fees to the Treasurer of the United States. In addition, Guam remits to the Navy other "out of pocket" expenses associated with maintenance of the existing facilities and support of civil operations.

In the past three years GAA has remitted to the Treasurer of the United States \$309,664.40 as their share (six cents per thousand pounds) of the landing fees and paid the Navy \$1,593,913.40 for their "out of pocket" services to GAA. The "out of pocket" expenses are understandable but the purpose for the remittance of the landing fees to the U.S. Treasury is somewhat of a mystery. In a conversation with one of the naval representatives involved during the joint use agreement negotiations, the individual recalled that Guam's position during the negotiations was to retain all the landing fees assessed. The Navy's position was to retain a token amount and the six cents was an arbitrary figure set by the Navy with no calculations or reasoning explained. A review of the list of capital improvements that GAA has directly made to the operating area as opposed to capital improvements by the Navy warrants a reassessment of the provision for GAA to remit the six cents.

On the assumption that the JUA did not exist and civil aircraft used the facilities in accordance with the procedures contained in SECNAVINST 3770.1 for the past three years, the landing fees the Navy would have collected and remitted to the U.S. Treasury would amount to \$1,548,322.

Their "out of pocket" costs (as billed to GAA) for the same period would have been \$1,593,913.40 for a net loss of \$45,591.40. Under the JUA, the Navy was reimbursed all "out of pocket" costs (\$1,593,913.00) by GAA and the U.S. Treasury was remitted \$309,664.40. Therefore, the financial advantage or disadvantage of the JUA to the federal government is the difference between the "out of pocket" cost without the JUA which was a net loss of \$45,591.40 and with the JUA which was a net gain of \$390,664.40 which results in a difference of \$436,255.80 over a three year period. These figures do not include the capital improvements (runway painting and reconstructing taxiway "B") that GAA funded nor the FAA maintenance support of the ILS, ALS, AND VASI systems for

the same period or other indirect expenses.

Operational Restraints: Of immediate concern is that the JUA contains too many disincentives for general aviation to prosper. One of the more common complaints is that the minimum landing fee of \$7.50 is prohibitively high. The JUA states that Guam can set the landing fees but "...the landing fees set by Guam shall be no less than those established in the general schedule in SECNAVINST 3770.1..." The referenced instruction provides for a minimum fee of \$7.50. Of the \$7.50, the Navy receives only 18 cents for an aircraft weighing three thousand pounds.

Another disincentive heard quite often is the overly high insurance requirements and their attendant costs. Without lowering the minimum insurance requirements, GAA could be allowed to subsidize the insurance premiums. These two provisions would substantially foster the growth of general aviation.

Additionally, the high landing fees and insurance requirements provide disincentives for any commercial or private aircraft to land at GIAT. Many of these aircraft find it less expensive to land at the Saipan Airport given Guam's arbitrary competitive disadvantage.

Off-Station Restraints: Located at the northeastern portion of NAS are eight (8) magazines utilized for ordnance storage (Map 3). A safety radius of 1,250 feet around each magazine is required by DOD regulations. Non-ordnance related inhabited structures cannot be located in this safety area. Therefore, it cannot be used for civil aviation purposes. The safety radius impacts a small amount of private landholdings off-base. DOD regulations discourage development in this area.

As a result of air operations at NAS, Navy has implemented the Air Installation Compatible Use Zones (AICUZ) program which is designed to protect lives and

property through managing land uses in the areas adjacent to the runways at NAS, Agana and in areas affected by aircraft overflights. As a military program, it is enforced on military landholdings.

However, aircraft operations at NAS affect the use of almost 9,000 acres of land off-base or 7% of Guam's total land area (Map 4). These lands are not federally-owned and are located in densely populated and highly developable areas. Of this total, almost 2,000 acres are located within Accident Potential Zones (APZ) 1 and 2 as delineated under DOD AICUZ regulations. These regulations encourage little or no development of lands designated APZ 1 and 2.

In this 9,000 acre area, Navy AICUZ regulations cannot be enforced. Instead, development projects must comply with Guam's zoning law, which allows a population density greater than that allowed under AICUZ. Also, land uses disallowed within AICUZ APZ's, are allowed under Guam's zoning law.

DOD has attempted to force GovGuam to follow the AICUZ program in three (3) ways:

1. By conditioning the release of over 3,500 acres of surplus federal land on GovGuam's adoption of AICUZ;
2. By objecting to development proposals at Territorial Planning Commission meetings; and
3. By urging Guam Airport Authority through the Joint Use Agreement and FAA grant awards to follow AICUZ requirements.

Recently, Navy even suggested that GovGuam impose a moratorium on development within this 9,000 acre area - a proposal which met strenuous opposition.

While the Government of Guam shares the concern regarding the protection of lives and property from aircraft operations, most lands on Guam, as in any other island ecosystem, are already constrained by environmental, physical

and man-made factors. Guam as well as federal law govern development in such areas as wetlands, flood hazard areas and water recharge areas. Governing land uses in areas designated as APZ 1 and 2, when these designations are not recognized by FAA, unnecessarily prevents development. FAA regulations designate these areas as noise zones and only require that sound attenuation features are included in building design and construction.

CONCLUSION

The foregoing analysis of NAS and GIAT generally demonstrates that the need for NAS is declining, that air operations at NAS create fiscal, operational and land use restraints and that NAS landholdings and facilities could be utilized for GIAT expansion. However, recent reports have demonstrated the tenuous position of the U.S. military in foreign bases throughout the Pacific. Conceivably, the ultimate use of Guam militarily depends heavily on the resultant negotiations for continued forward deployment of U.S. forces. Military presence on Guam is expected to continue and may well be enhanced even though current statistics for NAS in particular demonstrate a declining need for this facility.

Even with the numerous possibilities and the different levels of military presence on Guam, there is one inescapable conclusion: NAS is inappropriately located whether or not a current or future need exists.

From a planning standpoint, aircraft operations generated by NAS and GIAT should not be located in populated areas due to the potential for loss of life and property. Practically however, there is no viable alternative site for GIAT while the declining need for NAS provides an immediate opportunity to relocate its air operations. An analysis of alternate sites was conducted in 1976 (Appendix 3). Additionally, civilian aircraft operations impose less severe impacts on off-station land uses than military operations.

The following advantages will result from relocating Naval operations at NAS:

1. Allow expansion of GIAT and free GAA from the JUA restrictions
2. Provide for less restrictions on development in 2,000 acres of private and GovGuam landholdings off-station

3. Allow the release of 3,500 acres of surplus federal land heretofore retained pending adoption of AICUZ restrictions by GovGuam
4. Allow the development of public facilities such as reliever highways, recreation and other primary and secondary infrastructure
5. Allow the development of airport-related commercial activities
6. Allow expansion in aviation facilities that can be used in times of national emergency without financial investments by the federal government.

Recognizing however, that a continuing military presence on Guam is consistent with national defense interests, it appears that relocating Naval air operations at NAS to Andersen Air Force Base could satisfy these interests. The following section provides a brief description of AAFB.

ANDERSEN AIR FORCE BASE (AAFB)

AAFB is situated on 11,000 acres of land (excluding 4,600 acres at Northeast Field and Ritidian Point) at the northern end of the island (Map 5). It is the home of the Third Air Division, Strategic Air Command. Major elements include the 43rd Strategic Wing, the 43rd Combat Support Group and the 605th Military Airlift Squadron. These elements are responsible for developing and maintaining a capability for conducting long range bombardment, reconnaissance, resupply and refueling operations.

In 1976, there were 12,000 personnel and dependents at AAFB while in 1988, there were 8,759 air force personnel (including 4,961 dependents) on Guam. According to the 1980 Census, there were 1,396 housing units at AAFB (excluding group quarters).

Based upon available information, the major changes that have occurred at AAFB are the transfer of the 54th Weather Reconnaissance Squadron and the elimination of nuclear weapons from the arsenals of B-52 aircraft. The transfer of the Weather Squadron has eliminated 22 sorties per day (1976 data). However, recent discussions with Air Force officials have implied that total air operations at AAFB may not decrease because of the need for training B-52 personnel for conventional bombing missions.

AICUZ regulations at AAFB are similar to those in effect at NAS. However, because AAFB flight paths project over the ocean to the north and over substantial GovGuam landholdings to the south, APZ designations have minimal effect on off-base land uses (Maps 6 & 7). GovGuam properties affected by APZ designations comprise a portion of Guam's Groundwater Protection Zone (Map 8). As such, these properties are either unused or support small scale, subsistence agricultural activities. These uses are compatible with AICUZ regulations.

On the average, over 98% of the traffic at AAFB is military. However, between FY87-FY87, there was an average of over 6,500 more operations at NAS/GIAT than at AAFB. With almost 9,000 acres of land more than NAS, it is conceivable that colocation of Navy and Air Force operations at AAFB can be realized.

Operations at AAFB				
<u>AAFB</u>	<u>FY84</u>	<u>FY85</u>	<u>FY86</u>	<u>FY87</u>
Air Carrier	22	12	7	116
Air Taxi	0	0	0	0
General Aviation	141	219	90	147
Military	<u>10,812</u>	<u>11,351</u>	<u>11,446</u>	<u>10,910</u>
TOTAL:	10,975	11,582	11,543	11,173

The option of colocation at AAFB was evaluated in 1976 and concluded that colocation would not be recommended. The result of this evaluation is presented in Appendix 4. The changing missions of NAS and AAFB however, warrants a reconsideration of this option.

In addition to the advantages accruing from the relocation of NAS, other advantages exist if NAS is relocated to AAFB. These include:

1. Cost reductions to the taxpayer from operating only one major air base.
2. Encourages GovGuam to more effectively manage land uses in its Groundwater Protection Zone which is consistent with DOD AICUZ criteria.

IMPLEMENTATION

Given the inability to immediately relocate NAS to AAFB, the Government of Guam proposes the following:

1. The Navy, through the Secretary of Defense, place NAS on the list of bases identified for closure under Public Law 100-526.
2. The JUA be immediately revised to reduce or eliminate the landing fees currently mandated and relax its insurance requirements.
3. The Navy immediately allow the use of areas identified in the proposed GIAT master plan for additional aprons, hangars, maintenance and taxiway uses.
4. The Navy with GovGuam support request the Congress to appropriate the funds necessary to begin the relocation of Navy housing at NAS to NavCams WesPac Barrigada, the site recommended in the 1984 NAS Master Plan.
5. The GovGuam develop a detailed master plan for the reuse of NAS.
6. The Navy and Air Force seriously evaluate the relocation of Navy air operations to AAFB.
7. The GovGuam develop and adopt measures to control development around AAFB.

RELEASABLE FEDERAL LANDS

In 1986, DOD released the Army Report which recommended the release of 3497 (corrected) acres of federal land in 2 categories:

Phase I Lands - 1654 acres

Phase II Lands - 1843 acres

During the period prior to the release of the report, GovGuam had already acquired 1058 acres including 927 acres at Apra Harbor.

Release of Phase I Lands will include an "eminent domain" clause which allows the federal government to reacquire the property should national defense interests arise. Apparently, this clause is needed by Navy because of Article 10 of the Guam Commonwealth Act.

Release of Phase II Lands however, is contingent upon GovGuam implementing Air Installation Compatible Use Zone (AICUZ) regulations to control development on private and government lands surrounding the airport. Local adoption of AICUZ regulations will absolve the Navy of any responsibility to compensate landowners in the area for their inability to develop their lands. It should be noted that the joint use agreement for use of the airport includes a similar provision but it only mandates Guam Airport Authority (not GovGuam) to ensure that incompatible uses are prevented. Relocation of NAS to AAFB should allow the release of Phase II Lands because AICUZ restrictions would no longer be needed.

Finally, there is no commitment on the part of the military to continue to excess properties after final disposition of the 3497 acres.

Drug Control and System Improvement Grant Program

The Drug Control and System Improvement Grant Program is a newly created grant program under the Omnibus Drug Initiative Act of 1988 and for the most part, is a consolidation of the State and Local Assistance for Narcotics Control Grant Program and the former Criminal Justice Block Grant Program. While it provides federal assistance to the states in order to fight violent crime, its primary purpose is to assist states in their narcotics control efforts. The amount of federal funds which would otherwise be available to Guam, the Commonwealth of the Northern Mariana Islands and American Samoa to fight violent crime and illicit drugs under this newly created grant program however, has been significantly reduced as a result of a technical amendment contained in Section 6092(b) of U.S. Public Law 100-690. On the surface the Technical Amendment appears to be harmless; but in essence, it combines the three Pacific territories and defines them together as one state. Under the Narcotics Control Grant Program, Congress had previously defined all of the U.S. territories as states. While funding to the three Pacific territories has been significantly cut, the other two territories, the Virgin Islands and Puerto Rico, continue to be defined as states and received no funding cuts.

FUNDING

As a result of the Technical Amendment Guam will receive a 46% reduction in funds available to us for FY 1989 as compared to FY 1988, while the States and other U.S. Territories will receive an increase in funding. In comparison, the Virgin Islands and Puerto Rico will both receive increases in their funding in addition to maintaining their status as individual states. A comparative breakdown of FY 1988 and FY 1989 federal funding for the Territories is as follows:

<u>TERRITORY</u>	<u>FY 1988</u>	<u>FY 1989</u>	<u>DIFFERENCE</u>
GUAM	514,000	285,000	229,000 DECREASE
CNMI	502,000	96,900	405,100 DECREASE
AMERICAN SAMOA	504,000	188,100	315,900 DECREASE
PUERTO RICO	869,000	1,007,000	138,000 INCREASE
VIRGIN ISLANDS	512,000	539,000	27,000 INCREASE

IMPACT

The impact of the reduced funding will not only affect programs initiated under the Narcotics Control Grant Program, but will also affect Guam's ability to initiate any additional activities now eligible under the Drug Control and System Improvement Grant Program. In 1987 and 1988 Guam developed Narcotics Control State Plans to guide the Island's drug control efforts. Included in the State Plans are programs which were developed to address particular areas of concern on Guam. The reduction in funding will limit Guam's ability to continue the programs that have already been initiated and will prevent its ability to expand them in order to deal with Guam's continuing drug problems. Additionally, Guam will not be able to augment its current Narcotics Control State Plan with the additional programs targeting violent crimes as set forth in the Drug Control and System Improvement Grant Program.

IMPACT ON THE UNITED STATES

Because Guam has been identified by the United States Drug Enforcement Administration as a transshipment point for Southeast Asian drugs headed for the United States, it is important that Guam receives adequate funding to continue its interdiction efforts. Furthermore, as Guam is located outside of the United States Customs zone, U.S. Customs does not play an active role in Guam's interdiction efforts. Therefore, if Guam does not effectively interdict the drugs that come through the island, the drugs will ultimately make their way to the United States.

BACKGROUND ON THE TECHNICAL AMENDMENT

Title I of the Omnibus Crime Control and Safe Street Act of 1968 (Omnibus Crime Control Act) established today's law enforcement programs under the U.S. Department of Justice. All subsequent law enforcement acts passed by Congress amend the 1968 Act.

The Omnibus Crime Control Act's Title I definitions are contained in Section 901(a)(2). Up until 1984, Guam, as well as the other territories, were defined as States and as a result a number of the U.S. Department of Justice programs were extended to us.

In 1984, with the enactment of the Justice Assistance Act of 1984, Section 901(a)(2) [definition of a state] was amended and Guam, American Samoa and Commonwealth of the Northern Mariana Islands were deleted from the definition of a State. Not only could the Pacific territories not participate in the Criminal Justice Block Grant Program, which was established under the Act of 1984, they were also not eligible to participate in other programs created under Title I of the Omnibus Crime Control Act.

In 1986, the Omnibus Territories Act, Public Law 99-396, amended Section 901(a)(2) and once again included Guam, CNMI, and American Samoa under the definition of a State under Title I of the Omnibus Crime Control Act of 1968. However, Public Law 99-396 also contained a catch that only in the case of Section 407(a) of the Omnibus Crime Control Act, Guam, CNMI, and American Samoa were to be considered a state. Specifically, Public Law 99-396 established the following definition under the Omnibus Crime Control Act's Section 901(a);

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands: Provided that for the purposes of Section 407(a) American Samoa, Guam, and the Northern Mariana Islands shall be considered as one state and that for these purposes, 33 per centum of the amounts allocated shall be allocated to American Samoa, 50 per centum to Guam and 17 per Centum to the Northern Mariana Islands.

Section 407(a) pertained to the Criminal Justice Block Grant Program's funding allocation formula established for states. Funding for the Narcotics Control Act was not impacted as the definition of a State was included under Section 1305, thus the Pacific Territories were not negatively impacted.

Under Public Law 100-690's Drug Control and System Improvement Grant Program, Guam and the Other Pacific Territories would have each been treated as a state as the state funding allocation formula for the grant program is to be established under Section 506(a) of the Omnibus Crime Control Act. However, due to the Technical Amendment contained in U.S. Public Law 100-690, Section 6092(b), the Pacific Territories are not eligible to receive full state funding. This is because the Technical

Amendment replaces Section 407(a) with Section 506(a) in the Omnibus Crime Act's definition of a State. The net effect of this change is that the Pacific Territories will now be treated as one state instead of as separate states.

REQUIRED ACTION

Section 6092(b) of Public Law 100-690 must be deleted and Section 901(a)(2) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the 1986 Omnibus Territories Act, must be amended by deleting the following:

Provided that for the purposes of Section 407(a) [506(a) under the technical amendment] American Samoa, Guam, and the Northern Mariana Islands shall be considered as one state and that for these purposes, 33 per centum of the amounts allocated shall be allocated to American Samoa, 50 per centum to Guam and 17 per centum to the Northern Mariana Islands.

It should be noted, that while the elimination of either of these Sections would have the same net effect, it is more desirable if both Sections were deleted.

SUBMERGED LANDS

Public Law 93-435 as amended by Public Law 96-205 transferred all submerged lands to GovGuam with the exception of those located off federally owned coastal properties and those identified for defense purposes. However, since passage of these laws, any submerged land located off federal property that has been declared surplus, can only be transferred to GovGuam if the Navy prepares the necessary documentation and submits it through General Services Administration and the Department of Interior. A portion of Cocos Island became GovGuam property in 1982. The submerged lands out to 3 miles however, still belongs to the Navy.

Guam has been formally requesting Navy to excess the submerged lands off Cocos Island since 1983. In October 1983, Commodore Hagen informed then Governor Bordallo that he would have excess reports for the submerged lands prepared and submitted to the Hawaii Command. GovGuam's formal request for the submerged lands occurred before anyone was aware that a sunken Spanish galleon may be located within them.

The Court has declared that GovGuam owns the salvage rights to the Spanish galleon. However, it is still not known whether the galleon is located within the submerged lands currently owned by Navy at Cocos Island.

During the March 29, 1988 CMAC meeting, the Admiral stated that the Pacific Division will be forwarding the excess report through channels to the U.S. GSA.

DOI should be encouraged to assure transfer of these lands to GovGuam at no cost.

NATIONAL PARK

Since Congressional adoption of the boundaries of the War in the Pacific National Historical Park in 1978 (P.L. 95-348), little progress has been made in the acquisition of private land holdings that comprise the park. Development of these lands by their owners is effectively prevented through their inclusion in the park. The DOI needs to acquire 237 acres of private lands however, since insufficient funds have been appropriated, DOI has resorted to utilizing DOI land holdings (not within the park boundary) and has sought approval to utilize releasable federal lands as trading stock. GovGuam's position has been to encourage Congressional appropriations for land acquisition in that GovGuam is not a participant in the process of exchange which could result in the development of lands that are more suited for public rather than private use. pressures on the General Fund to provide infrastructure supporting land development in areas not currently planned for. Lastly, land exchanges will not appeal to former owners of releasable lands.

It is suggested that DOI:

1. Expeditiously transfer all its land holdings not situated within park boundaries to GovGuam at no cost and with no use restrictions except those mandated by the above policy.
2. Reassess its parkland needs to identify only those private properties that are absolutely essential to the park.
3. Provide technical assistance funding and manpower to implement the above policy.

PACIFIC POLICY REPORTS

Overview:

The U.S. Congress through Public Law 99-239 has mandated the U.S. Department of Interior to prepare Pacific Policy Reports for the U.S. noncontiguous Pacific areas. The reports are to identify clearly defined policies and recommendations required to accomplish the objectives of the policies. The Department of Interior was to submit the reports to Congress by January 1987 and every five years thereafter. The Department of Interior in turn requested the Pacific Basin Development Council during June 1987 to prepare the document. During late 1987 work was started and a draft was provided to the noncontiguous areas for their review.

Initially the Department of Interior was to meet with the noncontiguous Pacific areas in Hawaii during February/March 1988 to solicit their comments on the draft. The date for the meeting however was subsequently pushed back several times and has been indefinitely postponed. It is anticipated that the meeting will not be held until after the November Presidential election or until after the next President takes office. This is a concern to the noncontiguous Pacific areas as it is their desire that the new President's transition team have the reports in order to assist them to formulate policies to enhance the socio-economic and political aspirations of the U.S. noncontiguous Pacific areas.

Pacific Policy Reports' Recommendations:

While the PBDC Summer meeting is not the appropriate forum for discussing the recommendations contained in the draft prepared by PBDC's executive staff, there are two issues which the Governor may want to raise at this time. The first is in regard to negative statements contained throughout the draft with respect to Guam's political development and the draft Commonwealth Act. For example, the document states on page 2.2.6 that the Office of Territorial and International Affairs will work with the Government of Guam, U.S. Congress and other Executive Branch Agencies "to develop a commonwealth agreement that is consistent with the laws of the United States" (emphasis added) and the desires of the people of Guam. This statement is in conflict with the intent of the draft Commonwealth Act to eliminate laws which constrain our development and which has been overwhelmingly approved by Guam's voters. There are other such statements on Guam's draft Commonwealth Act contained throughout the document. Had the Department of Interior wrote the document, such

statements would be understandable. However, as PBDC's executive staff prepared it, the statements reflect a complete lack of sensitivity on their part of the PBDC member governments' aspirations.

The second concern is in regard to the recommendation contained in the document that OTIA continue to be responsible for the territories' and the U.S. freely associated political jurisdictions' affairs. In the past there has been concern voice regarding OTIA's ability to be an advocate for the territories, even with the head of OTIA elevated to an Under Secretary position within DOI. There does exist other options which include creating an office within the Executive Office of the President such as in the case of Puerto Rico, creating a separate independent agency with the Executive Branch, creating a Regional Commission and transferring the responsibility to another Executive Branch Department. Each of the options have their advantages and disadvantages. The Governor may want to informally discuss with the Governors of CNMI and American Samoa their thoughts on the subject and whether the territories agree with continuing OTIA's oversight and advocate roles.

Recommendation:

Meeting Date on the draft Pacific Policy Reports:

The Governor should seek PBDC's support in requesting DOI to set a date for the conference required by P.L. 99-239 to further discuss the draft and appropriate revisions to it so that it can be made available to the transition team after the Presidential election.

Guam's Commonwealth Draft Act:

The Governor should voice to PBDC's executive staff his concerns regarding their lack of sensitivity with respect to Guam's draft Commonwealth Act. If such statements were to be included in the document, they should have been inserted by DOI.

Oversight Responsibility:

The Governor should informally discuss with the Governors from CNMI and American Samoa the most appropriate entity within the U.S. Executive Branch for being an advocate for the territories and U.S. affiliated political jurisdictions. Such discussion may further assist Guam to determine which recommendation to support or whether to advocate another alternative.

Briefing Paper
U.S. DOI FY 1990 Recommended Funding
Under
Insular Areas Drug Abuse Act of 1986, As Amended

Overview:

Under the Insular Areas Drug Abuse Act of 1986 Guam was given a \$1 million authorization for technical assistance and equipment to fight drug abuse. The 1988 amendments to the Act (U.S. Public Law 100-690) revised it by providing for an annual \$500,000 authorization beginning with fiscal year 1989. In both instances, the Act has provided that appropriated funds shall remain available until expended.

The Omnibus Drug Initiative Act of 1988 (Public Law 100-690), in addition to amending the Insular Areas Drug Act, also created a new drug grant program, the Drug Control and System Improvement Grant Program. For the most part, the Program is a consolidation of the State and Local Assistance for Narcotics Control Grant Program and the former Criminal Justice Block Grant Program. The Program's primary purpose is to assist states in their narcotics control efforts as well as their efforts to fight violent crime. A technical amendment contained in Section 6092(b) of the Act however combines the three Pacific Territories of Guam, American Samoa and the Commonwealth of the Northern Mariana Islands (CNMI) and together defines them as one state. The impact to Guam is roughly a decrease of \$229,000. In FY 1988 Guam had received \$514,000 and in FY 1989 it is to receive \$285,000.

Department of Interior Budget Estimates:

For fiscal year 1989 Guam had requested Congress to appropriate the full \$1 million for various projects to enhance the Territory's drug control efforts. However, no appropriation was given. The Department of Interior in its Fiscal Year 1990 Budget Estimates included a \$500,000 request for Guam under the Insular Areas Drug Abuse Act but included no capital improvement projects. It does not appear that the funds identified by DOI for drug control are related to the funding decrease which resulted from the technical amendment. While DOI also identified \$350,000 for American Samoa for drug control activities, it identified no funding for the Commonwealth of the Northern Marianas. Of the three Pacific Territories, CNMI's loss of federal funds was the most significant as its FY 1989 reduction is over \$400,000.

Proposed Use of FY 1990 Funding:

Initial Request to Congress: When Guam made its initial request to Congress for the appropriation of the \$1 Million authorization, it requested funding for four projects. These projects in order of priority were:

- Establishment of an automated intelligence information and tracking system on Guam and within the Western Pacific and a narcotics control data information system with the capability of linking into Hawaii's Automated Finger Print Identification System. \$400,000
- Enhancement of the Crime Laboratory's narcotics detection and identification capabilities. \$311,000
- Improvement of Guam's ability to conduct financial investigations targeted at income tax and money laundering activities of drug traffickers. \$218,620
- Establishment of the capability to apprehend drug smugglers within territorial coastal waters. \$70,380

Current Request: In light of the reduction in federal funds under the Drug Control and Systems Improvement Grant Program, the appropriation of funds under the Insular Areas Drug Abuse Act will significantly enhance Guam's enforcement efforts to fight illegal drug use and distribution. The funds are required in order to:

- Enhance Guam's Crime Laboratory through technical assistance (Forensic Toxicologist) and the purchase of laboratory equipment and high tech equipment in order to analyze drug samples and establish an urinalysis drug testing program for criminal offenders.
- Establish an Automated Intelligence Information and Tracking System throughout Guam's criminal justice system which includes linking into the State of Hawaii's Automated Finger Print Identification System, and establish an automated narcotics control data information system. Technical assistance and the purchase of computer equipment are required.

Both projects are of equal priority. The cost of the projects is not provided as some of the costs associated with these two projects were

met in Guam's fiscal year 1988 Narcotics Control grant and it is unknown at this time how much will be met in the FY 1989 grant. At this point in time, it is anticipated that the currently available \$500,000 authorization will be sufficient to fund these two projects. However, the authorization may be insufficient to enable the development and implementation of the regional automated intelligence information and tracking system.

Recommendation:

The Governor should express to Secretary Lujan that the appropriation of the \$500,000 to enhance narcotics control efforts is needed; however, the appropriation should be in addition to and not in lieu of the funding which Guam requires for critically needed capital improvement projects. It should also be expressed that if DOI cannot support the funding of both activities, it is more crucial that capital improvement projects be funded in order to facilitate the Territory's continued economic and social development.

The Governor should also seek Secretary Lujan's support to have Section 6092(b) of Public Law 100-690 deleted and Section 901(a)(2) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the 1986 Omnibus Territories Act, amended by deleting the following:

Provided that for the purposes of Section 407(a) [506(a) under the technical amendment] American Samoa, Guam, and the Northern Mariana Islands shall be considered as one state and that for these purposes, 33 per centum of the amounts allocated shall be allocated to American Samoa, 50 per centum to Guam and 17 per centum to the Northern Mariana Islands.

This amendment will place Guam, American Samoa and CNMI in the category of individual states and restore full funding.

BROWN TREE SNAKE

The brown tree snake is primarily responsible for the near-eradication of Guam's native birds. As a result, containment of the tree snake and its eventual eradication is a major issue. The tree snake may also be viewed as being responsible for increasing Guam's susceptibility to the establishment of exotic insect pests through the near eradication of Guam's population of both native and exotic birds.

ISSUES:

I. Containment

In this regard, measures have been taken to help provide for this containment through efforts taken to minimize the possibility of the tree snake stowing away in cargo destined for other areas in the Pacific. These efforts include but are not limited to requiring companies to inspect and treat their cargo to insure that it is snake free prior to movement to the port of Guam for export; the design and testing of snake traps for their effectiveness; developing an implementation plan to prevent the importation of harmful insects and rodents as well as a verification checklist to be used in all actions taken to prevent the infestation of high risk cargo and equipment from the tree snake. This checklist applies to all high risk cargo and equipment originating in Guam. These are but some of the actions taken as a result of the need for containment and exclusion of the tree snake on Guam, which in turn created new responsibilities for agencies involved in the transportation of goods and cargo. The containment and exclusion committee, formed as a result of the need to contain the tree snake, is currently working on developing protocol recommendations. The cooperation of Government of Guam agencies and the private sector entities in implementing containment protocols as they are

established can be assured through Executive Order, Legislative action, and regulatory mechanisms. The military is also involved due to the enormous logistics associated with the military.

II Request for assistance from the U.S. Department of Agriculture's Animal Damage Control research program.

As a result of the denial of Governor Ada's initial request to have the tree snake declared an Agricultural pest by USDA, a second letter was prepared and forwarded to the Secretary of Agriculture, Mr. Richard E. Lyng, requesting that USDA reconsider its position and declare the tree snake as an agricultural pest on Guam. In support of this second request, letters from PBDC, the Armed Forces Pest Management Board, and the Office of the Assistant Secretary of Defense were prepared and made a part of the request for reconsideration. To date Guam has not been successful in having the tree snake officially declared as a pest. In association with this effort Guam's Department of Agriculture is currently working with the University of Guam's College of Art and Life Sciences and the U.S. Soil Conservation in conducting a pilot survey among farmers for gathering data on the impact of the tree snake on the poultry industry. The survey questionnaire, once tested and amended, will entail gathering the data over a period of one year and will then be analyzed. The findings will be presented to USDA substantiate Guam's request for the declaration of the tree snake as an agricultural pest.

III. Last year a proposal was submitted to the Department of Defense by Dr. Thomas H. Fritts, Project Coordinator, for the control and containment of the brown tree snake. The proposal covers the purpose of the snake research i.e., development of the necessary technology to control the snakes and to prevent the spread and colonization to other Pacific

Islands; the risks of dispersal to other islands and identifies islands at highest risk. The project schedule entails a multi-year effort due to the complexity of the task proposed and the lack of adequate technology for the control of the snakes; and a comprehensive plan for development of snake control technology which include the following:

- Trap, barrier, and attachment;
- Investigation of the biology of the Brown Tree Snake;
-
- Field studies and population dynamics, behavior, habitat use on Guam and response to prey densities;
- Development of an acceptable fumigant;
- Development of an acceptable toxicant and delivery system;
- Development of special control techniques;
- Development of special control techniques for military;
- Pilot field project attempting to eliminate snakes from a reasonable area of forest on Guam capable of supporting one or more of the endangered bird species on Guam;
- Coordination and dissemination of results, data base management and project planning; and
- Funds for addressing specific research objectives within the comprehensive snake research plan are being solicited appropriate agencies.

It is believed that this proposal or one similar in content is the reason behind the DOI \$2,000,000 appropriation request for the control and containment of the brown tree snake on Guam. Although Guam welcomes the support and assistance of DOI in providing the grant of \$2,000,000. We are not prepared at this time to forego any funding assistance for our Capital Improvement Projects. Although Guam has severe problems with the brown tree snake, the current rate of development has placed a greater demand on existing CIP's.

TECHNICAL ASSISTANCE PROJECTS

On November 30, 1988, Governor Ada requested Technical Assistance funding for the following projects:

1. Police Investigative Program Consultant
2. Corrections Administration Training Program
3. Fixed Assets Acquisition/Disposal Accounting System
4. Relational Data Base Software and Training
5. Tax Key Map and Data Base
6. Federal Grants Budgeting/Accounting/Reporting
7. Personnel Management Information Systems
8. Cash Management Training
9. Actuarial Consultant Service
10. Visitor Industry Skills Training and Tourism Awareness
11. Demographic Data Collection: Population Estimator & Migration
12. BBMR Professional Development Program
13. Test Development and Research
14. Upgrading Facilities: Aquaculture Development

It is requested that DOI representatives provide a status report on the Governor's request.

Decennial Censuses in the Outlying Areas

Title 13, Census, gives the Governors of the Outlying Areas a special responsibility toward their federal censuses not shared by the Governors of the 50 States. The Census Bureau is authorized to use data collected by the Governors of the Outlying Areas, rather than collecting the data themselves. This has been accomplished through Memorandum of Agreement between the Government of Guam and the Census Bureau. The Census Bureau approves census plans, provides funding for the conduct of the census, and releases the data products, and the Government of Guam conducts the census enumeration.

For the 1990 census, the Census Bureau has developed a policy guideline for the Pacific Outlying Areas in its attempt to fulfill its obligations to conduct the census in those areas. The Census Bureau has determined that American Samoa, the Northern Mariana Islands, and Guam will be treated identically with the use of a single questionnaire that will be tailored to meet the specific needs of each area, while at the same time maintaining some basic consistency to provide comparable data for each area and to facilitate processing.

A policy of using a single questionnaire for the three Pacific areas is seriously flawed from Guam's point of view. The political, cultural, and economic diversity of the three areas is such that the use of a single questionnaire between them cannot possibly "meet the specific data needs of each area." Instead this policy will actually compromise the collection of relevant data for each area. We need support in our attempts to obtain locally relevant information using a questionnaire suitable to Guam and our local conditions.

The purpose of a single questionnaire policy is to "provide comparable data for each area and to facilitate processing." We feel, however, that the collection and release of pertinent data is the point of the considerable expense and effort necessary to conduct the census. The issue of data processing is being addressed separately by the proposed use of a microcomputer processing system. In the past, Outlying Area data has been critically delayed because we have had to wait for data processing to be completed for the 50 states first. After 1990, the Pacific areas will be removed from the regular processing system. This alone should be enough to "facilitate processing."

The Census Bureau has been very diligent in soliciting Guam's comments for questionnaire design, however, acceding to our requests is a different matter. Census questionnaires have not yielded appropriate results in past censuses. For instance, Guam's decennial censuses did not collect data on the race of Guam's multi-cultural, multi-racial population in 1970 or in 1980. This was despite the fact that race was collected as a demographic item in the States during these two censuses. Guam has also had little success in attempting to obtain information on our civilian population separate from the military population. We have serious concerns about how well the questionnaire will meet our 1990 needs, based on previous experience.

The questionnaire is a means to an end, not the end itself. The end is the data that is made available for use. After the 1980 census, very little data was published, and no special studies were conducted. We would like the opportunity to realize the potential of the 1990 census by having greater access to our data.

It is important action be taken now because the Census Bureau is currently in the process of finalizing Guam's census questionnaire, tabulations plan, data processing plan, and type of data products to be released. The federal decennial census represents the potential for making available a rich, comprehensive account of the demographic, social, economic, and housing characteristics of our population. Guam will not have another opportunity of this nature for another decade.

AGANA STORM SURGE PROTECTION

The shoreline around Paseo de Susana has suffered from severe shoreline erosion over the years. The 1984 Project Report from the Army Corps of Engineers (ACOE) identified that 2,500 feet of shoreline has eroded as much as 40-50 ft. inland at various locations in Paseo since the original construction of the park after World War II. The ACOE has completed a draft Agana Bayfront Area Typhoon and Storm Surge Protection Study that proposes construction of a storm surge protection wall from Anigua to Agana River. A portion of the wall at Paseo would be located along the Paseo De Susana road way south of the stadium. This scheme will not provide shoreline protection from further erosion nor protect the entire park from storm surge. It is believed that federal (ACOE) budget priorities do not presently provide construction funding for enhancement of recreation areas.

Paseo de Susana is not only a major recreational area on our island but also a major tourist stop and location of thriving vendor operations. It is the site of the Public Market and the Fisherman's Co-Op which attract tourist and local residents with island produce and wares. It is also used as carnival grounds and for annual island festivities. Because of its commercial, cultural and recreational values, Paseo de Susana must be protected from further shoreline erosion.

In this respect, it is recommended that the Governor make attempts to:

1. Follow up with Congressman Ben Blaz on any progress following the Governor's letter dated May 25, 1988 (copy attached) regarding the project.
2. Meet with ACOE to convince them of the project need and to revise their funding priorities to include Paseo de Susana shoreline protection project.

RECEIVED

MAY 27 1988

IS & REC MAY 25 1988

DEPT

OFFICE

Honorable Ben Blas
Member of Congress
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Blas:

I wish to discuss with you the erosion on the Paseo de Susana, Agaña. The 1984 Project Report from the Army Corps of Engineers identified the problem that 2,500 feet of the park shoreline has eroded as much as 40-50 feet inland at various locations within the park since the original construction of the park landfill after World War II. Now as you will note from the enclosed letter from Colonel Wanner, District Engineer Corps of Engineers, federal budget priorities do not presently provide construction funding for enhancement of recreation.

The 33 acres of landfill was created from the rubble of Agaña after World War II by the U.S. Navy. By virtue of Public Law 88-664, title to the Paseo was acquired by the government of Guam from the federal government for civic, park, and recreational purposes. Over the years, the Paseo has been developed with outdoor recreation facilities that attract islandwide and international usage. This includes construction for the Paseo Stadium in the early 1980's funded by the Economic Development Administration and the Department of Housing and Urban Development. Tourists frequent the Statue of Liberty Park located at the outer tip of the Paseo, as a major tourist stop.

Therefore, I strongly urge that the federal government support their investment and direction given to use the Paseo as a park and recreational area.

I am, therefore, requesting your assistance toward obtaining Army Corps of Engineers funds for the shore protection project at the Paseo de Susana, Agaña.

Sincerely yours,

Joseph F. Ada
JOSEPH F. ADA
Governor

Enclosure

AFD/DEI/DTL/bc

April 22, 1988

cc: Department of Public and Economic Affairs

AGANA FLOOD CONTROL PROJECT

Proposal: To revise Army Corps of Engineers (ACOE) plan by constructing either a wall or road on the powerline easement and a concrete or riprap channel following the existing Agana River.

Advantages

1. Allows development to occur in the area between the powerline easement and East O'Brien.
2. Allows redesign of East O'Brien reconstruction to allow easier access to the road by adjacent property owners
3. May allow for municipal use of water
4. Eliminates high berm passing through entrance of Swimming Pool
5. May provide alternate access to Route 8

Disadvantages

1. Eliminates wetland habitats between powerline easement and East O'Brien
2. Could be more costly to construct since almost entire length of river will be concrete lined or ripraped
3. Will be more costly if road is constructed along pipeline easement.
4. Landowners south of the powerline easement could experience more flooding

Note

That portion of the project from the Swimming Pool to the Paseo will not be changed by this new proposal.



SETBISION MAMPLANEHA
GOVERNMENT OF GUAM
AGANA, GUAM 96910

OCT 26 1988

Memorandum

To: The Governor
From: Director, Bureau of Planning
Subject: Agana River Flood Control Project

As you may recall, the Army Corps of Engineers (ACOE) as supported by GovGuam has obtained federal funding for the construction of the above project (design of the project may already be completed). This project involves the construction of a concrete wall around the Agana Shopping Center, the construction of an earthen levee through the entrance of the Agana Swimming Pool and concrete lining of the appropriate sections of the Agana River out to the Paseo. This project is principally designed to protect Agana proper from flood waters originating from Sinajana and Mongmong.

To begin construction, the ACOE only needs GovGuam's share of the project estimated at \$1.2 Million which is currently proposed under the Infrastructure Improvement Bond authorized by Public Law 19-18. In addition, certain GovGuam in-kind services are required such as raising the elevation of East O'Brien bridge which Department of Public Works (DPW) currently has under contract for construction.

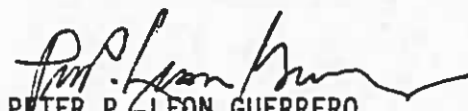
The East O'Brien approved contract has forced private landowners to reevaluate the Flood Control Project, resulting in various complaints as follows:

1. The flood control project will create more flooding in the swamp area and render private landholdings even less developable.
2. Flood waters should be contained for municipal use rather than diverted to the ocean.
3. The O'Brien road reconstruction will prevent adjacent landowners from accessing the new road since in some areas, the road will be as much as 15 feet higher than the private lands.

Over the years, the Bureau of Planning and other GovGuam agencies supported ACOE's plans for this project. With this new information however, we asked for agency input on another alternative (attached) and while some agencies have yet to respond, we recommend the following:

1. That the Governor request agencies to reevaluate the flood control plan.
2. That the Governor notify the ACOE of this reassessment and request ACOE to hold another public hearing.
3. That GovGuam proceed with securing its local share for the project.
4. That DPW immediately investigate methods that will allow the O'Brien contract to proceed but will also address Tandowner concerns.

Should you agree with these recommendations, I will prepare the necessary correspondence.


PETER P. LEON GUERRERO

Attachment

ADDRESS TO THE SECRETARY OF INTERIOR
AND CONGRESSIONAL DELEGATION
FEBRUARY 13, 1989 - 12 NOON
PORT AUTHORITY OF GUAM
APRA HARBOR, GUAM

CONGRESSMAN UDALL, SECRETARY OF INTERIOR LUJAN AND MEMBERS OF THE CONGRESSIONAL DELEGATION, GOVERNOR ADA AND LT. GOVERNOR BLAS, SPEAKER SAN AGUSTIN AND MEMBERS OF THE LEGISLATURE, COMMISSIONER RAYMOND LAGUANA AND MEMBERS OF THE COMMISSIONERS COUNCILS, DISTINGUISHED GUESTS, LADIES AND GENTLEMEN:

WELCOME TO THE PORT AUTHORITY OF GUAM, THE LIFELINE TO THE ECONOMIES OF GUAM AND MICRONESIA. WE ARE AN OPERATING PORT, EMPLOYING OVER 300 PERSONNEL IN SUPPORT OF BOTH THE CIVILIAN AND MILITARY COMMUNITY. WE HANDLE OVER 1.2 MILLION TONS OF DRY CARGO AND OVER 4 MILLION BARRELS OF PETROLEUM PRODUCTS ON AN ANNUAL BASIS. WE ARE AMERICA'S LINK TO ITS TRADING PARTNERS IN ASIA AND MICRONESIA.

THE MAGNITUDE OF SUPPORT THE PORT AUTHORITY OF GUAM PROVIDES TO OUR NATIONAL DEFENSE WAS BEST DESCRIBED BY A COMMENT MADE BY AN OFFICIAL OF THE NAVAL SUPPLY DEPOT ON GUAM. HE STATED THAT APPROXIMATELY EIGHTY FIVE PERCENT (85%) OF THE CARGO BROUGHT TO GUAM IN SUPPORT OF THE LOCAL MILITARY INSTALLATIONS ARE BROUGHT THROUGH THE COMMERCIAL PORT OPERATIONS.

WE HERE AT THE PORT AUTHORITY HAVE A DREAM. THAT DREAM IS TO REALIZE TRUE ECONOMIC SELF-SUFFICIENCY, TO PROVIDE SERVICE THAT IS SECOND TO NONE TO THE COMMUNITY WE SERVE, AND TO CONTRIBUTE WHAT A SEA PORT SHOULD BE ABLE TO CONTRIBUTE, BARRING ANY

CONSTRAINTS, TO THE ECONOMIES WE SERVE.

THE PORT AUTHORITY OF GUAM HAS DEVELOPED A BLUE PRINT FOR THE FUTURE, A BLUE PRINT THAT WILL INJECT OVER \$100 MILLION DOLLARS INTO GUAM'S ECONOMY. WE WILL INVEST CLOSE TO \$40 MILLION DOLLARS ALONE TO UPGRADE THE COMMERCIAL PORT FACILITY, EXPANDING OUR CARGO HANDLING CAPACITY TO MEET THE NEEDS OF THE FUTURE. THESE PLANS WILL NOT ONLY BENEFIT THE TERRITORY OF GUAM, BUT, MORE IMPORTANTLY, WILL HELP INSURE THAT OUR ROLE IN PROTECTING THE NATIONAL INTEREST IS ADDRESSED.

THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES HAVE CONSISTENTLY RECOGNIZED THAT THE PURSUIT OF ECONOMIC SELF-SUFFICIENCY FOR GUAM THROUGH IMPROVED TRANSPORTATION NETWORKS IS IN THE NATIONAL INTEREST (DOT 1985 TRANSPORTATION STUDY). IT WAS IN RECOGNIZING THE FACT THAT A VIABLE COMMERCIAL PORT OPERATION IS ESSENTIAL TO NATIONAL DEFENSE THAT CONGRESS RETURNED PROPERTIES AT APRA HARBOR TO THE GOVERNMENT OF GUAM THAT WERE DEEMED EXCESS BY THE MILITARY. BUT IT IS QUITE APPARENT THAT CONGRESS'S COMMITMENT TO GUAM AND THE COMMERCIAL PORT OPERATIONS WAS HALF-HEARTED.

U. S. PUBLIC LAW 96-418 SET THE GROUND WORK FOR THE TRANSFER OF APPROXIMATELY 927 ACRES OF RECLAIMED AND SUBMERGED LANDS IN APRA HARBOR TO THE GOVERNMENT OF GUAM. BUT THE TRANSFER WAS CONDITIONAL, MANDATING THAT IF THE GOVERNMENT OF GUAM SHOULD EVER DISPOSE OF THE PROPERTY BY LEASE OR BY SALE, IT MUST BE DISPOSED

OF AT FAIR MARKET VALUE, AND THE PROCEEDS RECEIVED FROM THE DISPOSITION OF PROPERTIES MUST BE REMITTED TO THE FEDERAL TREASURY. THIS RESTRICTION IS OUTLINED IN SECTION 818(B)2 OF PUBLIC LAW 96-418.

ACCORDING TO THE CONGRESSIONAL RECORD, CONGRESS'S INTENT IN PLACING THIS RESTRICTION WAS TO ACHIEVE THE TWIN GOALS OF PERMITTING ECONOMIC DEVELOPMENT ON GUAM WHILE AT THE SAME TIME PROTECTING THE INTERESTS OF THE UNITED STATES GOVERNMENT AND THE U.S. TAXPAYER WHO FINANCED THE CONSTRUCTION OF IMPROVEMENTS IN APRA HARBOR, GUAM.

ALTHOUGH CONGRESS'S INTENT SHOULD BE LAUDED, REALITY HAS SHOWN THAT IT WAS "FATALLY FLAWED". IF WE TAKE A MINUTE TO ANALYZE WHAT PROPERTY WAS RETURNED, WE WILL FIND A GRAVE INJUSTICE THAT WAS PERPETRATED ON THE PEOPLE OF GUAM.

PURSUANT TO THE TERRITORIAL SUBMERGED LANDS ACT OF 1963, 62 ACRES OF LAND , WHICH INCLUDES THE PRESENT COMMERCIAL PORT OPERATION AND THE INDUSTRIAL PARK, WAS DEEDED TO THE GOVERNMENT OF GUAM IN EXCHANGE FOR 324 ACRES OF GOVGUAM LAND THAT WAS TRANSFERRED TO THE DEPARTMENT OF INTERIOR FOR THE WAR IN THE PACIFIC NATIONAL HISTORIC PARK. GOVERNMENT OF GUAM PROPERTIES SUCH AS MT. TENJO, ASAN RIDGE, ASAN INVASION BEACH AND MT. ALUTUM, ARE NOW FEDERAL PROPERTIES RESERVED FOR DEPARTMENT OF INTERIOR PURPOSES. THEREFORE, THE GOVERNMENT OF GUAM PAID FOR THE IMPROVEMENTS MADE ON THE EXISTING COMMERCIAL PORT FACILITY AND THE CABRAS INDUSTRIAL PARK.

OF THE 927 ACRES TRANSFERRED THROUGH PUBLIC LAW 96-418, OVER 40% OF THE PROPERTIES ARE SUBMERGED LAND....CLOSE TO 50% ARE UNDEVELOPED PROPERTIES THAT WERE A PART OF CABRAS ISLAND WHEN CAPTAIN GLASS SAILED INTO APRA HARBOR. THE REMAINING 10% OF THE PROPERTIES INCLUDE A PETROLEUM HANDLING FACILITY WHICH WAS BUILT AND FINANCED BY MOBIL OIL BACK IN THE 1950'S WHICH WILL REQUIRE APPROXIMATELY \$4.8 MILLION DOLLARS TO RESTORE, A FUEL PIER FINANCED AND CONSTRUCTED BY THE GUAM OIL AND REFINING COMPANY, AND HOTEL WHARF WHICH, TO THIS DAY, HAS NOT BEEN TRANSFERRED TO THE CONTROL OF THE GOVERNMENT OF GUAM.

WE CANNOT UNDERSTAND WHY CONGRESS BELIEVES THAT THE INTEREST OF THE UNITED STATES CAN BE PROTECTED BY THE REVERSION OF LEASE PAYMENTS OF CABRAS ISLAND PROPERTIES. WE ARE ONLY TALKING ABOUT APPROXIMATELY \$3 MILLION DOLLARS OF POTENTIAL LEASE PAYMENTS ON AN ANNUAL BASIS, A SPEC OF DUST IN THE TOTAL FEDERAL BUDGET, BUT A SIGNIFICANT AMOUNT OF FUNDS THAT CAN BE FUNNELED TOWARDS THE DEVELOPMENT OF THE COMMERCIAL PORT OPERATION, AN ESSENTIAL KEY IN THE UNITED STATES' GLOBAL DEFENSE STRATEGY IN ASIA.

WE HAVE A CATCHY PHRASE THAT THE LOCALS ARE FAMILIAR WITH. IT IS COMMONLY REFERRED TO AS OOG, AN ACRONYM FOR "ONLY ON GUAM". ONLY ON GUAM DO WE HAVE A RESTRICTION SET BY CONGRESS THROUGH SECTION 818(B)2 OF PUBLIC LAW 96-418 THAT REQUIRES US TO REMIT LEASE PAYMENTS RECEIVED ON CABRAS ISLAND PROPERTIES TO THE FEDERAL GOVERNMENT. WE HAVE DONE EXTENSIVE RESEARCH AND FOUND THAT IN OTHER U.S. PORTS, SUCH RESTRICTIONS DO NOT APPLY. IN FACT, THE PORT OF OAKLAND WAS RECENTLY GRANTED A 50 YEAR LEASE ON 195 ACRES OF FEDERAL PROPERTY. THE MAJOR ADVANTAGE IN THE LEASE

ARRANGEMENT OFFERED TO THE PORT OF OAKLAND AND AUTHORIZED BY U.S. CONGRESS IS THAT FUNDS RECEIVED AS A RESULT OF LEASE PAYMENTS MADE TO THE FEDERAL GOVERNMENT CAN BE USED BY THE PORT OF OAKLAND FOR MAINTENANCE, REPAIR AND IMPROVEMENTS TO THE LEASED AREA. WHY IS THAT SAME OPPORTUNITY NOT AFFORDED THE TERRITORY OF GUAM THROUGH SECTION 818(B)2 OF PUBLIC LAW 96-418?

HERE'S ANOTHER EXAMPLE OF OOG. WE ARE SURE THAT IN ALBUQUERQUE, NEW MEXICO, OR TUSCON, ARIZONA, THERE IS NO SUCH THING AS BEING HALF-PREGNANT. BUT, HERE , AT THE PORT AUTHORITY OF GUAM, WE ARE EXACTLY THAT... HALF-PREGNANT, ABLE TO CONCEIVE, BUT UNABLE TO DELIVER.

WE CAN CONCEIVE THE GREATEST DEVELOPMENT PLAN THAT WILL PROVIDE IMMEASURABLE BENEFITS TO THE LOCAL ECONOMY AS WELL AS INSURING THE PROTECTION OF OUR NATIONAL INTEREST, BUT THE PORT AUTHORITY OF GUAM CANNOT DELIVER BECAUSE CONGRESS REFUSES TO NOURISH THE AUTHORITY BY ITS ENACTMENT OF SECTION 818(B)2 OF PUBLIC LAW 96-418.

SECRETARY OF THE INTERIOR LUJAN AND HONORABLE CONGRESSMEN, YOU ARE THE PHYSICIANS. YOU MUST DECIDE WHETHER WE CONTINUE OR ABORT THE PREGNANCY. THE PORT AUTHORITY OF GUAM IS NOT ASKING FOR FEDERAL FUNDING TO SUPPORT OUR EXPANSION PLANS. ALL WE ASK IS THAT THE SECRETARY OF THE INTERIOR SUPPORT AND THE 100TH CONGRESS ENACT ONE SENTENCE INTO LAW. THAT SENTENCE SHOULD READ:

"SECTION 818(B)2 OF PUBLIC LAW 96-418 IS HEREBY REPEALED."

THANK YOU.

DEFENSE ACCESS ROADS

Pursuant to 23 USC 210, the Defense Access Roads Program provides a means by which the federal government can pay its share of the cost for new roads, highway improvements and repairs. Presently, GovGuam is seeking funding for the design of Route 3 (NCS); Routes 1 and 2 (Agana to Agat); and Route 15 (back road to AAFB). No funding has yet to be identified for construction. Each of these roads services major military installations and military assistance in funding them could ensure expeditious completion.

The Governor could request the DOD's assistance in furthering our understanding of this program, how it works, and funding potentials. The Governor could request that the DOD work with GovGuam in the following areas:

1. The identification of access roads critical to defense needs on Guam; and
2. Coordination with the Military Traffic Management Command which is apparently responsible for the integration of defense needs into the nation's highway programs.

BASE CLOSURE AND REALIGNMENT ACT OF 1988

Section 206 (b) of P.L. 100-526 (Base Closure and Realignment Act of 1988) mandates the Secretary of Defense to complete a study on Overseas Bases (i.e., those bases outside the US and its territories) by October 15, 1988. If GovGuam could obtain a copy of this report from DOD or any other source, it should assist in our understanding of the role Guam may have in this area.

It would also be useful to inquire from DOD or Congressional officials on whether the base closure listing and overseas basing study will be updated periodically. Updating is important for Guam in that the Bureau has recommended that NAS be placed on this list.

Finally, it would be useful in our efforts to secure releasable federal lands if we could obtain copies of any agreements, regulations, or other documents that effectuate the transfer of General Services Administration responsibility for disposing excess/surplus federal lands to the Secretary of DOD as called for in Public Law 100-526. A determination as to whether this transfer authority applies to all DOD releasable land or just to those on the base closure listing would be extremely useful as we will be able to determine whose approval is final.

AIR TRAFFIC CONTROL

The National Airspace Systems Plan (1981) prepared by the U.S. Department of Transportation indicates that FAA will not exercise air traffic control responsibilities on Guam from 1990-1991 and beyond. This responsibility will be transferred to the Department of the Air Force in order to reduce FAA costs. FAA however, will continue to maintain air traffic control equipment for an undetermined length of time after 1990-1991.

If this transfer is consumated, the following problems are expected:

1. Priority will be assigned to military aircraft in the allocation of air space such that greater costs especially for fuel will be incurred by commercial air traffic and consumers.
2. The potential for aircraft accidents may increase given that Air Force will probably use Guam as training ground for controllers given the relatively little amount of traffic.

It is suggested that DOT/FAA officials immediately plan to conduct a briefing on the National Airspace Systems Plan to local officials on Guam at the earliest possible time.



Territory of Guam

Territorial Guam

OFFICE OF THE GOVERNOR
URISINAN IMAG'LAHI
AGANA, GUAM 96910 U.S.A.

FOR IMMEDIATE RELEASE:
SEPTEMBER 26, 1988

BLAS, SANTOS, MEET WITH FBI ON TAIWAN VISA WAIVER

Acting Governor Frank F. Blas and Senator Frank R. Santos - Chairman and Vice-Chairman, respectively, of the Guam Aviation Policy Task Force - were briefed this morning by officials of the Federal Bureau of Investigation on the Bureau's position of extending the Guam Visa Waiver Program to Taiwan.

"It was a very general briefing," said the acting Governor. "The FBI indicated it is still opposed to the extension of the program based on overall FBI national security concerns."

"Since it was a general briefing, however, the officials with whom we met were not specific as to their security concerns."

Taiwan recently hosted the Miss Universe Pageant, Blas noted, and there were no untoward incidents. "We do not feel there is a security risk," he said.

"The Territory of Guam stands to gain much from the extension of the program," Blas continued. "From a business and economic standpoint, we see a great deal of potential investment if the program can be extended. Therefore, we are recommending to the Aviation Policy Task Force members that they ask Governor Ada to address a strong letter to the FBI in Washington, D.C., asking the Bureau to reconsider its position."

"We are hopeful the Bureau will reconsider, considering the strong bipartisan support for the extension of this program," said the acting Governor.

The Visa Waiver Program - as approved by the U.S. State Department - is scheduled to go into effect on Saturday, October 1, to include Japan, Australia, New Zealand, Brunei, Great Britain, Papua New Guinea, Hong Kong, Indonesia, Singapore, Malaysia, Vanuatu, Fiji, New Caledonia and Thailand.

n Agustin worries out GMH raises

Joe T. San Agustin today that he is concerned that unclassified employees at GMH will lose raises they were supposed to get this year.

Senator explained, the 1988 Budget provides a 10 percent raise for these employees but the hospital is unable to implement it. If they act before Oct 1, these employees may lose the pay adjustment because their fiscal budget will have expired. The provisions of the Act GMH cannot carry his funding to the next year even if it has not used.

Agustin also stated, and the welfare of the employees, I am concerned about the board's failure to address

this issue will adversely impact on employee morale at the hospital. Given that the nurses and other classified employees at GMH have already received their reclassifications, the board's failure to act can not help but hurt employee morale. This would undermine efforts to improve the managerial capability of the hospital.

San Agustin went on to say, "I don't understand why the board is being neglectful of this situation. GMH officials have assured me that the hospital has adequate cash resources to cover this pay adjustment so there really isn't much excuse for this lack of action on the part of the board."

ijan wants work release nds to compensate victims

Justice, Judiciary, and Criminal Justice Committee woman Pilar C. Lujan has introduced a legislative provision that a portion of Inmate Work Release Program earnings be deposited for compensation to victims.

Senator's amendment drafted after evaluation of proposal, calling for the creation of a defunct

mates' confinement. The remaining balance is to be expended for support of inmates' dependents and debts, if any. Lujan recommends that net earnings be deposited into a Criminal Injuries Compensation Fund after these obligations are met.

"One is partially paying his debt back to society under this proposal. As a funding mechanism, this is very feasible."

By J.B. GUERRERO
Guam Tribune Staff

Senator F.R. Santos yesterday said there is discrimination towards policies and programs on Guam with headquarters in such as the Guam-only visa waiver program designed to avail the Territory of the rapid economic progress being experienced in the Pacific Rim.

Santos, chairman of the Committee on Federal, Foreign and Legal Affairs, was referring to the Federal Bureau of Investigation (FBI) opposition to extending the Guam visa program to Taiwan.

Santos said that he and Lt. Governor Frank F. Blas were briefed last Monday on the FBI's position towards extending the Guam visa waiver program and it was noted that the opposition was based on overall FBI "national security concerns relative to the general opening up of Guam to visitors from Taiwan."

In a letter to U.S. Attorney General (AG) Richard Thornburgh, Santos requested that the AG and the Department of Justice review and reassess

"With the limitless

the FBI's opposition to the extension of the Guam visa waiver program to Taiwan.

He pointed out that there are already thriving businesses on Guam with headquarters in Taiwan and in view of this, he found it difficult to understand the FBI's opposition based on economic progress being experienced in the interests of national security.

Businessmen from Taiwan come to Guam regularly and have never heard of any problems in securing visas for travel from Taiwan to Guam for such purposes.

Santos further said: "I am very concerned about this issue because of the many opportunities and potentials that could be missed by Guam insofar as business investments are concerned. I am also concerned about it because Taiwan could be a lucrative tourist market for Guam. The tourist industry is a vital source of revenues and jobs for Guam. Opening up the Taiwan market will provide a market for more tourists."

Santos calls FBI's visa waiver stance discriminatory

resources available to the FBI with their world renowned capabilities and talent, I find it difficult to believe that some form of methodology or procedure could not be developed and implemented that would protect and provide for national security interests but would also permit the continued expansion and progress in Guam's tourist industry, as well as make available to Guam the tremendous potential investments and business opportunities that presents, I am requesting that the Department of Justice reassess their position because to let these opportunities and potentials go unattended would be a disservice to Guam and its people.

The Visa Waiver Program has been approved by the U.S. State Department and is scheduled to go into effect tomorrow to include Japan, Australia, New Zealand, Brunei, Great Britain, Papua New Guinea, Hong Kong, Indonesia, Singapore, Malaysia, Vanuatu, Fiji, New Caledonia and Thailand.

Gov Guam has first budget surplus in 14 years: Governor

Governor Joseph F. Ada announced that according to current law, employees of the Government



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 5 1988

Honorable Joseph F. Ada
Governor of Guam
Agana, Guam 96910

Dear Governor Ada:

Secretary Hodel has asked me to respond to your March 16 letter requesting emergency designation of critical habitat to protect endangered forest birds and fruit bats of Guam.

The Fish and Wildlife Service's (Service) September 23, 1987, letter to you pointed out that designation of critical habitat is not a petitionable action under the Endangered Species Act and that your petition was being considered under the Administrative Procedure Act. The Service continues to consider your concerns for these species while assessing whether or not designation of critical habitat would be beneficial. Protection for the habitat of these species continues to be provided through the provisions of section 7 of the Endangered Species Act.

Your second petition requests that the designation of critical habitat be treated as an emergency action. Administratively, the Service will treat this petition as a request for the basic action, designation of critical habitat. If a determination is made that the requested action should be pursued, the Service will also determine whether the regular rulemaking process or the emergency rule process should be followed. The Service continues to consider your request that critical habitat be designated, but does not feel that an emergency situation exists.

It is our understanding that the U.S. Navy has declared a moratorium on construction of its proposed radar project at Anderson Air Force Base while it conducts a full environmental review. This process will include collection of additional biological data, preparation of an environmental impact statement, and solicitation of public comment. In view of this moratorium and considering that the current plight of Guam's endangered species is largely the result of predation by the brown tree snake, not loss of habitat, an emergency situation does not appear to exist.

While the Navy is conducting its environmental review, the Service will continue its effort to gather the most current information available on the extent and suitability of habitat for these species, in order to monitor

Honorable Joseph F. Ada

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habitat changes on Guam. After this information is gathered, the Service will make a decision on your request that critical habitat be designated.

Thank you for bringing your concerns to our attention. If I can be of further assistance, please let me know.

Sincerely,

(Sgd) Susan Recce

~~Acting~~ Assistant Secretary for Fish
and Wildlife and Parks



Territory of Guam

OFFICE OF THE GOVERNOR

AGANA, GUAM 96910

U.S.A.

MAR 16 1988

Honorable Donald Hodel
Secretary of the Interior
Department of the Interior
Washington, D.C.

Dear Mr. Secretary:

On August 17, 1987, I sent the enclosed letter to the Director of the Fish and Wildlife Service, petitioning him to designate critical habitat for five bird and two fruit bat species that were listed on the U.S. Endangered Species List on August 27, 1984 (Federal Register 49(167):33881-33885).

He replied on September 23, 1987, stating that the Service would promptly conduct a review of the situation and take appropriate action (copy enclosed). Since that date, no discernible action has been taken to review the situation and the level of threat to the endangered species resources and their habitat on Guam has significantly increased. I am now petitioning you to designate critical habitat for these species under the Emergency Rule provisions of 50 CFR 424.20.

The "relocatable over-the-horizon radar" receiver project sponsored by the U.S. Navy that I referred to in my August 17, 1987 petition is proceeding as planned, but it now appears that the actual impacts of the project will be far more severe than previously realized. This project, which is comprised of an array of three receiver installations on Guam, will require the total clearing and leveling of a minimum of six hundred acres for the antenna sites themselves (200 acres per installation) and the near total clearing and topographic modification of a 200-400 acre "extended area" for each site. The total habitat loss that may be expected should this project proceed to completion as planned may exceed 1600 acres. All of the habitat that is in jeopardy of permanent loss is specifically identified as "high priority essential habitat" in the U.S. Fish and Wildlife Service's draft Recovery Plan for the Native Forest Birds of Guam. This Plan defines "high priority essential habitat" as "...the absolute minimum secure habitats considered necessary for the survival of these endangered species."

Despite the specific protection for this area called for in the draft Recovery Plan, and despite the fact that one of the proposed receiver sites currently supports the last known wild population of the endangered Micronesian Kingfisher and also is actively used by the endangered Marianas Crow and the endangered Mariana fruit bat, on September 15, 1987 the Service issued a "non-jeopardy" Biological Opinion under Section 7 of the Endangered Species Act of 1973, as amended (the Act). The basis for this decision was in part due to the fact that the protections of Section 7, as interpreted by the Service in this case, apply only to designated critical habitats. Apparently, the presence of these endangered species on the project site was inadequate to protect the habitat, even though the preamble to the

Section 7 implementing regulations states "...that Section 7 protections attach to both designated critical habitat and to each individual of a listed species... and " ...An action could jeopardize the continued existence of a listed species through the destruction or adverse modification of its habitat, regardless of whether that habitat has been designated as "critical habitat." (51 FR at 19927).

In retrospect, the decision of the Service not to designate critical habitat for these species at the time that they were listed was imprudent and shortsighted. A significant threat of "destruction and adverse modification" of "high priority essential habitat" has developed since the date that the species were listed as endangered, and the protection of that habitat that is implied in the above-quoted preamble did not occur. The statements in the Final Rule that placed these species on the U.S. Endangered Species List (49 FR at 33884) that "...determination [of critical habitat] would result in no known benefit to the species." and "...Should any other potential adverse effects [on the habitat] develop, the involved agencies could be informed by means other than a critical habitat determination..." was overly optimistic in its view of the future application of Section 7, and unfortunately disregarded one of the most important protections of Section 7 with regard to the eventual recovery of the listed species.

As applied by the Service in this case, Section 7 does not contemplate the eventual recovery of the listed species in question and the need to preserve "high priority essential habitat" for this purpose. However Congress, in its wisdom, foresaw the need to preserve habitat for the eventual recovery of listed species when the Act was written. The definition of critical habitat was not limited to areas occupied by endangered species at the time of listing, but was broadened to include "...specific areas outside the geographical area occupied by the species at the time it is listed ... upon a determination ... that such areas are essential for the conservation of the species." Congress intended that such essential areas within and without the geographic range of the species at the time of listing be designated as critical habitat and extended the protection of Section 7 to such areas.

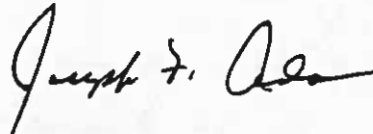
Since the time of listing, Guam's endangered species have continued to decline, to the point that several are now presumed to be extinct on the island and others are greatly reduced in range and their populations are precariously low in number. Because of this drastic decline in Guam's native fauna, large geographic areas that were occupied at the time of listing are now devoid of native endangered species, and although specifically identified as "high priority essential habitat", in the absence of critical habitat designation enjoy none of the protections of Section 7. As I stated above, even areas that currently support the last known remaining wild population of a listed species have failed to enjoy significant protection under Section 7.

Two of Guam's endangered birds, the Guam Rail and the Micronesian Kingfisher, currently have active and so far successful captive breeding programs, and other species, such as the Marianas Crow, are still extant in the wild on Guam. Those areas identified as "high priority essential habitat" are vital to the eventual recovery of these species.

The mistakes of the past could be rectified and a significant benefit would accrue to the listed endangered species of Guam if critical habitats were to be designated now. Because no discernible action has been taken on my August 17, 1987 petition to the Fish and Wildlife Service, I am now petitioning you to use your authority under 50 CFR 424.20 to issue an Emergency Rule designating critical habitat for the endangered forest birds and fruit bats of Guam, and to base this designation upon the geographic areas identified as "high priority essential habitat" in the draft Forest Bird Recovery Plan and as "essential habitat" in the draft Mariana Fruit Bat Recovery Plan. Maps of these areas are enclosed for your information.

Your favorable consideration of this request will be greatly appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read "Joseph F. Ada". The signature is fluid and cursive, with a long horizontal stroke at the end.

JOSEPH F. ADA
Governor

Enclosures

cc: Congressman Blaz
F&WS, Honolulu
F&WS, Portland
Sierra Club Legal Defense Fund
Marianas Audubon Society
National Audubon Society
Secretary Emeritus, Smithsonian Institution
CNMI Fish & Game
Col. Tatum, AAFB
Cmdr. Rushing
COMNAVMAR
Bureau of Planning
Attorney General

0000
AUG 17 1987

Mr. Frank Dunkle
Director
U. S. Fish and Wildlife Service
Washington, D.C. 20240

Dear Mr. Dunkle:

I am with this letter petitioning the U. S. Fish and Wildlife Service to designate critical habitat for 5 bird and 2 fruit bat species that were listed on the U.S. Endangered Species List on August 27, 1984 (Federal Register 49(167):33881-33885).

The original request to list the Guam Rail (*Rallus owstoni*), Mariana Fruit Bat (*Pteropus m. mariannus*), and Little Mariana Fruit Bat (*Pteropus tokudae*) as endangered was made on August 28, 1978 by then Governor of Guam, Ricardo J. Bordallo. Additionally, on February 27, 1979, while Acting Governor of Guam, I asked the Service to also list as endangered several other species of native forest birds including the Micronesian Kingfisher (*Halcyon c. cinnamomina*), Guam Broadbill (*Myiagra freycineti*), Mariana Crow (*Corvus kubaryi*), and Bridled White-eye (*Zosterops c. conspicillata*). Critical habitat for these species was proposed at the time of both listing requests.

In the Final Rule that placed these species on the U.S. Endangered Species List (49 FR at 33884), the Service found:

" that a determination of critical habitat is not prudent. Such a determination would result in no known benefit to the species. The only Federal activity currently known to have a potential adverse impact on any of the species is the clearing of land by the U.S. Air Force in a portion of the Guam Rail's habitat on Andersen Air Force Base. In that case, the area in question is well defined and the Air Force has been made aware of the problem. Should any other potential adverse effects develop, the involved agencies could be informed by means other than a critical habitat determination.....".

Conditions since the original listing have changed considerably and we now believe that designation of critical habitat is both prudent and necessary for the preservation and recovery of Guam's endangered species. Recent events involving planned military development by the U.S. Navy within Northwest Field on Andersen Air Force Base illustrates the vital need for critical habitat designation. Because no critical habitat is currently listed on Guam, the Navy felt free to proceed with a proposed project without the benefit of Section 7 review, even though endangered species are known to occupy the area in question. This project, which comprises a series of "relocatable over-the-horizon radar" receiver sites, would, if completed as proposed by the Navy, completely clear and level over 600 acres of prime endangered species habitat in northern Guam.

Critical habitat designation is uniquely important in the instance of Guam's endangered wildlife. We have a situation in which an extremely limited land area is available as habitat for these animals and the remaining populations of these species are declining rapidly primarily due to as yet uncontrolled predation by the introduced brown tree snake, *B. irregularis*. Several species have already become extinct on Guam, and remaining wild populations of others are extremely low and limited in distribution.

At the present time, the Guam Broadbill and Bridled White-eye are virtually extinct, as they have not been observed since 1985. Captive breeding programs have been established for the Micronesian Kingfisher and Guam Rail, both of which have been observed less than three times over the past year. The Mariana Crow, which is also found on Rota in the Commonwealth of the Northern Mariana Islands (CNMI), presently numbers less than 50 in the wild on Guam. Approximately 400-500 Mariana Fruit Bats are still extant on Guam, but no Little Mariana Fruit Bats have been observed on Guam since 1988. Predation by the brown tree snake is now believed to be the principle factor responsible for the decline of forest birds, while both snake predation and illegal hunting are thought to be responsible for the decline of the bats.

The prime objective of the captive breeding programs for the kingfisher and rail is the eventual reintroduction of these species into the wild on Guam once effective control of the brown tree snake is achieved. The fact that the crow and several other species are still extant on Rota and other islands in the CNMI makes possible the eventual reintroduction of these species to Guam as well. These facts make it vital that effective protection be extended to prime endangered species habitats on Guam in order that the potential for successful reintroduction, which is a vital action for the recovery of the species, not be compromised.

Because several endangered species have already disappeared from the wild on Guam, and others are of such low population and limited distribution, it is likely that none will be found to be present on lands proposed for various developments. Fortunately, Congress foresaw such situations and, when extending protection to the habitat of endangered species through the critical habitat concept, did not restrict the definition of critical habitat to areas presently occupied by the species. Rather, they specifically provided for critical habitat protection for areas outside the area presently occupied if they are determined to be essential for the conservation of the species. Without the protection extended to critical habitats under Section 7 of the Act, we are very concerned that irreversible federal actions may take place that would significantly reduce the availability of those prime habitats and thus jeopardize the successful reintroduction of these species.

As we understand it, for all projects federal agencies must answer two basic questions under Section 7:

1. Is there an endangered species present?
2. Is there designated critical habitat present?

If the answer to both is negative, then the agency may be able to avoid a Section 7 consultation and possibly proceed with the project to the ultimate detriment of the species.

Even if an agency initiates a Section 7 consultation process, there are significant advantages to having designated critical habitat, as the Fish and Wildlife Service has a more clearly defined statutory mandate to follow when preparing the required biological opinion. We believe that this is an important distinction and that it is vital that critical habitats be designated now for Guam's endangered species.

We recommend that the areas identified as "essential habitat" in their respective U.S. Fish and Wildlife Service recovery plans be designated critical habitat. The Recovery Plan for the Native Forest Birds of Guam specifies essential habitat for the rail, booby, white eye, kingfisher, and crow. The Recovery Plan for the Marianas Fruit Bat and Little Marianas Fruit Bat specifies essential habitat for both bat species.

Your favorable consideration of this request will be appreciated.

Sincerely,

Joseph F. Ada
JOSEPH F. ADA
Governor

cc: Colonel Tatum, AAFB
Congressman Blaz

cc: Agriculture



ACCEPTED BY THE DIRECTOR
FISH AND WILDLIFE SERVICE

United States Department of the Interior

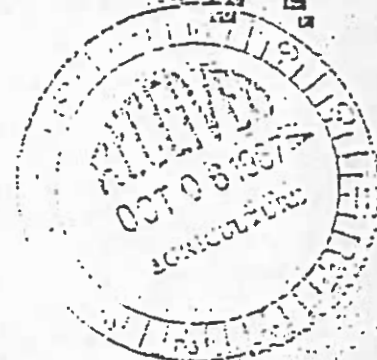
FISH AND WILDLIFE SERVICE

WASHINGTON, D.C. 20240

SEP 23 1987

In Reply Refer To:
FWS OES F37-00340

TAKE
PRIDE IN
AMERICA



Honorable Joseph F. Ada
Governor of Guam
Agana, Guam 96910

Dear Governor Ada:

Thank you for your August 17 letter concerning the designation of critical habitat for the Mariana fruit bat (Pteropus mariannus mariannus), little Mariana fruit bat (Pteropus tokudae), Guam rail (Rallus owstoni), Micronesian kingfisher (Halcyon cinnamomina cinnamomina), Guam broadbill (Nyctyagra freycineti), Mariana crow (Corvus kubaryi), and bridled white-eye (Zosterops conspicillata conspicillata).

As you know, the two bats and five birds for which you have requested critical habitat designations were listed as endangered species in a final rule published in the Federal Register on August 27, 1984. At that time, the Fish and Wildlife Service found that a determination of critical habitat was not prudent. Your petition advocates that a considerable change in conditions now warrants a reconsideration of the earlier finding. The Code of Federal Regulations (50 CFR 424.14(d)) provides that petitions for the determination of critical habitat shall be addressed pursuant to the Administrative Procedure Act (5 U.S.C. 553). In accordance with these Federal regulations, the Service will promptly conduct a review of the situation and take appropriate action.

I appreciate your concern for the protection of endangered species and will contact you upon completion of the Service's review. If I can be of any further assistance, please let me know.

Sincerely,

DIRECTOR



Endangered Native Forest Birds
of
Guam and Rota of Mariana Islands
Recovery Plan

Published by
U.S. Fish and Wildlife Service
Portland, Oregon

Approved: _____

Title

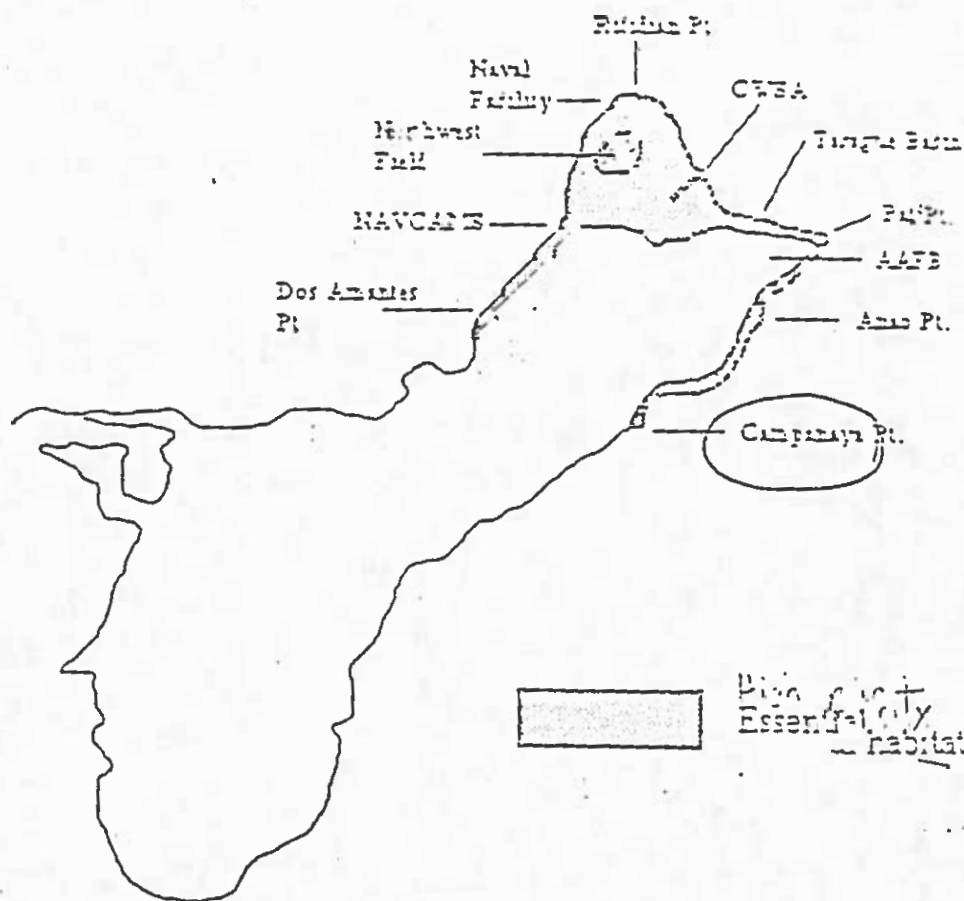


Figure 8. Location of high priority essential habitats in Northern Guam.

APPENDIX A

ESSENTIAL HABITAT

High priority essential habitats for five endangered Guam forest birds in northern Guam have been specifically delineated in Figure 9. The area indicated in northern Guam represents the absolute minimum secure habitats considered necessary for the survival of these endangered species. Long term survival and eventual recovery is dependent on maintaining population levels and distributions large enough to prevent deterioration of genetic variation through inbreeding. The density of birds in this northern portion of their essential habitat will depend primarily upon the level of control of the snake and/or other possible predators. Expansion of range and reestablishment of these species in essential habitats in southern Guam is anticipated if/as island-wide control of the brown tree snake proceeds. Only when the species have become fully reestablished over their entire historical range can they be considered as recovered.

The high priority essential habitats in northern Guam forms a horseshoe-shaped strip of land extending north from Puntan Dos Amantes Park on the west coast, continuing around Ritidian Point, east to Pati Point, and finally

extending south to Campanaya Point. This essential habitat consists of the land area between the beach and the cliffline, and in some areas, extending up to 1 km. inland. The Conventionally Designated CHA and Northwest Field (NWF) on Andersen Air Force Base are also included in this essential habitat.

Essential habitat for the five species consisting of former historical range in central and southern Guam also needs to be protected and managed. If the brown tree snake can be eliminated from these areas these habitats should be able to once again support their former assemblages and numbers of avian species. When this occurs, the listed species can truly be considered to have recovered from virtual extinction.

Figure 9.

Specific descriptions of high priority essential habitats in northern Guam. Key to designated areas: Andersen Air Force Base (1); private property from Bergman to Pajon Point (2); Naval Facility (3); Private property from Achae Point to Falcona Beach (4); territorial property at Falcona Beach (5); Naval Communications Area Master Station (6); federal property from Ague Point to Amantes Point and administered by Federal Aviation Authority (7); navy (8); Air Force (9); Amantes Point Area (10); Puntan Dos Amantes Park (11); territorial property from Anao Point to Campanaya Point including the Anao Conservation Reserve (12); Private property at Janum Point (13); Lot Numbers 7102 and 7103 (14); Lot Number 7147 (15); and Lot Number A (16).

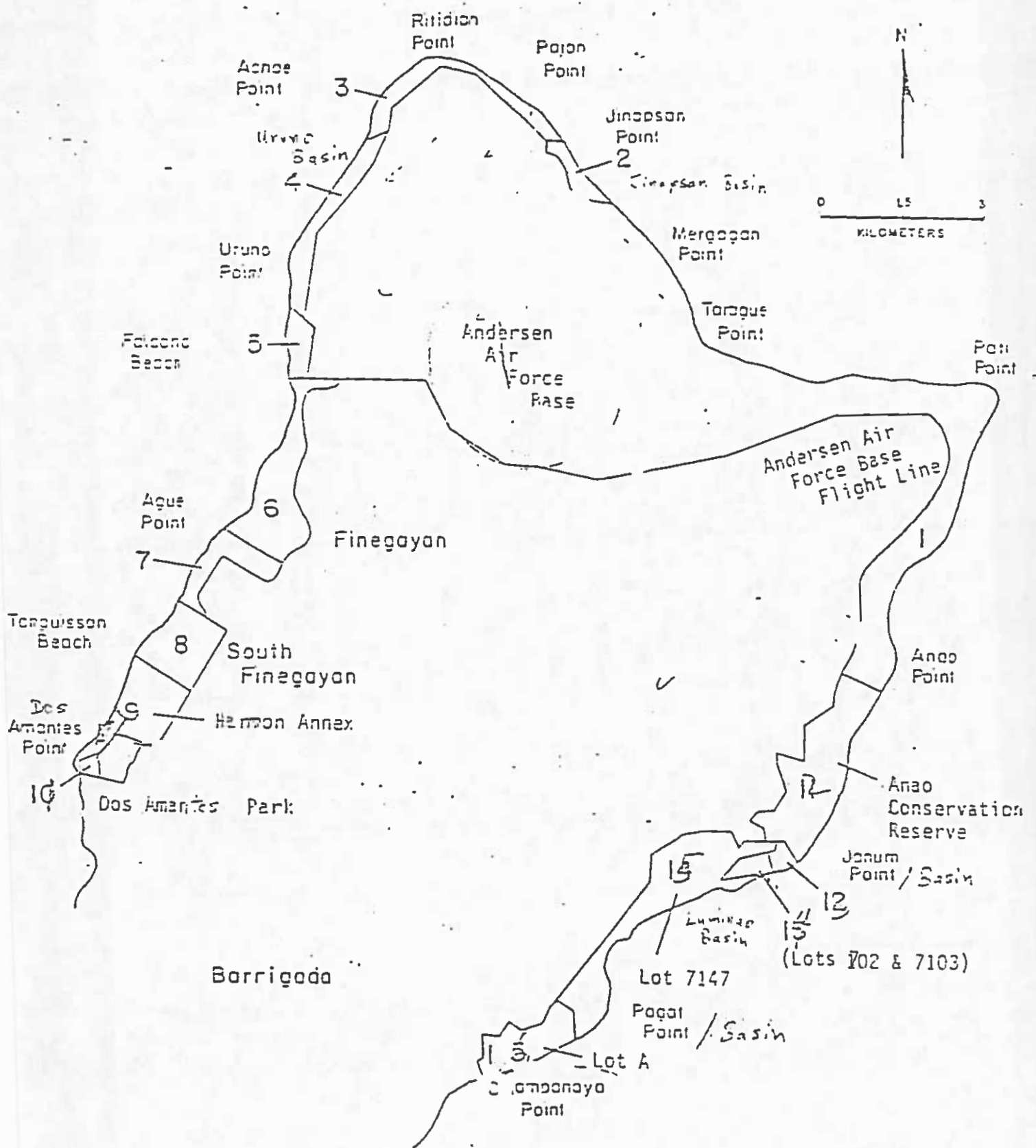


Figure 9. High-priority essential habitats in Northern Guam for the five endangered Guam forest birds.

AGENCY REVIEW DRAFT
RECOVERY PLAN FOR THE
MARIANAS FRUIT BAT AND LITTLE MARIANAS FRUIT BAT ON GUAM

Published by
U.S. Fish and Wildlife Service
Portland, Oregon

Approved: _____

Title

Date

APPENDIX A

ESSENTIAL HABITAT

Essential habitat for Marianas fruit bats has been delineated in northern and southern Guam (Figures 3, 4). This bat species was historically found throughout much of the island but in recent times has become restricted to forested cliffhines in northern Guam and forested ravines and hillsides in southern Guam. Approximately 90% of the island's present fruit bat population occurs in Andersen Air Force Base (AAFB) area. Preservation of essential forest habitat is necessary for the full recovery of Marianas fruit bats on Guam. The areas designated in this plan contain known roosting and foraging sites for fruit bats. In addition, the maintenance of large tracts of forest, such as those on AAFB, is important by helping to isolate fruit bats from illegal hunting.

Because little information exists on the habitat use and distribution of little Marianas fruit bats, it is difficult to determine essential habitat for this species. However, it seems likely that the areas delineated for P. m. mariannus will also be of great value to any remaining P. tokudae.

In northern Guam, essential habitat consists of cliffhine forest

Figure 3.

Essential habitat of fruit bats in northern Guam.
Key to designated areas: Andersen Air Force Base (1); private property from Mergagan to Pajon Point (2); Naval Facility (3); private property from Achae Point to Falcona Beach (4); territorial property at Falcona Beach (5); Naval Communications Area Master Station (6); federal property from Ague Point to Amantes Point and administered by Federal Aviation Authority (7), Navy (8), and Air Force (9); Puntan Dos Amantes Park (10); private property at Janum Point (12); and territorial property from Anao Point to Campanaya Point including the Anao Conservation Reserve (11), Lot Numbers 7102 and 7103 (13); Lot Number 7147 (14); and Lot Number A (15).

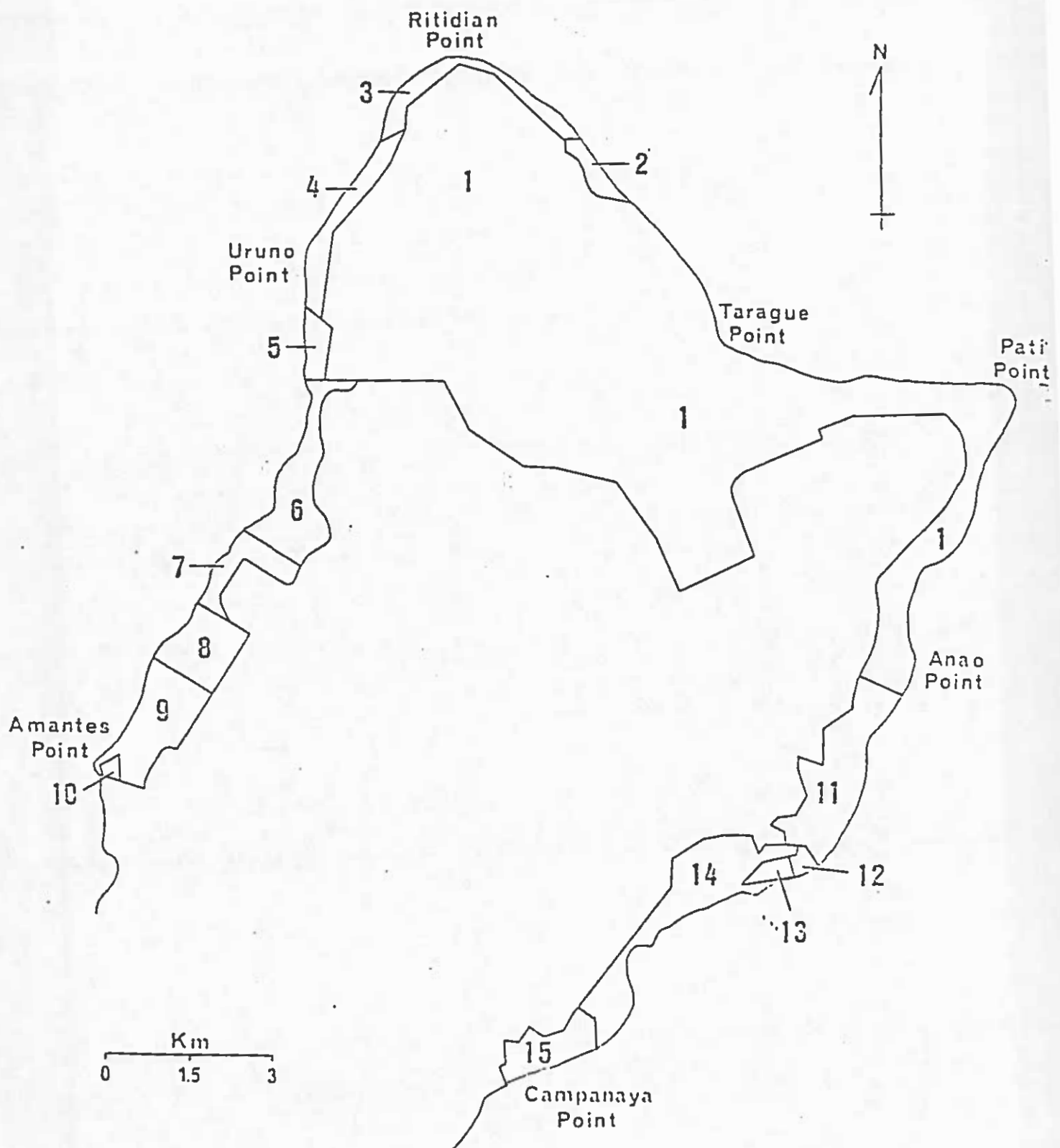


Figure 3
Essential habitat of fruit bats in northern Guam. (See Page 90.)

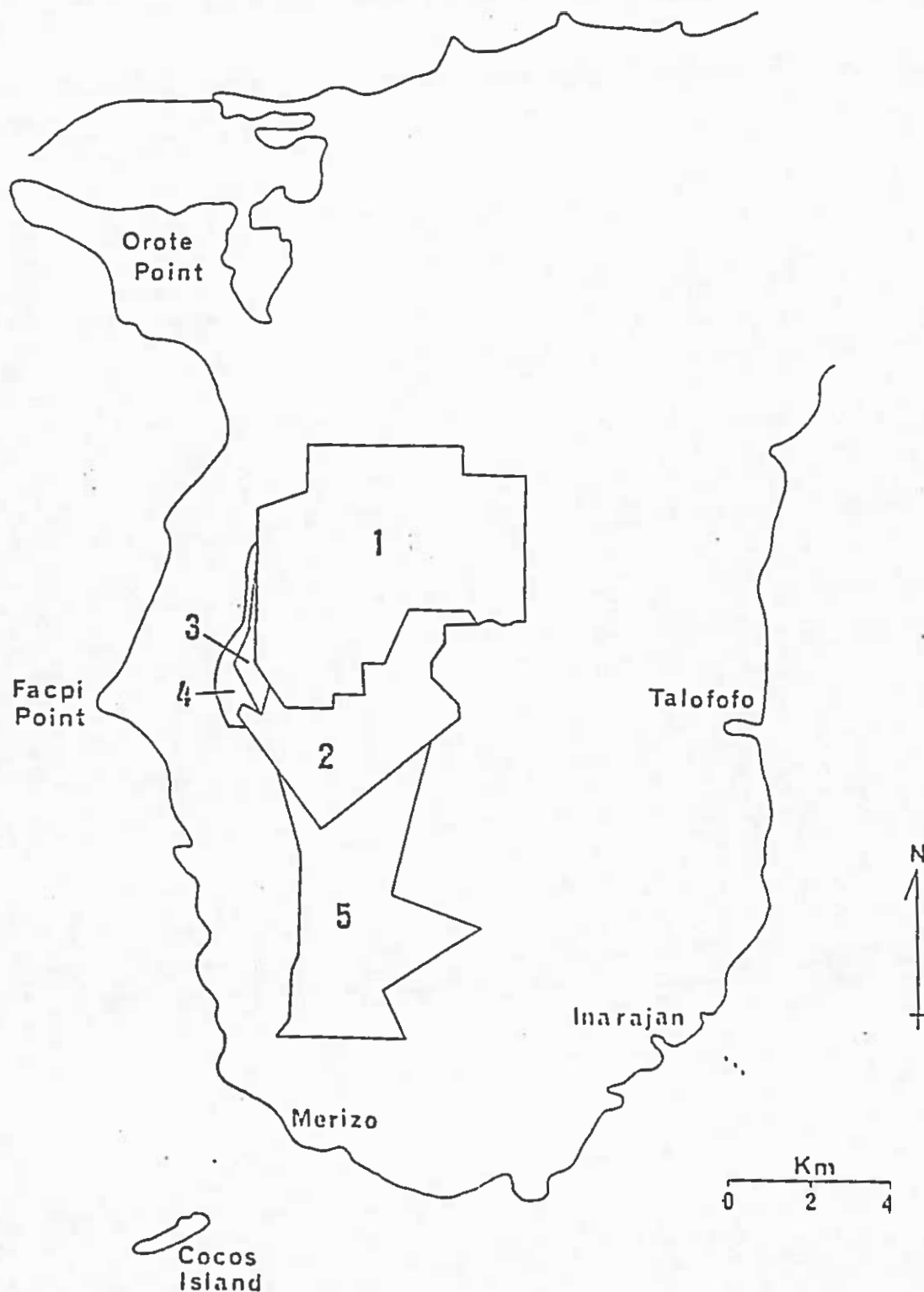


Figure 4. Essential habitat of fruit bats in southern Guam. Key to designated areas: Naval Magazine (1); Naval Reservation (Fena Valley Watershed) (2); private property at Sinaje, Agat (3); territorial property in Agat found above the 800-foot contour on Tracts DA and EA (4); and the Bolanos Conservation Reserve (5).

and a large inland tract of forest on AAFB. Essential forests occur within 1 km of the cliffline fringing the island's northwest coast between Amantes Point and the northern boundary of Naval Communications Areas Master Station. Lands in this strip that have been cleared of forest have been omitted from essential habitat designation. Essential habitat also includes all forests north of the southern boundary of AAFB from Naval Communications Area Master Station to Salisbury Junction and north of Marine Drive, Perimeter Road and 32D Street on AAFB. It further includes all forests within 1 km of the cliffline from north of the Weapons Storage Area to Pati Point and south to the base's southern boundary near Anao Point. Further south along Guam's eastern coast, essential habitat includes all territorial-owned lands and a small privately-owned plot south to Campanaya Point. This area generally includes all land below the cliffline and certain stands of forest found inland from it.

As specified in the goals of this plan, a viable population of Marianas fruit bats with at least one colony must be re-established in southern Guam before the species can be considered fully recovered. Thus, essential habitat has also been designated for this area of the island. This habitat includes all forests on Naval Magazine and Naval Reservation (Fena Valley Watershed). Three other pieces of land, one of which is privately-owned and two of which occur above the 800-ft contour

and are territorially-owned, are present on the western boundaries of both Naval properties. The Balanos Conservation Reserve has also been included as essential habitat. These lands also represent a valuable watershed for southern Guam.

Nuclear Waste

Despite widespread opposition by other Pacific Islanders, a proposal to store nuclear waste in the atoll islands of the Marshalls still is circulating. In fact, there is now talk of a hearing being held on the idea, first advanced by Marshallese President Amata Kabua.

The latest in the repository proposal comes from a Nevada Congresswoman who is the leading supporter of sending all US nuclear waste to the Marshall Islands. She said that the House will hold hearings in the Marshalls on the proposal this month. She is, of course, an opponent of storing nuclear waste in Nevada.

The idea of nuclear waste storage in the Marshalls has been greeted skeptically by some energy and congressional officials because the Marshalls are low islands, easily flooded by typhoons. Kabua's plan is economic related. He thinks that the Marshalls could make money by becoming the nuclear dump for the world.

This is not the first proposal to store nuclear waste in this general vicinity of the Pacific Region. The Japanese Government has been attempting to store its nuclear waste in the Marianas Trench and the US Government has taken a policy position in support of Japan. To date, the London Convention, an international body which governs the storage of nuclear waste, has blocked Japan's efforts.

RECOMMENDATION:

Guam must take every opportunity to lodge protests against nuclear testing and the establishment of waste depositories in the Pacific Region. In particular, a strong policy position must be taken against the storage of any nuclear waste in the Pacific Region. The storage of nuclear waste will negatively impact upon Guam's environment and upon its social and economic development pursuits.

PASEO DE SUSANA AND AGANA BOAT BASIN

The U.S. Congress conveyed the Paseo de Susana to the Government of Guam by Public Law 86-664 and placed the following stipulation on the property's conveyance:

(the property conveyed) shall be used solely for civic, park and recreational purposes, and if it shall ever cease to be used for such purposes, or if the Government of Guam should ever sell or otherwise dispose of such land or any part thereof, title thereto shall revert to the U.S., which shall have the rights of immediate entry thereon.

The Congressional restriction prevents the Territory from developing activities at Paseo that are in conflict with the law. For instance, GovGuam is not entirely sure that a Public Market can be operated on Paseo land.

The Agana Boat Basin was transferred to GovGuam by the same public law. In addition to the "civic, park and recreational" restrictions, the law specifies that the land shall be used "as a boat basin". The Attorney General has determined that this language allows GovGuam to use the area for a variety of purposes consistent with boat basins stateside. It is unknown at this time whether the intended lease of the area by Commercial Port conflicts with the law.

GOVGUAM'S FY90 CIP REQUEST TO CONGRESS

JAN 31 1989

The Honorable Manuel Lujan
Secretary of Interior, Designate
U.S. Department of the Interior
Washington, D.C. 20240

Dear Mr. Lujan:

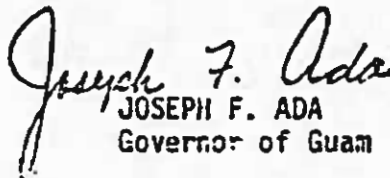
On behalf of the people of Guam, I am pleased to transmit to you the list of capital improvement projects for which I will be seeking Congressional support in the Fiscal Year 1990 appropriations for the Territory. In order of priority, they are as follows:

1) Hospital Renovation and Expansion	\$ 4,200,000
2) School Repairs and Construction of New High School	35,000,000
3) Mental Health Facility, Phase II	3,000,000
4) Camp Watkins Road and Farenholt Drive	10,800,000
5) Water System Improvements	5,000,000
6) Fire Equipment	2,500,000
7) Agat/Santa Rita Sewer Treatment Plant	10,600,000
8) Commercial Port Container Yard Expansion and Facilities Upgrade	9,000,000
9) Harmon Access Road	<u>2,650,000</u>
TOTAL	<u><u>\$82,750,000</u></u>

Please note that funding for the above listed projects was requested in prior fiscal years. However, these projects still require federal assistance and are of great importance in providing for the welfare of our island community. I know that you will assist us in pursuing funding for our capital improvement requirements and I am confident that we will be successful.

Thank you for your attention to this matter.

Sincerely,


JOSEPH F. ADA
Governor of Guam