

# **GUAM EXCESS LANDS ACT**

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**HEARING**  
**BEFORE THE**  
**SUBCOMMITTEE ON**  
**INSULAR AND INTERNATIONAL AFFAIRS**  
**OF THE**  
**COMMITTEE ON**  
**NATURAL RESOURCES**  
**HOUSE OF REPRESENTATIVES**  
**ONE HUNDRED THIRD CONGRESS**  
**FIRST SESSION**  
**ON**

**H.R. 2144**

**TO PROVIDE FOR THE TRANSFER OF EXCESS LANDS TO THE  
GOVERNMENT OF GUAM, AND FOR OTHER PURPOSES**

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**HEARING HELD IN WASHINGTON, DC**  
**JULY 29, 1993**

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**Serial No. 103-39**

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## H.R. 2144, GUAM EXCESS LANDS ACT

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THURSDAY, JULY 29, 1993

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON NATURAL RESOURCES,  
SUBCOMMITTEE ON INSULAR AND INTERNATIONAL AFFAIRS,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10 a.m. in room 1324, Longworth House Office Building, Hon. Ron de Lugo (chairman of the subcommittee) presiding.

### OPENING STATEMENT OF HON. RON de LUGO

Mr. DE LUGO. The Subcommittee on Insular and International Affairs hearing on the Underwood bill, H.R. 2144, will come to order.

I want to welcome everyone here, and I want to thank you for coming this far to be present at this very important hearing this morning on the legislation that has been introduced in the Congress by Congressman Underwood.

I want to welcome Rear Admiral Edward Kristensen, Commander, Naval Forces, Marianas, Guam; and Major General H. Hale Burr, Jr., Commander, Thirteenth Air Force. Welcome.

I would like to welcome from Guam, a good friend of ours on the panel, the Honorable Frank F. Blas, Lieutenant Governor of Guam, a long-time friend. And also another long-time friend, the Honorable Joe T. San Agustin, Speaker of the Legislature of Guam; and the Honorable Thomas C. Ada; the Honorable Marilyn D.A. Manibusan; and the Honorable Edward Keyes, Senators from the Legislature of Guam. They are all known to the Chair and have long served as time acquaintances who have helped us many, many times with working in a constructive way towards solving problems for Guam and for other issues in the Pacific.

I want to welcome you all here this morning.

There may be no part of the country in which the tragic legacy of World War II lingers on as much as in Guam. Unprotected from an enemy invasion, the U.S. nationals of the island were subjected to a harsh enemy occupation. Many Chamorro people lost their lives due to their patriotism and their loyalty to the United States. All were taken from their homes. Many really never had their property returned.

In the years after liberation, a substantial portion of the island was acquired by the U.S. military, often in a manner that today we would not look upon as being fair.

The Chamorro people gave up their land in these transactions because they either didn't know better, in some cases, out of a

sense of obligation in others, or quite possibly because they had little choice.

A significant amount of land that the military acquired was transferred to the local government under the territory's Organic Act some four decades ago. The purpose was to rehabilitate the island from the devastation of the war and to resettle its people.

But, much of the island has remained under military control, in fact, some 30 percent at the present time. And, it is this situation that is at the heart of one of the most persistent problems in U.S.-Guam relations.

Several factors keep the issue alive. One is that much of the land does not appear to be used or even needed. It sits idle and the people think that it should be made available.

Another is that Japanese and other investors abroad have bought up substantial amounts of privately owned lands. These purchases have dramatically increased the value of the property on the island and as a result decreased the amount under local control.

And finally, many Chamorros feel denied their birthright. Their families lost the land, but were not properly compensated for it.

People naturally feel a strong bond to their homeland, something that is perhaps not always understood in this Nation of immigrants. People of small islands often highly prize their tiny piece of this earth that we all live on.

The land of their island is their world and their identity. So the Guamanian people's desire to reclaim formerly owned property is understandable, in light of the circumstances.

Guam's first delegate, my late friend Tony Won Pat, launched two initiatives to address this problem. One was to get fair payment for former owners of land who had not been adequately paid originally.

A law that I am proud to have joined him in sponsoring enabled former owners to sue the Federal Government for fair payment. An amendment provided that payments would be made with interest.

The second initiative was to get the Federal Government to give up land that it did not need. The Carter administration responded by identifying some 5,000 acres. With transfers and reevaluation, the Reagan administration revised the inventory downward to about 3,500 acres.

Won Pat's successor, Ben Blaz, then proposed that this land be given to a Guam court for the eventual transfer to its former owners. We held a hearing on his bill almost 5 years ago to this date. But without consultation, the Interior Department's territories office complicated the issue by arguing that the designated land should benefit all land claimants with an involved land bank proposal and national park and Guam Government land trade proposal, which just muddled the waters, so to speak.

In the end, no bill was passed. And frustration grew on the island. Meanwhile, more and more of the original claimants died off. Federal lawyers won settlements of suits that OMB had originally told Congress they thought would cost some hundreds of millions of dollars, but the settlement of the suits ended up costing the Federal Government just \$39.5 million. The value of land on Guam skyrocketed in the 1980s boom.

Late in 1990, the Senate tacked on an amendment to transfer unneeded land in Guam to local ownership to a bill that we had been working on which would provide insular areas with special disaster aid. There were strong objections, but I worked out a compromise that would have transferred, for public benefit uses, the 3,200 acres remaining of the land identified a decade earlier. Although it passed both Houses in an omnibus bill, it did not become law because of late final Senate action after the land's value was questioned.

Surprisingly, Delegate Blaz did not want to have it included when we reintroduced the omnibus bill early in 1991. After he finally reintroduced it, the Interior Department's territories office effectively prevented passage by suggesting that it be amended to enable land to go into private hands without compensation and by not being able to provide back-up information.

Meanwhile, on Guam frustration with the overall issue has boiled to the point where the military is anxious to transfer the land that it was willing to get rid of in 1980. In addition, they also wish to relinquish control of land which confrontationalist Chamorro activists have taken it upon themselves to occupy.

This issue does not just involve Federal land, though. Chamorro activists forced the Government of Guam to implement its Chamorro land trust law, reserving unneeded local land for what is now the indigenous minority. And there is now a debate about how much land ought to go into this trust.

There are also calls for a comprehensive review of all Federal land needs, which the Speaker and the Legislature of Guam have proposed, and my good friend, the Representative from Guam, Bob Underwood, has been speaking to me about. So does the Guam commonwealth bill. It would set up a panel of mostly islanders to do this review and put land into the Chamorro trust.

Guam's new Delegate, Robert Underwood, has approached the issues with good sense. He has moved to get the land that can be obtained now from the Federal Government, and he has proposed a gathering of all concerned parties to work out other land issues separately.

He lobbied extremely effectively with Governor Ada, Speaker San Agustin, and others in Guam's government to relocate the operations of the Naval Air Station that is now using prime property next to the Won Pat Airport in the center of the island to the Air Force base in the north.

He has sponsored the bill needed to provide for the transfer of the long available 3,200 acres for local public benefit.

Consistent with his approach, our hearing today is on this bill that he introduced, H.R. 2144. We will not deal with other and other larger Guam land issues that will probably, at this point, take much longer to resolve.

As he recognizes, there is a choice between trying to finally get this land transferred—which would be a major accomplishment—and tying it up in grander ideas for solving all of the Guam land issues at one time.

[The bill, H.R. 2144, follows:]

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2144

To provide for the transfer of excess land to the Government of Guam,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 18, 1993

Mr. UNDERWOOD introduced the following bill; which was referred jointly to  
the Committees on Natural Resources, Government Operations, and  
Armed Services

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## A BILL

To provide for the transfer of excess land to the Government  
of Guam, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the "Guam Excess Lands  
5       Act".

6       **SEC. 2. TRANSFER.**

7       (a) IN GENERAL.—The Administrator of General  
8       Services shall, subject to section 3, transfer all right, title,  
9       and interest of the United States in and to the lands de-  
10      scribed in subsection (b) (together with any improvements

1 thereon) to the Government of Guam for public benefit,  
 2 by quitclaim deed and without reimbursement, after the  
 3 head of the Federal agency which controls such lands de-  
 4 termines whether any of those parcels are excess to the  
 5 needs of such agency.

6 (b) LANDS DESCRIBED.—The lands referred to in  
 7 subsection (a) consist of—

**Navy Parcels**

|  |           |
|--|-----------|
| South Finegayan .....                  | 445 acres |
| Nimitz Hill Parcels and 1 and 2B ..... | 208 acres |
| NAVMAG Parcel 1 .....                  | 144 acres |
| Apra Harbor Parcel 7 .....             | 73 acres  |
| Apra Harbor Parcel 8 .....             | 6 acres   |
| Apra Harbor Parcel 6 .....             | 47 acres  |
| Apra Harbor Parcel 9 .....             | 41 acres  |
| Apra Harbor Parcel 2 .....             | 30 acres  |
| Apra Harbor Parcel 1 .....             | 6 acres   |
| Asan Annex .....                       | 17 acres  |
| NAVCAMS Beach .....                    | 14 acres  |
| ACEORP Msui Tunnel .....               | 4 acres   |
| Agat Parcel 3 .....                    | 5 acres   |

**Air Force Parcels**

|   |           |
|---|-----------|
| Andersen South (portion of Anderson Admin. Annex) ..... | 395 acres |
| Camp Edusa (Family Housing Annex 1) .....               | 103 acres |
| Harmon Communication Annex No. 1 .....                  | 862 acres |
| Harmon Housing Annex No. 4 .....                        | 396 acres |
| Harmon POL Storage Annex No. 2 .....                    | 35 acres  |
| Harmon VOR Annex .....                                  | 226 acres |
| Harmon POL Storage Annex No. 1 .....                    | 14 acres  |
| Andersen Radio Beacon Annex .....                       | 23 acres  |
| Harmon Annex VOR .....                                  | 82 acres  |

**Federal Aviation Administration Parcel**

|                                   |          |
|-----------------------------------|----------|
| Talofof "HH" Homer Facility ..... | 37 acres |
|-----------------------------------|----------|

8 (c) LEGAL DESCRIPTIONS.—The exact acreages and  
 9 legal descriptions of all lands to be transferred under this  
 10 Act shall be determined by surveys which are satisfactory  
 11 to the head of the controlling Federal agency referred to  
 12 in subsection (a). The cost of such surveys, together with

1 all direct and indirect costs related to any conveyance  
2 under this section, shall be borne by such controlling Fed-  
3 eral agency.

4 **SEC. 3. TERMS AND CONDITIONS.**

5 (a) **LAND USE PLAN.**—The lands to be transferred  
6 under this Act shall be eligible for transfer after the Gov-  
7 ernment of Guam enacts legislation which establishes a  
8 detailed plan for the public benefit of such lands and the  
9 Governor of Guam submits such plan to the committees  
10 of the Congress specified in subsection (b), and provides  
11 copies of such plan to the Secretary of the Interior and  
12 the Secretary of Defense.

13 (b) **SUBMISSIONS.**—The plan required to be submit-  
14 ted to the committees of the Congress under subsection  
15 (a) shall be submitted to the Committee on Natural Re-  
16 sources, the Committee on Armed Services, and the Com-  
17 mittee on Government Operations of the House of Rep-  
18 resentatives and the Committee on Energy and Natural  
19 Resources, the Committee on Armed Services, and the  
20 Committee on Governmental Affairs of the Senate.

21 (c) **REVIEW BY COMMITTEES.**—Lands shall be trans-  
22 ferred under this Act 180 days after the submission to  
23 the committees of the Congress specified in subsection (b)  
24 of the land use plan provided for in subsection (a).



1 **SEC. 4. GENERAL PROVISIONS.**

2 Any property subject to this Act shall not be subject  
3 to Public Law 100-77 (101 Stat. 482), and section  
4 818(b)(2) of Public Law 96-418 (94 Stat. 1782), as  
5 amended.

○

Mr. DE LUGO. Having said that, let me recognize the distinguished gentleman from Guam, Mr. Underwood.

[Prepared statement of Mr. de Lugo follows:]

#### STATEMENT OF CHAIRMAN RON DE LUGO

There may be no part of the country in which the tragic legacy of World War Two lingers on as much as Guam.

Unprotected from an enemy invasion, the U.S. nationals of the island were subjected to a harsh enemy occupation. Some lost their lives—often for their patriotism. All were taken from their homes.

Many really never got their property back.

In the years after liberation, a substantial portion of the island was acquired by the U.S. military—often unfairly.

Chamorros gave up their land in these transactions because they didn't know better, out of a sense of obligation, or because they had little choice.

A significant amount of the land that the military acquired was transferred to the local government under the territory's Organic Act four decades ago. The purpose was to rehabilitate the island from the devastation of the war and resettle people.

But much of the island has remained under military control—some 30% at present.

And this situation is at the heart of one of the most persistent problems in U.S.-Guam relations.

Several factors keep the issue alive.

One is that much of the land does not appear to be used . . . or needed. It sits idle and people think it can be made available.

Another is that Japanese and other investors have brought up substantial amounts of privately-owned lands. These purchases have dramatically increased the value of property on the island and also decreased the amount under local control.

And, finally, many Chamorros feel denied their birthright. Their families lost the land but were not paid fairly for it.

People naturally feel a strong bond with their homeland (something that is not always understood in this nation of immigrants.) People of small islands often even more highly prize their tiny piece of the Earth.

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Won Pat's successor, Ben Blaz, then proposed that this land be given to a Guam court for eventual transfer to its former owners.

We held a hearing on this bill almost five years ago to this date.

But, without consultation, the Interior Department's territories office complicated the issue by arguing that the land should benefit all land claimants with an involved land bank proposal and national park and Guam government land trade proposal.

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And frustration grew on the island. More and more of the original claimants died off. Federal lawyers won settlements of suits that O.M.B. thought would cost hundreds of millions of dollars for just \$39.5 million. The worth of Guam land skyrocketed in the 80's boom.

Late in 1990, the Senate tacked on an amendment to transfer unneeded land in Guam to local ownership to a bill we had been working on to provide insular areas with special disaster aid.

There were strong objections, but I worked out a compromise that would have transferred for public benefit uses the 3,100 acres remaining of the land identified a decade earlier. Although it passed both Houses in an omnibus bill, it did not become law because of late final Senate action after the land's value was questioned.

Surprisingly, Delegate Blaz did not want to have it included when we reintroduced the omnibus bill early in 1991.

After he finally reintroduced it, the Interior Department's territories office effectively prevented passage by suggesting that it be amended to enable land to go into private hands without compensation and by not being able to provide back-up information.

Meanwhile, frustration with the overall issue on Guam has boiled to the point where the military is anxious to transfer land that it was willing to get rid of in 1980 and where Chamorro activists are occupying plots of federal land, willing to engage in confrontation.

The issue doesn't just involve federal land, though.

Chamorro activists forced the government of Guam to implement its Chamorro land trust law, reserving unneeded local land for what is now the indigenous minority. And there is now a debate about how much land ought to go into the trust.

There are also calls for a comprehensive review of all federal land needs. The Speaker and Legislature of Guam have proposed this.

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As he recognizes, there is a choice between trying to finally get this land transferred—which would be a major accomplishment—and tying it up in grander ideas for solving all Guam land issues.

#### **STATEMENT OF HON. ROBERT A. UNDERWOOD**

Mr. UNDERWOOD. Thank you, Mr. Chairman. I appreciate the speed with which you have taken to hold this hearing and your cooperation and your staff's cooperation in making this hearing possible.

I would also like to welcome General Burr and Admiral Kristensen as well as the distinguished members of the Guam Legislature, as you have Senators San Agustin, Manibusan, Reyes, and Ada, and of course the Lieutenant Governor of Guam, Frank Blas.

Today's hearing on H.R. 2144 marks the beginning of a very important process to resolve long-standing issues on Guam that have been a source of frustration and disappointment to the people of Guam since the military acquisition of our homes and farms beginning in 1944.

As a newly liberated people, the Chamorro people were willing to help the war effort and allowed use of their land for military bases to help defeat their former oppressors in World War II. Immediately after the war, the American military proceeded to continue its massive land takings and justified it in the name of national security. Historical injustices occurred in the means used to condemn these lands by the military government, and in the compensation offered to the landowners.

As a patriotic people, the people of Guam questioned these actions and sums, but most acquiesced. Some acquiesced because they truly believed they were contributing to the national security, and once the menace of aggression was over, they would get their

properties back. Others tried to protect their ancient homelands, but were thwarted by language barriers and the lack of civilian legal assistance. Others yet simply did not understand what was happening to their homes or were simply misled to believe the military needs were temporary.

The most common belief was that the Chamorros were helping to preserve the peace and that eventually they would get their land back. And when the land takings were completed, whole villages vanished, and whole families were displaced and impoverished.

Nearly 50 years later, we find ourselves trying to right the wrongs perpetrated on the people of Guam, trying to restore dignity to a people now landless in their own homeland.

The imperial aggressors are gone, the Cold War enemy has crumbled, and while there will always be aggressors, the threats to America's existence as a Nation have been subdued by the worldwide triumph of democracy and human rights in our lifetime. More importantly, this has now freed us to do the right thing.

If there is an enemy now of the people to Guam, it is in those who seek to deceive us about the past. If there is a threat to the peace now, it is the frustration born of the exploitation of the past.

The end of the Cold War gives us an opportunity to address the past injustices in a new context. A fundamental shift in the relationship between the military and the island of Guam has occurred. This new dynamic is dramatized and manifested by the recent Base Realignment and Closure Commission decision on NAS Agana. In a previous time, the needs of the military and the strategic importance of the island would have dominated the discussion today. Now the central question is how these land issues affect the people of Guam and our island community.

And while there is no doubt that there will always be military bases on Guam, the community of Guam is finally being heard on these issues.

The BRAC decision has shown we can question the military use of our land and that we can prevail with logical, reasoned arguments that take into account the realistic military requirements on Guam.

I have taken the time to lay out this historical perspective because without it the land issue cannot be understood. As we review the bill to return a modest 3,200 acres to the Government of Guam, we must remember that the process of resolving the underlying issues borne out of the injustices 49 years ago is just beginning and we must continue to focus our attention and energies on this issue.

I thank you, Mr. Chairman, for your support of the people of Guam in this effort. I know that you have been in the forefront of this issue in Congress since the days when our former delegate, Mr. Won Pat, fought to bring congressional attention to this issue, and I look forward to working with you in the days, weeks, months and years ahead until these issues are finally resolved.

Since 1975, there has been a relentless effort to get the military and other Federal agencies to give up all lands excess to their needs. The lands to be returned in H.R. 2144 were identified as excess to the Federal Government in the Army report of 1986. We will continue to argue for a review of those military needs and a

stricter standard of what is excess, and we will continue to argue for the return of more Federal lands.

But for today, we will argue that H.R. 2144 must be passed as the first step in a process to correct historical injustices and to put these long-standing issues on a road to resolution. H.R. 2144 is a start, not an end. It conveys parcels not disputed by the Air Force, the Navy or the FAA. It transfers the parcels to the Government of Guam so that the lands can be returned to local control.

The needs of the original landowners will be heard and they will be part of a comprehensive solution as the process continues. H.R. 2144 removes the 3,200 acres of land from Federal control and begins the process of finding solutions that are rooted in the context of Guam's history and are conducive to a future for the Chamorro people.

I have proposed a land conference to be held in Guam in the fall to continue the problem-solving process so that the momentum for change and the opportunity to build consensus solutions will not be lost.

We may hear today from Guam witnesses a number of suggestions concerning where we go from here. I encourage this dialogue and encourage those seeking a common, sensible solution to the land issues to join us in this dialogue that the land conference will hopefully engender.

I encourage all parties to participate, the Federal Government, the original landowners, the Government of Guam, and the business community, and I encourage a dialogue so that the solutions are Guam-based and Guam-supported. I encourage a commitment from all those involved to seek solutions that will work on Guam.

Without objection, I am also entering for the record my policy statement on land issues which clearly outlines the process for resolving these long-standing issues surrounding landownership, the return of excess lands, and future land use plans for Guam.

Mr. Chairman, let us expedite passage of H.R. 2144 and let us get on with the larger task of resolving in a comprehensive and fair way the land issues on Guam. Thank you.

Mr. DE LUGO. Thank the gentleman from Guam.

[Prepared statement of Mr. Underwood follows:]

ROBERT A. UNDERWOOD  
GUAM

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**Congressman Robert A. Underwood**

**Statement on H.R. 2144**

**The Guam Excess Lands Act**

**Subcommittee on Insular and  
International Affairs**

**July 29, 1993**

Mr. Chairman:

Today's hearing on H.R. 2144 marks the beginning of a process to resolve long-standing land issues on Guam that have been a source of frustration and disappointment to the people of Guam since the military acquisition of our homes and farms beginning in 1944.

As a newly liberated people, the Chamorros were willing to help the war effort and allowed use of their land for the military bases to help defeat their former oppressors in World War II. Immediately after the war, the American military proceeded to continue its massive land takings and justified it in the name of national security. Historical injustices occurred in the means used to condemn the lands by the military government, and in the compensation offered to the landowners.

As a patriotic people, the Chamorros questioned these tactics and sums, but acquiesced. Some acquiesced because they truly believed that they were contributing to the national security, and that once the menace of aggression was over, they would get their lands back. Others tried to protect their ancient homelands, but were thwarted by language barriers and the lack of civilian legal assistance. Others yet simply did not understand what was happening to their homes, or were simply misled to believe that the military needs were temporary.

The most common belief was that the Chamorros were helping to preserve the peace and that eventually they would get their land back.

And when the land takings were completed, whole villages vanished and whole families were displaced and impoverished.

Nearly fifty years later, we find ourselves trying to right the wrongs perpetrated on the people of Guam. We find ourselves trying to restore dignity to a people now landless in their own homeland.

The imperial aggressors are gone, the Cold War enemy has crumbled. While there will always be despotic tyrants and petty aggressors, the threats to America's existence as a nation have been subdued by the worldwide triumph of democracy and human rights in our lifetime. This has freed us now to do the right thing.

If there is an enemy now to the people of Guam, it is in those who seek to excuse or deceive us about the past. If there is a threat to the peace now, it is the frustration borne of the exploitation of the past.

The end of the Cold War gives us an opportunity to address the past injustices in a new context. A fundamental shift in the relationship between the military and the island of Guam has occurred.

This new dynamic is dramatized by the recent Base Realignment and Closure Commission (BRAC) decision on NAS Agana. In a previous time, the needs of the military and the strategic importance of the island would have dominated the discussion today. Now, the central question is how these land issues affect the people of Guam and our island community. While there is no doubt there will always be military bases, Guam is finally being heard on these issues.

The BRAC decision has shown that we can question the military use of our land. We can prevail with logical, reasoned arguments that take into account the realistic military requirements on Guam.

I have taken the time to lay out this historical perspective because without it, the land issue can not be understood. As we review this bill to return a modest 3200 acres to the Government of Guam, we must remember that the process of resolving the underlying issues borne out of the injustices 49 years ago is just beginning. We must continue to focus our attention and energies on this issue.

I thank you, Mr. Chairman, for your support of the people of Guam in this effort. I know that you have been at the forefront of this issue in Congress since the days when our former Delegate, Mr. Won Pat, fought to bring Congressional attention to this issue. And I look forward to working with you in the days, weeks, months and years ahead until the issues are resolved.

Since 1975, there has been a relentless effort to get the military, and other federal agencies, to give up all lands excess to their needs. The lands to be returned in H.R. 2144 were identified as excess to the federal government in the Army report of 1986. We will continue to argue for a review of those military needs, and for a stricter standard of what is excess. We will continue to argue for the return of more federal lands.



But, for today, we will argue that H.R. 2144 must be passed as the first step in a process to correct historical injustices, and to put these long-standing issues on a road to resolution. H.R. 2144 is a start, not an end. It conveys parcels not disputed by the Air Force, Navy and F.A.A. It transfers the parcels to the Government of Guam so that the lands can be returned to local control. The needs of the original landowners will be heard and they will be part of a comprehensive solution as the process continues. H.R. 2144 removes the 3200 acres of land from federal control, and begins the process of finding solutions that are rooted in the context of history and are conducive to a future for the Chamorro people.

I have proposed a land conference to be held on Guam in the fall to continue the problem-solving process so that the momentum for change and the opportunity to build consensus solutions will not be lost.

We may hear today from the Guam witnesses a number of suggestions concerning where we go from here. I encourage this dialogue, and encourage those seeking a common, sensible solution to the land issues to join us in the dialogue that the land conference will engender. I encourage all parties to participate; the federal government, the original landowners, the Government of Guam, and the business community. I encourage a dialogue so that the solutions are Guam-based and Guam-supported. And I encourage a commitment from all those involved to seek solutions that will work on Guam.

I am also entering for the record my policy statement on land issues which clearly outlines the process for resolving these long-standing issues surrounding land ownership, the return of excess lands, and future land use plans for Guam.

Mr. Chairman, let us expedite passage of H.R. 2144 and let us get on with the larger task of resolving, in a comprehensive and fair way, the land issues on Guam.

\* \* \* \* \*

**POLICY STATEMENT ON LAND ISSUES**  
**by**  
**GUAM'S CONGRESSIONAL DELEGATE**  
**THE HONORABLE ROBERT A. UNDERWOOD**

**NEED FOR A PROCESS**

For the people of Guam, nothing is more critical than the resolution of issues concerning land. For the people of Guam, no single issue raises the emotions more than a discussion of land ownership and military land planning. And for the people of Guam, it is vitally important that we confront these issues. However, it is more important that we establish a process: a plan for the resolution of these issues. We need a process which invites participation, clarifies the issues, and develops solutions. From this type of process or plan, sound policy and identifiable steps will emerge. A sensible process is necessary now to clarify and resolve the many controversies surrounding land ownership, the return of excess lands, and future land use plans for the Island of Guam.

I have developed such a process: a plan if you will, which if followed by the Government of Guam, will put into motion a step-by-step solution to many of the land controversies which continue to persist on Guam.

For almost a century, Guam's strategic location as a military outpost in the Western Pacific has been of extreme importance to the American Government. The presence of the United States military on Guam is a fact of life: part of being associated with the American family which is necessary for our strength. However, for national security reasons during and immediately after World War II the United States military took over half of our island. Tragically, the manner and methods used by the military in acquiring these private lands constituted gross historical injustices on the people of Guam. Many were displaced from their ancestral farms and homes for the military's runways, housing, offices, recreational facilities, or support activities.

Fifty years ago, there wasn't any resistance to the land needs of the United States for military purposes, but people learned to resent the use of duress, unequal bargaining power and fraud. Today, the United States military holds one-third of the island. The Federal government holds forty thousand acres of prime land on Guam, despite the fact that the Cold War has ended and the military's land needs have substantially decreased. Now, many of Guam's families remain landless, taunted by their idle ancestral property still in the hands of the military.

Any solution-oriented plan must be fair to all. Simply saying land must be returned to original land-owners is not a real resolution of our problems. Some original landowners believe they received fair compensation, while others may have made bad deals for their land. Those that owned the land now under Naval Station or Andersen Air Force Base will likely never get their property back. There were so many different situations that a Federal lawsuit directed at this problem resulted in three classes of claimants. All of the individual cases must eventually be heard and justice restored.

The Federal government will not make these determinations. Historically, decisions regarding title to property are within the province of local government. The Government of Guam and its legislature must also fight social problems: lack of adequate education, hunger, poverty and homelessness, to name a few. Land and other resources must be committed to this fight as well.

Any solution-oriented plan must enhance the Government of Guam's battle against these obstacles to everybody's well being.

While we duly accept our obligation to contribute to the defense of our Nation, the people of Guam have never accepted a military policy which hinders their well being. Fifty years after the second world war and now, after the Cold War, thousands of acres of military property still lay dormant. As an island territory striving for a self-sufficient economy, we cannot afford this kind of land ownership by the Federal government.

Guam is merely 215 square miles: any and all excess lands, no longer necessary for military purposes, should be returned to local control and for the public's benefit and use. Guam's economic survival, and the survival of future generations, depends on this land return. However, our future also greatly depends on a world in peace, and consequently, a strong relationship within the American family.

So, any solution-oriented plan must also allow the United States military the proper amount of land for national security activities. My plan takes all these competing concerns into the mix. This strategy must unfold over time, and can only be accomplished in a step-by-step fashion.

While the current confrontations between individual landowners and the military will be resolved through the courts in a respectful fashion, these demonstrations are not solution oriented. These public displays are helpful in focusing attention to the issues, and they may be productive in bringing all parties to the table for policy discussions. My office neither encourages nor discourages these demonstrations; however, acts of civil disobedience have a distinguished history of bringing attention to problems. Confrontation that leads to dialogue is good; confrontation that leads to violence is harmful.

It is up to the political leadership, at both the territorial and federal levels, to accept the responsibility to foster constructive dialogue among all interested parties. I strongly urge everyone to practice restraint in diffusing the highly emotional rhetoric and the understandable, but explosive, signs of outrage.

## **THE PLAN**

### **STEP 1**

The first step of my plan addresses almost 3200 acres of land identified 16 years ago by Congressman Antonio B. Won Pat. Guam

should first get this acreage, which has already been declared as excess. Since there is no controversy on these parcels, my solution oriented plan separates them from the rest of the land now held by the Federal Government.

Right now, the Department of Defense ("DOD") supports the expeditious transfer of these 3200 acres. These properties are not needed for presently envisioned military needs in support of our national security. In fact, three former Secretaries of Defense supported the transfer of these excess lands from federal to local control. This is not a contentious issue for the Defense Department.

On May 18, 1993, I introduced H.R. 2144, the Guam Excess Lands Act, which would complete the process of transferring the excess lands begun 16 years ago by former Congressman Won Pat. In order to expedite this bill, I seek your patience, understanding, and support as this bill makes its way through the legislative process. We will not wait to begin step two which addresses the remainder of Federal holdings on Guam. But we must keep the parcels contained in H.R. 2144 apart from the unresolved issues which I have outlined.

I am working with the leadership of the Armed Services Committee, the Natural Resources Committee, and the Government Operations Committee to consider H.R. 2144 as quickly as possible. A congressional hearing on the bill has been scheduled for July 29, 1993. My goal is to pass H.R. 2144 in the U.S. House of Representatives within the next several months.

We waited 16 years to where we are today on these specific parcels of excess land. We certainly have the fortitude to wait several more months to reclaim our rightful lands which we desperately need.

## STEP 2

We need not wait for the completion of Step 1 to begin seeking sound, comprehensive solutions to the complex and controversial land

disputes and land use issues which are receiving much attention on Guam these days.

It is time to move on to another, and more sensible, playing field. I am offering the services of my congressional office to facilitate a "territorial/federal land conference" to occur on Guam sometime this fall. I will be inviting representatives from the Department of Defense, the Department of the Interior, the Federal Aviation Administration, the General Services Administration, the Government of Guam, the Guam Legislature, present and former landowners, and others who may have an interest in presenting concrete and reasonable solutions to the complex issues surrounding land ownership and land use plans on the Island.

This territorial/federal land conference will address the historical injustices resulting from the land takings of the World War II era, future land use plans by both Federal and local governments, how to excess future lands, and the conditions under which the lands will be excessed. This conference will provide a common venue for these problems to be adequately addressed.

I know that this land conference will be conducted in a peaceful, orderly fashion. I think we can accomplish this because historically, peaceful techniques of getting things done mark the character of our people. We are a consensus building people and if there is a consensus to be reached, we will find it, cultivate it, and act on it.

We will not be able to satisfy everyone's wish list during the territorial/federal land conference. Hopefully, all issues will be balanced with reasonable compromises resulting from the conference dialogue. Time permitting, all will be heard and all will be able to enter into the record of these proceedings statements from a variety of individuals -- from landless people, former landowners, military representatives, federal officials, local leaders, and others.

**STEP 3**

In addition to the territorial/federal land conference held on Guam, I plan to conduct follow-up meetings on the West Coast and in Washington, D.C. These meetings will continue the dialogue on excess lands, historical injustices, and future land use policies on Guam. These smaller workshop sessions will focus on the specific concerns of individual agencies. They will be detail and solution oriented.

**STEP 4**

As a result of the land conference, as well as the subsequent meetings, I expect to draft legislation to address the solutions to these complex issues.

**CONCLUSION**

As public servants, we are in the "solution" business -- our goal is to improve the lives of our people. We should not be in the business of creating problems or obstacles which frustrate our people and which stifle their livelihood.

The process which I have outlined above -- (1) moving H.R. 2144 expeditiously: let's get the land that's been waiting 16 years, (2) working through the land conference to devise an equitable solution to benefit the greatest number of people affected by these land policies, (3) continuing the dialogue with all affected Federal and Government of Guam agencies and, (4) drafting the legislation which will foster the ultimate solution.

These steps, I believe, are the most judicious way of addressing the loss of lands by the people of Guam. Together we can reclaim the 3200 acres of excess lands now, reclaim the maximum amount of Federal lands soon, and begin to shape land use policies for our children and for future generations on Guam. Basta na ta fan "Tai-tano"; nehe ya ta na'fan "gai tano" i taotao Guam. Si Yu'os Ma'ase.

Mr. DE LUGO. And let me recognize at this time the Ranking Minority Member and a very good friend and supporter of the territories, the gentleman from California, Congressman Gallegly.

#### STATEMENT OF HON. ELTON GALLEGLY

Mr. GALLEGLY. Thank you, very much, Mr. Chairman.

Mr. Chairman, the subject of the transfer of excess Federal land on Guam is an issue that has been before the Subcommittee a number of times before. Guam's former delegate to Congress and my good friend, Ben Blaz, introduced legislation and pushed hard to resolve the disposal of lands which the U.S. Government has determined not to be necessary to carry out various Federal responsibilities in Guam.

While legislation dealing with this matter was passed by both the House and Senate, a pressing legislative agenda during the last two sessions of Congress did not allow us final action. I was pleased to see the introduction of H.R. 2144 by Guam's new delegate, our good friend, Bob Underwood, to deal with this important matter.

Having traveled previously with the Committee to Guam, I do understand the significance of resolving the issue. Both the U.S. Federal Government and the Government of Guam should benefit by the enactment of legislation to enable a transfer of those parcels which have been determined to be in excess of the needs of the Federal agencies in Guam. However, I do have some concerns about the land being transferred to Guam without knowing in advance how the land will actually be used.

The legislation does indicate that the land will be used for public benefit and requires the enactment of a land use plan by the Government of Guam. Although Section 3 of H.R. 2144 provides for a 180-day period for the review of this plan by the executive and legislative branches of the U.S. Government, I am not sure that will be sufficient time to allow the Federal Government to address the concerns which may arise concerning the proposed use of the excess parcels in Guam.

However, the testimonies of the representatives of the Navy, the Air Force, and the Federal Aviation Administration should be helpful in considering whether the proposed review mechanism is adequate. Similarly, the views of the territorial government may provide specific information on what uses are being contemplated for the public use of the parcels designated to be transferred.

Mr. Chairman, I commend you for scheduling this hearing. It is one of the many issues of importance pertaining to the territories, trust territory, and freely associated States within the jurisdiction of this subcommittee, and I look forward to the hearing.

Mr. DE LUGO. Thank you.

[Prepared statement of Mr. Gallegly follows:]



Statement of  
THE HONORABLE ELTON GALLEGLY

Committee on Natural Resources  
Subcommittee on Insular and International Affairs

Subcommittee Hearing on H.R. 2144  
Guam Excess Lands Act  
July 29, 1993

Mr. Chairman:

The subject of the transfer of excess federal land on Guam is an issue that has been before the Subcommittee a number of times previously. Guam's former Delegate to Congress, Ben Blaz, introduced legislation and pushed hard to resolve the disposal of lands which the U.S. Government had determined not to be necessary to carry out various federal responsibilities in Guam.

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I have some concerns about the land being transferred to Guam without knowing, in advance, how the land will actually be used. The legislation indicates that the land will be used for "public benefit" and requires the enactment of a land use plan by the Government of Guam. Although Section 3 of H.R. 2144 provides for a 180 day period for the review of the plan by the executive and legislative branches of the U.S. Government, that may not be sufficient to allow the federal government to address concerns which may arise concerning the proposed use of the excess parcels in Guam.

However, the testimonies of the representatives of the Navy, Air Force, and Federal Aviation Administration should be helpful in considering whether the proposed review mechanism is adequate. Similarly, the views of the territorial government may provide specific information on what uses are being contemplated for the public use of parcels designated to be transferred.

I commend Chairman De Lugo for scheduling this hearing. It is one of many issues of importance pertaining to the territories, trust territory, and freely associated states within the jurisdiction of this Subcommittee which I look forward to addressing.

Mr. DE LUGO. Our first witness, panel actually, we have from the Department of Defense, as I said, Rear Admiral Edward Kristensen. I see it is spelled with a "K." In my part of the world, which is the Virgin Islands, we had many Kristensens, but with a "C."

Admiral KRISTENSEN. "C-h." It is the Danish spelling, sir.

Mr. DE LUGO. Is "K" Danish?

Admiral KRISTENSEN. Yes, sir.

Mr. DE LUGO. Well, you know, the Virgin Islands has a long history with Denmark.

Admiral KRISTENSEN. Yes, sir. My grandfather was confused, or all of his mail was confused when he first came to this country by spelling it "C-h," so he changed it to "K".

Mr. DE LUGO. Well, we still have that problem with our postal system.

Admiral Kristensen is Commander of Naval Forces Marianas in Guam; and Major General H. Hale Burr, Jr., Commander, Thirteenth Air Force.

Gentlemen, we welcome you and thank you very much for traveling this far and we welcome your testimony. Your statements are made a part of the record in their entirety and you may proceed as you wish.

**PANEL CONSISTING OF REAR ADM. EDWARD K. KRISTENSEN, COMMANDER, NAVAL FORCES, MARIANAS, GUAM; AND MAJ. GEN. H. HALE BURR, JR., COMMANDER, THIRTEENTH AIR FORCE**

#### **STATEMENT OF REAR ADM. EDWARD K. KRISTENSEN**

Admiral KRISTENSEN. Thank you, Mr. Chairman.

Mr. Chairman and members of the Subcommittee, good morning. As the Chairman indicated, I am Rear Admiral Edward Kristensen, Commander, U.S. Naval Forces, Marianas, and the Senior Naval Officer in the Territory of Guam.

I am pleased to appear before the subcommittee to present the views of the Department of the Navy on H.R. 2144. This bill will transfer 3,200 acres of excess DOD land, with any improvements, directly and at no cost to the Government of Guam.

These DOD parcels of land were identified as excess by a 1977 study entitled the "Guam Land Use Plan," or GLUP. GLUP identified some 5,000 acres of excess Federal land. Approximately 1,400 acres have already been transferred to the Government of Guam, 3,200 acres remain available at this time.

H.R. 2144, introduced by Delegate Underwood, is substantially similar to legislation introduced by former Delegate Blaz in previous years. My predecessor, Rear Admiral James Perkins, and I, as well as our superior military officers in Hawaii, actively supported previous legislative efforts designed to transfer this DOD excess land to the Government of Guam.

I continue to support in principle the disposition of land which was previously declared to be excess to the needs of the Department of Defense. I have the following comments about bill H.R. 2144 itself.

First, the public benefit referred to in Section 3(a) of the bill needs to be clearly defined. H.R. 2144 does not provide for any Federal approval. Once the Government of Guam Land Use Plan is submitted to the designated committees of the Congress and 180 days have elapsed, the land identified in H.R. 2144 is required to be transferred.

Perhaps a better approach might be to require the Government of Guam to identify up front its intended use for the land so that the proposed use actually inures to the public benefit.

If the land is to be transferred free of any constraints or public benefit approval by the Federal Government, as H.R. 2144 currently envisions, then I believe it to be fiscally prudent to require the Government of Guam, and not the controlling Federal agency, to bear the costs related to the transfer of excess land. It seems eminently reasonable to require the Government of Guam, as the beneficiary, to bear any such costs.

Land issues are important to the people of Guam. Those land issues occupy much of my time as the local representative of one of the biggest landowners on the island, the Department of Defense. I am hopeful that the transfer of lands identified in H.R. 2144, if approved by the Congress, will demonstrate to the people of Guam, and their government, that their governments in Washington and in Agana are working in their best interests.

Guam has played a strategic role in many major conflicts, be that World War II, the Korean War, the conflict in Vietnam, or more recently the conflicts in Iraq and Somalia. Guam remains an important constant in a rapidly changing world arena. With the removal of U.S. forces from the Philippines and with the increased calls for reduction of forces in Japan, Guam remains of vital significance in protecting U.S. strategic interests in the Pacific theater.

Whatever actions are taken concerning DOD land holdings on Guam, those actions must not hamper the ability of the United States to defend its global and regional interests. Land issues on Guam have been clouded recently by several factors external to the Department of Defense.

For example, the U.S. Fish and Wildlife Service has under consideration a proposal to designate large tracts of land on Guam as critical habitat. In similar fashion, the recent decision of the Base Realignment and Closure Commission to close the Naval Air Station at Agana, an active operational base, will have a major impact on military operations on Guam.

It is with the foregoing land issues in mind I have recommended to the Pacific Fleet Commander, Admiral Kelly, that the military conduct a comprehensive review of DOD land holdings on Guam.

General Rutherford, Commander of the Pacific Air Forces, has concurred, and Admiral Larson has approved the concept. Major General Burr, the Senior Air Force Officer on Guam, and I have already jointly convened a group to review DOD land requirements on Guam. The product of this review should be an updated GLUP, which we can call "GLUP 93" to distinguish it from its 1977 version.

Any such review must be a thorough and comprehensive one and attempt to project the Nation's defense requirements into the twenty-first century in a complex and changing global environment.

The issues which I have outlined above are but a recognition that there are many complex variables in the DOD land equation on Guam. This equation cannot and should not be viewed in discrete parts. I believe that the defense needs of the United States, which include the territory of Guam, must take priority. The Navy and the Air Force are actively reviewing those needs at this time.

Mr. Chairman, Members, I thank you for this opportunity to appear before the Subcommittee and present the views of the Department of the Navy on this subject. I welcome any questions the subcommittee may have.

Mr. DE LUGO. Thank you, Admiral.

[Prepared statement of Admiral Kristensen follows:]

NOT FOR PUBLICATION UNTIL RELEASED  
BY THE COMMITTEE ON NATURAL RESOURCES  
UNITED STATES HOUSE OF REPRESENTATIVES

STATEMENT OF  
REAR ADMIRAL EDWARD K. KRISTENSEN  
BEFORE THE  
INSULAR AND INTERNATIONAL AFFAIRS SUBCOMMITTEE  
OF THE  
HOUSE COMMITTEE ON NATURAL RESOURCES  
ON H.R. 2144  
JULY 29, 1993

NOT FOR PUBLICATION UNTIL RELEASED  
BY THE COMMITTEE ON NATURAL RESOURCES  
UNITED STATES HOUSE OF REPRESENTATIVES

GOOD MORNING/AFTERNOON. I AM REAR ADMIRAL EDWARD KRISTENSEN, COMMANDER, U.S. NAVAL FORCES MARIANAS, AND THE SENIOR NAVAL OFFICER IN THE TERRITORY OF GUAM. I AM HERE TODAY TO ADDRESS H.R. 2144, A BILL WHICH WOULD TRANSFER CERTAIN EXCESS DOD LAND, AMOUNTING TO APPROXIMATELY THREE THOUSAND, TWO HUNDRED ACRES OF LAND, WITH ANY IMPROVEMENTS, DIRECTLY AND AT NO COST TO THE GOVERNMENT OF GUAM. THESE THIRTY-TWO HUNDRED ACRES COMPRISE SOME THIRTEEN NAVY PARCELS OF LAND, SOME NINE USAF PARCELS OF LAND, AND ONE PARCEL OF LAND OWNED BY THE FEDERAL AVIATION ADMINISTRATION. THE VARIOUS DOD PARCELS OF LAND WERE IDENTIFIED AS EXCESS BY A 1977 STUDY ENTITLED THE "GUAM LAND USE PLAN," OR "GLUP." GLUP IDENTIFIED SOME 5000 ACRES OF EXCESS FEDERAL LAND. BETWEEN 1978 AND 1990 SOME 1400 ACRES OF GLUP LAND WERE TRANSFERRED TO THE GOVERNMENT OF GUAM. IN 1986 APPROXIMATELY 500 ACRES WERE WITHDRAWN, FOR USE AS A FLEET HOSPITAL WAREHOUSE AND LAYDOWN AREA, AND SMALL BUFFER AT THE NAVAL MAGAZINE AND A FAMILY HOUSING AREA. ACCORDINGLY, APPROXIMATELY 3200 ACRES REMAIN AVAILABLE AT THIS TIME, AS EXCESS TO THE NEED OF THE DEPARTMENT OF DEFENSE.

H.R. 2144, INTRODUCED BY DELEGATE UNDERWOOD, IS SUBSTANTIALLY SIMILAR TO LEGISLATION INTRODUCED BY FORMER DELEGATE BEN BLAZ IN PREVIOUS YEARS. BOTH MY PREDECESSOR, REAR ADMIRAL JAMES PERKINS, AND I, AS WELL AS OUR SUPERIOR MILITARY OFFICERS IN HAWAII, ACTIVELY SUPPORTED PREVIOUS LEGISLATIVE EFFORTS DESIGNED TO TRANSFER THIS DOD EXCESS LAND TO THE GOVERNMENT OF GUAM. I CONTINUE TO SUPPORT IN PRINCIPLE THE DISPOSITION OF LAND WHICH HAS PREVIOUSLY BEEN DECLARED TO BE EXCESS TO THE NEEDS OF THE DEPARTMENT OF DEFENSE. HOWEVER, I HAVE THE FOLLOWING COMMENTS ABOUT H.R. 2144.

FIRST, THE PUBLIC BENEFIT REFERRED TO IN SECTION 3(a) OF H.R. 2144 NEEDS TO BE CLEARLY DEFINED. IN MY VIEW, THIS DEFINITION SHOULD BE PREPARED BY THE GOVERNMENT OF GUAM AND APPROVED BY THE FEDERAL GOVERNMENT IN CONNECTION WITH THE DETAILED LAND USE PLAN MENTIONED IN THAT SAME SECTION. AS NOW DRAFTED, H.R. 2144 DOES NOT PROVIDE FOR ANY FEDERAL GOVERNMENT APPROVAL. REGARDLESS OF THE CONTENT OF THE PLAN OR THE PROPOSED USE OF THE LAND, WHICH COULD

INCLUDE OUTRIGHT SALE FOR PROFIT, ONCE THE LAND USE PLAN IS SUBMITTED TO THE DESIGNATED COMMITTEES OF THE CONGRESS AND 180 DAYS HAVE ELAPSED, THE LAND IDENTIFIED IN H.R. 2144 IS REQUIRED TO BE TRANSFERRED TO THE GOVERNMENT OF GUAM. I THINK A BETTER APPROACH IS TO REQUIRE THE GOVERNMENT OF GUAM TO IDENTIFY UP FRONT ITS INTENDED USE FOR THE LAND, SO THAT THE FEDERAL GOVERNMENT CAN DETERMINE THAT THE PROPOSED USE ACTUALLY INURES TO THE PUBLIC BENEFIT. SECTION 3 OF THE BILL ESTABLISHES NO CRITERIA FOR DETERMINING PRECISELY WHAT USES ARE "FOR THE PUBLIC BENEFIT."

IF THE LAND IS TO BE TRANSFERRED FREE OF ANY CONSTRAINTS OR PUBLIC BENEFIT APPROVAL BY THE CONGRESS, AS H.R. 2144 CURRENTLY ENVISIONS, THEN I BELIEVE IT TO BE FISCALLY PRUDENT TO REQUIRE THE GOVERNMENT OF GUAM, AND NOT THE CONTROLLING FEDERAL AGENCY, TO BEAR THE COSTS RELATED TO THE TRANSFER OF EXCESS LAND. THIS MAY INCLUDE COSTS OF SURVEYS OF THE LAND, ENVIRONMENTAL STUDIES, AND CERTAIN ENVIRONMENTAL CLEANUP COSTS. IT SEEMS EMINENTLY REASONABLE TO REQUIRE THE GOVERNMENT OF GUAM, AS THE BENEFICIARY TO BEAR ANY SUCH



COST. THERE MUST BE A BALANCE HERE, AND H.R. 2144 AS PRESENTLY DRAFTED PROVIDES NONE.

IT DOES NOT TAKE A VISITOR TO GUAM LONG TO APPRECIATE THAT LAND IS AN EXTREMELY IMPORTANT COMMODITY - ON AN ISLAND THERE IS A FINITE SUPPLY, AND YOU CANNOT CREATE MORE. IT IS THEREFORE UNDERSTANDABLE WHY LAND ISSUES ARE IMPORTANT TO THE PEOPLE OF GUAM AND THEIR GOVERNMENT, AND WHY GUAM LAND ISSUES OCCUPY MUCH OF MY TIME AS THE LOCAL REPRESENTATIVE OF ONE OF THE BIGGEST LAND OWNERS ON THE ISLAND - THE DEPARTMENT OF DEFENSE.

THE DEPARTMENT OF DEFENSE ACQUIRED MUCH OF ITS LAND ON GUAM AFTER WORLD WAR II. SUBSEQUENTLY PUBLIC LAW 95-134 AUTHORIZED THE DEPARTMENT OF JUSTICE TO PAY ADDITIONAL COMPENSATION FOR THESE LANDS. HOWEVER, SOME FORMER LANDOWNERS REMAIN DISSATISFIED. THE ISSUE OF RETURNING THESE LANDS TO FORMER OWNERS REMAINS CONTROVERSIAL. A FEW ARE VOCAL ABOUT THIS ISSUE - SOME HAVE SIMPLY MOVED ONTO FEDERAL LAND TO PROTEST; IT IS A SUBJECT OF DAILY

CONVERSATION ON GUAM, RECEIVING CONSTANT ATTENTION IN THE MEDIA. I AM HOPEFUL THAT THE TRANSFER OF THE LANDS IDENTIFIED IN H.R. 2144, IF APPROVED BY THE CONGRESS, WILL DEMONSTRATE TO THE PEOPLE OF GUAM THAT THEIR GOVERNMENTS - IN WASHINGTON AND IN AGANA - ARE WORKING IN THEIR BEST INTERESTS.

SINCE THE END OF WORLD WAR II, THE UNITED STATES HAS ATTEMPTED TO BE GOOD STEWARDS OF THE LAND WHICH IT OWNS ON GUAM. THIS HAS BEEN A DELICATE BALANCING ACT - ATTEMPTING TO SATISFY LOCAL LAND NEEDS, WHILE ENSURING THAT THE VITAL SECURITY INTERESTS OF THE NATION WERE PROTECTED. GUAM HAS ALWAYS PLAYED AN IMPORTANT STRATEGIC ROLE IN OUR NATION'S DEFENSE. ONE ONLY HAS TO RECALL THE JAPANESE OCCUPATION OF GUAM FROM 1941- 1944, AND THE THOUSANDS OF AMERICAN LIVES LOST TO RECLAIM GUAM FROM JAPANESE CONTROL. THE RESIDENTS OF GUAM ALSO SUFFERED HORRIBLY DURING THAT OCCUPATION, AND MANY CHAMORROS DIED VALIANTLY IN THE DEFENSE OF THEIR LAND AND OF THE UNITED STATES. JULY 21, 1994, WILL BE THE FIFTIETH ANNIVERSARY OF THE LIBERATION OF GUAM, AND "LIBERATION DAY" TAKES

ON A VERY SPECIAL MEANING FOR THOSE WHO CALL GUAM THEIR HOME, EVEN TEMPORARILY AS I DO.

GUAM PLAYED A STRATEGIC ROLE IN OTHER MAJOR CONFLICTS OF RECENT TIME, BE THAT THE KOREAN WAR, THE CONFLICT IN VIETNAM, OR MORE RECENTLY THE CONFLICTS IN IRAQ AND SOMALIA. GUAM REMAINS AN IMPORTANT CONSTANT IN A RAPIDLY CHANGING WORLD ARENA. WHILE THE THREAT OF CONFLICT MAY HAVE LESSENED SOMEWHAT IN EUROPE, THE POTENTIAL FOR CONFLICT IN THE FAR EAST AND THE MIDDLE EAST REMAINS. WITH THE REMOVAL OF U.S. FORCES FROM THE PHILIPPINES, AND WITH INCREASED CALLS FOR REDUCTION OF FORCES IN JAPAN, GUAM REMAINS OF VITAL SIGNIFICANCE IN PROTECTING U.S. STRATEGIC INTERESTS IN THE PACIFIC THEATER. WHATEVER ACTIONS ARE TAKEN CONCERNING DOD LAND HOLDINGS ON GUAM, THOSE ACTIONS MUST NOT HAMPER THE ABILITY OF THE UNITED STATES TO DEFEND ITS GLOBAL AND REGIONAL INTERESTS.

DOD HAS ATTEMPTED TO SATISFY LOCAL LAND NEEDS ON GUAM WHENEVER POSSIBLE. SINCE 1977 THE NAVY AND AIR FORCE HAVE TRANSFERRED TO

EXCESS OF 1400 ACRES TO THE GOVERNMENT OF GUAM, IN ACCORDANCE WITH U.S. LAW, FOR SPECIFIC NEEDS OF THE PEOPLE AND THEIR GOVERNMENT. WE HAVE TRANSFERRED OR PROVIDED ACCESS TO LAND FOR SCHOOLS, PARKS AND ROADS; FOR HOUSING, AGRICULTURE, WILDLIFE CONSERVATION AND RECREATION; FOR SEWAGE TREATMENT FACILITIES AND OTHER HEALTH-RELATED NEEDS; FOR IMPROVEMENTS AT THE PORT AND AT THE AIRPORT; AND FOR OTHER PURPOSES BENEFICIAL TO GUAM AND THE PEOPLE OF GUAM. IN MOST INSTANCES THESE ACTIONS HAVE BEEN AT NO COST TO THE GOVERNMENT OF GUAM IN ACCORDANCE WITH FEDERAL LAW. AT ANY GIVEN TIME MY STAFF ON GUAM IS WORKING ON SEVERAL REQUESTS OR PROPOSALS FROM THE GOVERNMENT OF GUAM FOR THE TRANSFER OF, OR ACCESS TO, PARCELS OF LAND FOR VARIOUS PUBLIC USES. WE DO NOT VIEW THESE REQUESTS AS A BURDEN; RATHER, WE HAVE ATTEMPTED TO ACCOMMODATE AS MANY OF THESE REQUESTS AS POSSIBLE, CONSISTENT WITH OUR UNDERLYING NEED TO ACT IN THE BEST INTERESTS OF THE NATION'S DEFENSE.

I AM NOT AN APOLOGIST FOR THE ACTIONS OF MY PREDECESSORS AFTER WORLD WAR II. IF THERE WERE ANY MISUNDERSTANDINGS - AND I AM NOT

NAIVE ENOUGH TO BELIEVE THAT NONE OCCURRED - THE UNITED STATES HAS ATTEMPTED ON MORE THAN ONE OCCASION TO REDRESS THOSE PERCEIVED OR ACTUAL WRONGS. LEGAL RECOURSE HAS BEEN AFFORDED THE FORMER LANDOWNERS OF GUAM, AND MUTUALLY-AGREED UPON COMPENSATION PAID. ANY FUTURE REMEDIES MUST COME FROM THIS AUGUST BODY, SINCE IT IS THE CONGRESS THAT DETERMINES HOW THE FEDERAL GOVERNMENT DISPOSES OF ITS ASSETS, INCLUDING LAND.

H.R. 2144 REPRESENTS BUT ONE EFFORT ON THE PART OF THE PEOPLE OF GUAM TO RECLAIM FEDERAL LAND. OTHER EFFORTS EXTEND TO LAND NOT PREVIOUSLY DECLARED EXCESS TO FEDERAL NEEDS. THIS IS NOT A ONE-TIME EFFORT; DELEGATE UNDERWOOD, SPEAKING BEFORE THE CONGRESS ON MAY 18 OF THIS YEAR, IDENTIFIED H.R. 2144 AS (AND I QUOTE) "A MAJOR COMPONENT OF THE PROCESS OF ADDRESSING HISTORICAL INJUSTICES IN LAND TAKINGS EXPERIENCED BY THE CHAMORRO PEOPLE OF GUAM." (UNQUOTE)

THIS PROCESS ENVISIONED BY DELEGATE UNDERWOOD MUST CERTAINLY TAKE INTO ACCOUNT THE GOVERNMENT OF GUAM-SPONSORED INITIATIVE WHICH

ASKED THE U.S. FISH AND WILDLIFE SERVICE TO DESIGNATE VAST AREAS OF THE ISLAND OF GUAM AS CRITICAL HABITAT - AND THE MAJOR IMPACT THIS COULD HAVE ON THE AMOUNT OF LAND REQUIRED BY THE DEPARTMENT OF DEFENSE TO ACCOMPLISH ITS MISSION. THIS ENTIRE ISSUE REMAINS UNRESOLVED, AND ITS RESOLUTION IS CLOUDED BY A RECENT LAWSUIT FILED BY THE NATIONAL AUDUBON SOCIETY AND THE MARIANAS AUDUBON SOCIETY AGAINST THE U.S. FISH AND WILDLIFE SERVICE, SEEKING THE IMPOSITION OF THE CRITICAL HABITAT DESIGNATION. THE OVERALL FINAL IMPACT OF THIS PROCESS ON DOD LAND, AND ON DOD OPERATIONS, REMAINS UNCLEAR AT THIS TIME.

AND CERTAINLY, AN IMPORTANT COMPONENT IN THE LAND REVIEW PROCESS MUST BE THE RECENT DECISION OF THE BASE REALIGNMENT AND CLOSURE COMMISSION, DIRECTING THE CLOSURE OF NAS AGANA. RELOCATION OF NAVAL AIR OPERATIONS TO ANDERSEN AIR FORCE BASE, PARTICULARLY WITH THE UNCERTAIN IMPACTS OF POTENTIAL CRITICAL HABITAT DESIGNATION, WILL PRESENT SIGNIFICANT LAND USE CHALLENGES TO THE MILITARY.

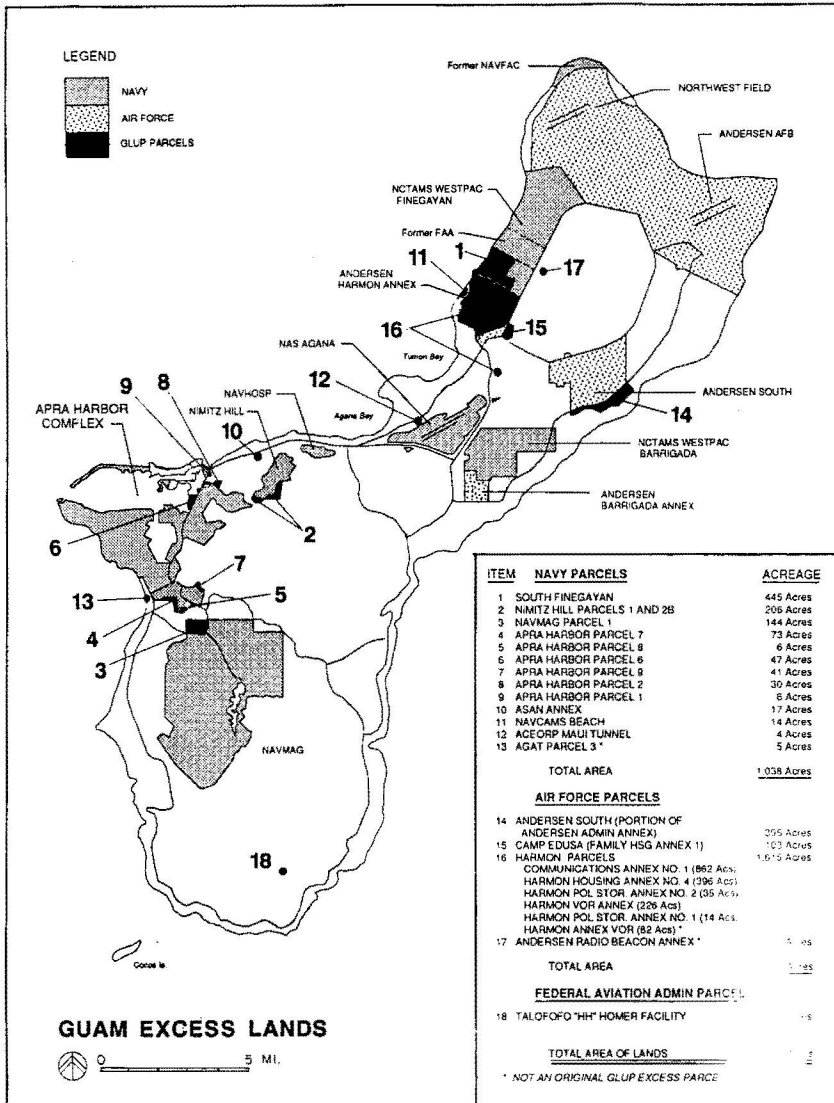
IT IS WITH FOREGOING LAND ISSUES IN MIND THAT I HAVE RECENTLY RECOMMENDED TO THE PACIFIC FLEET COMMANDER, ADMIRAL KELLY, THAT THE MILITARY CONDUCT A COMPREHENSIVE REVIEW OF DOD LAND HOLDINGS ON GUAM. GENERAL RUTHERFORD, COMMANDER OF THE PACIFIC AIR FORCES, HAS CONCURRED, AND ADMIRAL LARSON HAS APPROVED THE GENERAL CONCEPT. MAJOR GENERAL BURR, THE SENIOR USAF OFFICER ON GUAM, AND I HAVE ALREADY JOINTLY CONVENED A GROUP TO REVIEW DOD LAND REQUIREMENTS ON GUAM. THE PRODUCT OF THIS REVIEW SHOULD BE AN UPDATED "GLUP," WHICH WE CAN CALL "GLUP 93" TO DISTINGUISH IT FROM ITS 1977 VERSION. ANY SUCH REVIEW MUST BE A THOROUGH AND COMPREHENSIVE ONE, AND ATTEMPT TO PROJECT THE NATION'S DEFENSE REQUIREMENTS INTO THE TWENTY-FIRST CENTURY, IN A COMPLEX AND CHANGING GLOBAL ENVIRONMENT.

THE ISSUES WHICH I HAVE OUTLINED ABOVE ARE BUT A RECOGNITION THAT THERE ARE MANY COMPLEX VARIABLES IN THE DOD LAND EQUATION ON GUAM. WHILE I UNDERSTAND FULLY THE DESIRES OF DELEGATE UNDERWOOD AND THE PEOPLE OF GUAM TO SPEED THIS PROCESS ALONG, IT IS A PROCESS THAT CANNOT AND SHOULD NOT BE VIEWED IN DISCRETE PARTS. I BELIEVE

THAT THE DEFENSE NEEDS OF THE UNITED STATES - WHICH INCLUDES THE TERRITORY OF GUAM - MUST TAKE PRIORITY. THE NAVY AND THE AIR FORCE ARE ACTIVELY REVIEWING THOSE NEEDS AT THIS TIME.

GENTLEMEN [AND LADIES], I THANK YOU FOR THIS OPPORTUNITY TO APPEAR BEFORE YOU AND PRESENT THE VIEWS OF THE DEPARTMENT OF THE NAVY ON THIS SUBJECT. I WELCOME YOUR QUESTIONS AND COMMENTS.





Mr. DE LUGO. General Burr.

General BURR. Mr. Chairman, with your permission I would like to submit my formal statement for the record, and I will now give a short summary of the Air Force's position on excess land in Guam.

Mr. DE LUGO. Without objection, your statement will be placed in the record in its entirety, and we will proceed with your summation.

#### **STATEMENT OF MAJ. GEN. H. HALE BURR, JR.**

General BURR. Mr. Chairman, honorable members of the congressional Subcommittee, good morning. I am Major General Burr, Commander, Thirteenth Air Force and the Senior Air Force Officer in the territory of Guam. I am here today to address H.R. 2144, a bill which would transfer certain excess DOD land, amounting to approximately 3,200 acres of land, with improvements, directly and at no cost to the Government of Guam.

The Air Force position is that the Federal Government properly obtained title to all military lands on Guam, as upheld by the U.S. District Court rulings of 9 and 10, June, 1993. The Air Force has regularly supported and encouraged enabling legislation which would facilitate the disposal of land declared excess, such as those identified in this legislation. Current U.S. law governing disposition of excess land includes certain restrictions.

For example, if the property is declared excess, other Federal agencies may request excess DOD property before it is released by the United States. Land given to the Government of Guam at no cost or less than fair market value must be used for public benefit. If returned to individuals, it must be purchased at fair market value. In addition, environmental requirements must be satisfied before the property can be transferred.

The Air Force does not oppose relief from these restrictions to facilitate the transfer of excess real property. Because of our continuing statutory obligation for environmental cleanup, it would be difficult to transfer excess parcels at no cost.

The Air Force will continue to evaluate and identify land which is no longer required for military needs. In conclusion, the Air Force supports an equitable transfer of Air Force land on Guam identified in H.R. 2144.

Mr. DE LUGO. Thank you very much, General.

[Prepared statement of General Burr follows:]

DEPARTMENT OF THE AIR FORCE  
PRESENTATION TO THE COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE ON INSULAR AND INTERNATIONAL AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVES

SUBJECT: H.R. 2144, A BILL TO PROVIDE FOR THE TRANSFER OF LAND TO  
THE GOVERNMENT OF GUAM

STATEMENT OF: MAJOR GENERAL H. HALE BURR, JR.,  
COMMANDER, THIRTEENTH AIR FORCE

29 JULY 1993

NOT FOR PUBLICATION UNTIL RELEASED BY THE HOUSE COMMITTEE ON  
NATURAL RESOURCES, U.S. HOUSE OF REPRESENTATIVES.

THIRTEENTH AIR FORCE POSITION STATEMENT  
ON  
EXCESS MILITARY LAND ON GUAM

HONORABLE MEMBERS OF CONGRESS:

GOOD MORNING/AFTERNOON: I AM MAJOR GENERAL H. HALE BURR, JR., COMMANDER OF THIRTEENTH AIR FORCE AND THE SENIOR AIR FORCE OFFICER IN THE TERRITORY OF GUAM. I AM HERE TODAY TO ADDRESS H.R. 2144, A BILL WHICH WOULD TRANSFER CERTAIN EXCESS DOD LAND, AMOUNTING TO APPROXIMATELY THREE THOUSAND, TWO HUNDRED ACRES OF LAND, WITH IMPROVEMENTS, DIRECTLY AND AT NO COST TO THE GOVERNMENT OF GUAM. THE PURPOSE OF THIS STATEMENT IS TO REVIEW SOME OF THE OUTSTANDING HISTORICAL LAND ISSUES ON GUAM INVOLVING THE US MILITARY SERVICES, TO IDENTIFY SPECIFIC CURRENT PROBLEMS RESULTING FROM THOSE ISSUES, AND OUTLINE RESTRICTIONS IMPOSED BY CURRENT LAWS RELATING TO THE RELEASE OF EXCESS MILITARY PROPERTY THAT DEMONSTRATE THE NEED FOR SPECIAL LEGISLATION.

GUAM IS A RELATIVELY SMALL ISLAND, AND THE AVAILABILITY OF LAND IS A SENSITIVE ISSUE INVOLVING MYRIAD GROUPS. FOR TWENTY YEARS OR MORE, IT HAS BEEN THE CONSISTENT POSITION OF THE AIR FORCE AND OTHER DOD COMPONENTS TO DECLARE LAND AS EXCESS WHEN IT IS NO LONGER NEEDED FOR MILITARY REQUIREMENTS.

HISTORICAL BACKGROUND

PRIOR TO 1898, THE SPANISH CROWN OWNED 27 PERCENT OF THE LAND AREA OF GUAM, OR ABOUT 36,015 ACRES. THIS INCLUDED ROADS, HIGHWAYS, BRIDGES, AGRICULTURAL LAND, PUBLIC AREAS AND BUILDINGS. ALL SPANISH GOVERNMENT LAND WAS TRANSFERRED TO THE UNITED STATES GOVERNMENT ON 10 DECEMBER 1898 BY THE TREATY OF PARIS, ENDING THE SPANISH-AMERICAN WAR.

DURING WORLD WAR II, JAPANESE FORCES OCCUPIED GUAM AND TOOK ADDITIONAL PROPERTY FROM LOCAL CITIZENS, CONSTRUCTING SEVERAL BASES AND AIRFIELDS. THESE WERE LATER OCCUPIED AND USED BY US FORCES FOLLOWING THE LIBERATION OF GUAM. SUCH LAND INCLUDED THE CURRENT NAVAL AIR STATION AGANA, ANDERSEN AIR FORCE BASE (NORTH FIELD), AND HARMON ANNEX. US MILITARY FORCES BUILT NORTHWEST FIELD IN ANTICIPATION OF THE INVASION OF JAPAN.

BETWEEN 1945 AND 1950, US MILITARY FORCES CONTINUED TO DEVELOP BASES ON GUAM IN RESPONSE TO POST-WAR INSTABILITIES IN THE WESTERN PACIFIC. ADDITIONAL LAND WAS ACQUIRED USING LEASES. IN 1948, 1949, AND 1950, HOWEVER, THE NAVAL GOVERNMENT OF GUAM CONSOLIDATED FEE SIMPLE TITLE IN THESE AND OTHER PARCELS BY FILING VARIOUS CONDEMNATION PROCEEDINGS IN THE GUAM FEDERAL COURT. TITLE WAS LATER PASSED TO THE INDIVIDUAL SERVICES. THESE WERE NOT NEGOTIATED PURCHASES; THEY WERE CONDEMNATIONS. THE FAMILIES INITIALLY RECEIVED COMPENSATION WHICH WAS LATER INCREASED IN AN AMOUNT AGREED UPON BY THE GOVERNMENT AND THE FAMILIES' ATTORNEYS BASED ON A FAIR MARKET VALUE REAPPRAISAL. THE ORGANIC ACT OF GUAM (1 AUGUST 1950) TRANSFERRED ALL FEDERAL LAND ON GUAM TO THE

GOVERNMENT OF GUAM, EXCEPT LAND SPECIFICALLY RESERVED BY THE PRESIDENT. THIS RESERVATION WAS ACCOMPLISHED BY EXECUTIVE ORDER 10178 (30 OCTOBER 1950), WHICH INCORPORATED MOST OF THE CIVIL CONDEMNATION PROCEEDINGS WHICH HAD BEEN FILED. THIS IS THE SOURCE OF TITLE FOR THE MAJORITY OF USAF AND NAVY LAND ON GUAM TODAY.

IN 1962 AND 1963, THE NAVY CONDEMNED LAND AT RITIDIAN POINT. THIS, TOGETHER WITH LAND TRANSFERRED FROM THE AIR FORCE, BECAME NAVAL FACILITY GUAM (NAVFAC). THIS WAS SIGNIFICANT BECAUSE CLASSIFIED OPERATIONS BY THE NAVY AT NAVFAC, AND BY THE AIR FORCE IN CONDUCTING STRATEGIC BOMBING OF VIETNAM FROM ANDERSEN AIR FORCE BASE, RESULTED IN THE CLOSING OF ROUTE 3A (THAT PORTION OF ROUTE 3 TRAVERSING MILITARY PROPERTY) TO THE PUBLIC. IT ALSO MEANT MORE STRINGENT SECURITY REQUIREMENTS FOR PRIVATE LANDOWNERS LANDLOCKED BY MILITARY PROPERTY.

IN ALL, PERHAPS 1,250 FAMILIES GAVE UP LAND TO THE FEDERAL GOVERNMENT, THROUGH SALE OR CONDEMNATION. THE GOVERNMENT OF GUAM ESTIMATES THAT THEIR HEIRS AND ASSIGNS MAY NOW TOTAL 8,000 INDIVIDUALS. THE AIR FORCE OWNS ABOUT 20,350 ACRES AND THE NAVY ABOUT 22,500 ACRES ON GUAM. THAT TOTALS ALMOST 43,000 ACRES, OR NEARLY ONE-THIRD OF THE TOTAL LAND AREA OF GUAM.

#### INVOLVEMENT BY GOVERNMENT OF GUAM (GOVGUAM)

AS EARLY AS 1965, GOVGUAM CHALLENGED USAF OWNERSHIP AND CONTROL OF ROUTE 3A, CONTENDING IT WAS A PUBLIC RIGHT OF WAY. BY 1972, LANDLOCKED PRIVATE PROPERTY AT URUNAO BEACH HAD BEEN ZONED FOR HOTEL DEVELOPMENT, RESULTING IN CONTINUOUS EFFORTS BY THE ARTERO FAMILY OVER THE LAST TWO DECADES TO DEVELOP THAT PROPERTY AND INCREASE COMMERCIAL ACCESS TO IT. IN 1982, THE LEGISLATURE SET UP A REVOLVING LOAN FUND TO ASSIST LANDOWNERS TO SUE THE FEDERAL GOVERNMENT FOR TITLE TO PROPERTY (GUAM PL 16-111). IN 1984, GOVGUAM DIRECTLY ASSUMED FISCAL RESPONSIBILITY TO HELP RECOVER SUCH PROPERTIES FOR PRIVATE CITIZENS, OR INCREASE THEIR COMPENSATION (GUAM PL 17-52). THIS LAW SPECIFICALLY STATED THAT FEDERAL CONDEMNATION AND RETENTION OF LAND HAD, "ADVERSELY AFFECTED NEARLY EVERY FAMILY ON GUAM."

IN 1987, THE GOVERNOR AND THE NATIONAL AUDUBON SOCIETY PETITIONED US FISH AND WILDLIFE SERVICE REQUESTING DESIGNATION OF CRITICAL HABITAT OF SEVEN ENDANGERED SPECIES ON GUAM. THE PETITION REQUESTED CRITICAL HABITAT FOR NORTHWEST FIELD, ANDERSEN AIR FORCE BASE, AND OTHER AREAS. IN DECEMBER 1990, THE GOVERNOR SIGNED THE "NORTHWEST TERRITORIES ACT" (GUAM PL 20-222). THIS ACT ALLOCATED \$1,000,000 TO ASSIST LANDLOCKED LANDOWNERS AT JINAPSAN BEACH AND URUNAO BEACH TO LITIGATE AGAINST THE FEDERAL GOVERNMENT FOR TITLE AND ACCESS. IT ALSO DECLARED ROUTE 3A TO BE A PUBLIC RIGHT OF WAY, ILLEGALLY CONTROLLED BY THE US.

#### MILITARY EXCESS LAND PROGRAM

IN 1977, THE AIR FORCE AND NAVY COMPLETED A GUAM LAND USE PLAN WHICH IDENTIFIED 5100 ACRES AS EXCESS. SUBSEQUENTLY, 1,400 ACRES WERE TRANSFERRED, 500 ACRES WITHDRAWN, AND 3,200 ACRES, OF WHICH 2,200 IS USAF PROPERTY, REMAIN SUBJECT TO DISPOSITION. ALTHOUGH

APPROVED FOR RELEASE BY CONGRESSIONAL COMMITTEES AND TRANSFERRED TO GSA, THIS 3,200 ACRES OF EXCESS LAND BECAME THE SUBJECT OF PROPOSED LEGISLATION. AS A RESULT, GSA RETURNED THE EXCESS LAND PACKAGE TO PACIFIC DIVISION (PACDIV), NAVY FACILITIES COMMAND, IN HAWAII, UNTIL CONGRESS ACTS TO DETERMINE DISPOSITION. THE AIR FORCE STILL CONSIDERS THE PARCELS INCLUDED IN THIS LEGISLATION AS EXCESS TO ITS NEEDS.

IN RECENT YEARS, THE NAVY AND AIR FORCE HAVE COOPERATED TO RELEASE 14 SMALLER PARCELS OF LAND TO GOVGUAM TOTALING 1,600 ACRES. THE AIR FORCE IS NOT AWARE OF ANY ENVIRONMENTAL CONTAMINATION ISSUES WITH RESPECT TO AIR FORCE PARCELS IN H.R. 2144. HOWEVER, IT HAS CONTRACTED FOR AN ENVIRONMENTAL BASELINE SURVEY AS A PRECAUTION. THAT SURVEY SHOULD BE COMPLETED AND A FINAL REPORT RENDERED BY THE END OF THE YEAR. SOME OF THE PARCELS IN H.R. 2144 ARE UNDER CONSIDERATION BY THE US FISH AND WILDLIFE SERVICE FOR DESIGNATION AS CRITICAL HABITAT TO PROTECT ENDANGERED SPECIES ON THE ISLAND. NONE OF THE LANDS IN H.R. 2144 ARE INCLUDED IN THE PROPOSED NATIONAL WILDLIFE REFUGE THAT IS UNDER CONSIDERATION BY THE US FISH AND WILDLIFE SERVICE.

#### PUBLIC TRESPASSES ON MILITARY LAND

SOME LEADERS IN THE CHAMORU NATION, A NATIVE RIGHTS GROUP ON GUAM, LED A NUMBER OF "PROTESTS" WHICH TARGETED BOTH THE FEDERAL GOVERNMENT AND THE GOVERNMENT OF GUAM. IN JULY 1992, CHAMORU NATION MEMBERS, JOINED BY FOUR LOCAL LEGISLATORS, ENTERED POTTS JUNCTION AND MARCHED ONTO AIR FORCE PROPERTY ALONG ROUTE 3A. SUBSEQUENT TO THE JULY DATE, NUMEROUS ADDITIONAL TRESPASSES OCCURRED ON THE PROPERTY BY THIS GROUP. SHORTLY THEREAFTER, A CHAMORU NATION LEADER, ANGEL SANTOS, LED A GROUP OVER THE FENCE AT NAVAL AIR STATION AGANA. BEGINNING IN NOVEMBER 1992, ANGEL SANTOS OCCUPIED A PORTION OF ANDERSEN AIR FORCE BASE WHICH HE CLAIMED WAS IMPROPERLY TAKEN FROM HIS GRANDFATHER. MR. SANTOS ERECTED A PERMANENT STRUCTURE ON THE PROPERTY IN VIOLATION OF A FEDERAL COURT ORDER.

IN APRIL 1993, MEMBERS OF THE BLAS FAMILY OCCUPIED A PORTION OF ANDERSEN AIR FORCE BASE, CLAIMING THAT LAND BEING RETURNED TO GOVGUAM FOR A NORTHERN HIGH SCHOOL WAS THEIR ANCESTRAL LAND, AND THEREFORE, SHOULD BE RETURNED TO THEM ONCE NO LONGER NEEDED FOR MILITARY PURPOSES. WITHIN WEEKS, AT LEAST THREE OTHER FAMILIES OCCUPIED PORTIONS OF AIR FORCE PROPERTY, DEMANDING THAT THE LAND BE RETURNED TO THEM. WOODEN STRUCTURES AND CANVAS TENTS WERE ERECTED. ON 9 JUNE 1993, THE JUDGE FOR THE GUAM US DISTRICT COURT GRANTED A PRELIMINARY INJUNCTION AGAINST THE BLAS FAMILY, AND ORDERED THE DEFENDANTS AND EVERYONE ACTING IN CONCERT WITH THEM TO LEAVE MILITARY PROPERTY AND TO REMOVE THEIR STRUCTURES BY 12 JUNE. ON 10 JUNE 1993, THE JUDGE GRANTED SUMMARY JUDGEMENT AND A PERMANENT INJUNCTION IN FAVOR OF THE UNITED STATES AGAINST ANGEL SANTOS AND OTHER NAMED DEFENDANTS, ORDERING THEM TO REMAIN OFF MILITARY PROPERTY ON GUAM. THE BASIS FOR THE RULING WAS A FINDING THAT TITLE VESTED PROPERLY IN THE UNITED STATES THROUGH THE CONDEMNATION PROCEEDINGS DISCUSSED ABOVE, AND CANNOT NOW BE

ATTACKED BECAUSE OF THE QUIET TITLE TO LAND ACT, 28 USC 2409A. IN RESPONSE, ANGEL SANTOS STATED THAT HE WOULD OBEY THE COURT ORDER AND ENCOURAGE ALL OTHER PROTESTERS TO LEAVE MILITARY PROPERTY. THERE IS NO INDICATION THAT THE OTHER THREE SITES HAVE BEEN ABANDONED, ALTHOUGH THE NUMBER OF TRESPASSERS AT EACH SITE HAS DECREASED OVER PAST WEEKS.

#### AIR FORCE POSITION

THE AIR FORCE POSITION IS THAT THE FEDERAL GOVERNMENT PROPERLY OBTAINED TITLE TO ALL MILITARY LANDS ON GUAM, AS UPHELD BY THE US DISTRICT COURT RULINGS OF 9 AND 10 JUNE 1993. THE AIR FORCE HAS REGULARLY SUPPORTED AND ENCOURAGED ENABLING LEGISLATION WHICH WOULD FACILITATE DISPOSAL OF LANDS DECLARED EXCESS, SUCH AS THOSE IDENTIFIED IN THIS LEGISLATION.

CURRENT US LAW GOVERNING DISPOSITION OF EXCESS LAND INCLUDES RESTRICTIONS. FOR EXAMPLE, IF THE PROPERTY IS DECLARED EXCESS OTHER FEDERAL AGENCIES MAY REQUEST EXCESS DOD PROPERTY BEFORE IT IS RELEASED BY THE US. LAND GIVEN TO THE GOVERNMENT OF GUAM AT NO COST OR LESS THAN FAIR MARKET VALUE MUST BE USED FOR PUBLIC BENEFIT; IF RETURNED TO INDIVIDUALS, IT MUST BE PURCHASED AT FAIR MARKET VALUE. IN ADDITION, ENVIRONMENTAL REQUIREMENTS MUST BE SATISFIED BEFORE THE PROPERTY CAN BE TRANSFERRED. THE AIR FORCE DOES NOT OPPOSE RELIEF FROM THESE RESTRICTIONS TO FACILITATE THE TRANSFER OF EXCESS REAL PROPERTY. BECAUSE OF OUR CONTINUING STATUTORY OBLIGATION FOR ENVIRONMENTAL CLEANUP, IT WOULD BE DIFFICULT TO TRANSFER EXCESS PARCELS AT NO COST. THE AIR FORCE WILL CONTINUE TO EVALUATE AND IDENTIFY LAND WHICH IS NO LONGER REQUIRED FOR MILITARY NEEDS.

#### CONCLUSION

IN CONCLUSION, THE AIR FORCE SUPPORTS AN EQUITABLE TRANSFER OF AIR FORCE LAND ON GUAM IDENTIFIED IN H.R. 2144.

Mr. DE LUGO. You both made fine statements. They are constructive regarding the issues and they are helpful to this Subcommittee. I thank you for traveling from Guam to do so. I think that this appearance indicates how seriously the Department of Defense takes land issues on Guam in general, and I think that it bodes well towards reaching a solution to these problems.

You have noted that the Department of Defense has already transferred to Guam some 1,400 acres of the 5,000 acres identified in the late 1970s as excess to military needs. What process was used for transferring that property?

Admiral KRISTENSEN. The property was transferred through licenses and permits for the Government of Guam's use. We transferred ground, land for schools, for veterans' cemeteries, and various other projects that the Government of Guam desired to undertake for the good of the people.

Mr. DE LUGO. You have said that the Governor of Guam's request to have the Fish and Wildlife Service designate substantial areas of Guam as critical habitat could have an unclear impact on the Department of Defense land use and transfers. Could you elaborate on that?

Admiral KRISTENSEN. Yes, sir. The critical habitat designation would require the Department of Defense to reevaluate the use and the requirements we have on Guam. As you know, critical habitat would severely restrict our use of that land that has been placed under the critical habitat designation.

Training, any new construction, any movement even with NAS, if critical habitat happened to be invoked, movement of NAS to Andersen Air Force Base would become extremely difficult. We have infrastructure that has to be built, we have field carrier landing practice patterns that have to be flown, and if critical habitat were invoked, it would make it almost impossible to do those kinds of things on that land, sir.

Mr. DE LUGO. All right. I was impressed by your support of a new comprehensive Department of Defense review of the land needs of Guam. You made your recommendations in your statement, you said to Admiral Kelly, and you indicate that that is moving forward.

Admiral KRISTENSEN. Yes, sir. General Burr and I have been chartered by General Rutherford and Admiral Kelly to form a working group to, in fact, study the DOD land requirements on Guam. We have started that process. We are in hopes that by this fall, when Congressman Underwood holds the land conference, that we will be along enough in the process that we may be able to add our requirements and our needs to that picture with that land conference this fall.

Mr. DE LUGO. Then it would be your hope to participate in the land conference that Congressman Underwood is proposing?

Admiral KRISTENSEN. Yes, sir, I think the Department of Defense is on record that they would support and participate in the land conference that Congressman Underwood has proposed.

Mr. DE LUGO. That is good. I think that would be very constructive, and the more we work together, the quicker we will be able to resolve these long-standing issues.

Admiral KRISTENSEN. Yes, sir.



Mr. DE LUGO. You have also mentioned litigation against the Federal Government regarding beaches on the northwestern part of the island. My late colleague, Antonio Won Pat, and I worked with my friend who now chairs the Armed Services Committee, Congressman Ron Dellums of California, on this issue.

What is the status of this issue at the present time?

Admiral KRISTENSEN. I believe you are referring to the NAVFAC property Ritidian Point.

Mr. DE LUGO. This is the Urunao Beach on the northwestern part of the island.

Admiral KRISTENSEN. Congressman, I will have to say I am not aware of any litigation on the Urunao Beach property. We have property on the northwest coast, Ritidian Point, which was the old NAVFAC properties, also public properties with the Artero and Agüero families and the Castro family.

There was litigation with one of the Artero family members who is being accused of environmental damage to Federal property, trying to build a road into his family's property, the Artero property. That litigation is in fact still in progress and has not come to fruition.

Mr. DE LUGO. That was what we were referring to, the Artero property.

Admiral KRISTENSEN. Yes, sir.

Mr. DE LUGO. You have mentioned the controversy regarding whether Route 3A is public or not. What is the current status of that issue?

Admiral KRISTENSEN. Route 3A is Federal property. It was declared sometime ago or at least reported to be public property through a government action in Guam. However, title to that property is still held by the Department of Defense and the Air Force.

We have worked an agreement, in principle, with the Government of Guam that we would grant easement of Route 3A to a beach area or recreation area on the old NAVFAC property. We are currently waiting for the Government of Guam to return to us with a recreation use plan and an environmental assessment of the use of that property as a recreation area for the people of Guam.

It was an area previously used for recreational purposes by the military, by the Navy, on the NAVFAC properties when NAVFAC was, in fact, in operation and commission.

We have actively participated with the Government of Guam in trying to open up that beach area for the public good in conjunction with the Fish and Wildlife Service, who are looking at that piece of property as well as part of a wildlife refuge overlay that they are in fact working on now.

Mr. DE LUGO. Do you have any sense of when you will be getting a determination on this?

Admiral KRISTENSEN. The environmental assessment for the wildlife refuge has been completed. It is being placed into a final form and Region IX of the Fish and Wildlife Service will have to make a ruling with regard to a finding of no significant impact with regard to the wildlife refuge.

We are hoping that the wildlife refuge will in fact be placed in effect and we feel that it can meet the special management require-

ments for the endangered species that was asked for in the critical habitat petition.

Once the overlay refuge is, in fact, put in place, then we are hoping that the critical habitat question will be resolved.

Mr. DE LUGO. The Chair has some additional questions, but at this time let me recognize the gentleman from Guam for any questions that he might have of the witnesses.

Mr. UNDERWOOD. Thank you, Mr. Chairman, and thank you for your testimony, both General Burr and Admiral Kristensen, and I am particularly pleased by the open discussions that we have had in the past and your willingness and your support of doing another land use plan, GLUP 93, and I trust that coming out of that we will find some kind of comprehensive solution process that is responsive both to your needs as well as to the people of Guam.

There are a number of questions that I have relative to the presentation that was not given formally but was more or less given in written form and which I would like to ask. You have mentioned, Admiral, that there are certain issues pertaining to the land uses that the Government of Guam wants. A certain concern is being expressed about what uses the Government of Guam will put these lands to, and I think, to some extent, that was also mentioned by Mr. Gallegly, and it has been mentioned, I know, on previous occasions by the Department of the Interior.

I am curious as to what these concerns are all about. I mean, what is the great fear? What is it, the concern here? Is there something that could be expressed to us and perhaps could be included in the context of the legislation so that we can make sure that it does not happen? Would you care to comment?

Admiral KRISTENSEN. Yes, sir. I think the concern is, in fact, if the property is returned to the Government of Guam at no cost, will it be used for the benefit of the people of Guam and that is all the people of Guam.

I think our concern is that perhaps that might not be the case without some type of oversight in a land use plan by the Federal Government over the Guamanian Government on the use of that property.

Mr. UNDERWOOD. Well, as you well appreciate in the context of this legislation, we have a 180-day period from which to review any future land use plans, and I am sure that you are well aware that there are a number of land use plans being circulated in Guam now and that in fact the 3,200 acres has been discussed in the context of those land use plans.

I am sure you are aware of the Chamorro Land Trust Act. Is there any kind of specific objection on the part of DOD to seeing some of this land given to the Chamorro Land Trust?

Admiral KRISTENSEN. No, sir, that is not the concern. The concern is that perhaps there is no approval process for the land use plan. I think the bill reads that once the land use plan is submitted, that it automatically, without any possible change or requirement to change that plan in the 180 days, it becomes effective and the land automatically goes to the Government of Guam.

Mr. UNDERWOOD. Then along the same line, would it not, then, be useful for us to describe in more detail, perhaps in committee

language, what is meant by "public benefit use" and that that would take care of some of these concerns?

Admiral KRISTENSEN. Yes, sir.

Mr. UNDERWOOD. In a sense, there is a difference between ensuring adherence to legislation and management of the property, and there are a number of people, and I am certainly one of them, that are concerned this allows for a continual line of management.

In point of fact, the lands have been declared excess and it is clearly not in your interest to continue to exert some kind of influence or authority over that. Am I correct in that assumption?

Admiral KRISTENSEN. Yes, sir.

General BURR. We would very much like to see the land removed from the DOD rolls and put to use by the people of Guam. And I think that if H.R. 2144 could be revised in order to better define what benefit for the people means, that would then become more acceptable to DOD.

Mr. UNDERWOOD. In terms of the critical habitat restrictions mentioned in both presentations, and this is a question to both of you, have you thought about the alternative wildlife refuge and what does DOD intend to do about that and given the court case?

Admiral KRISTENSEN. We have given considerable thought to the wildlife refuge and we feel that with a wildlife refuge which would bring on-site an on-island Fish and Wildlife management team to manage the wildlife in conjunction with the Federal agency that owns the property, being the Air Force or the Navy, in this particular case, that wildlife refuge will provide us with the flexibility needed in order to continue the operations that we currently conduct on the property as well as any future operations that may be conducted in the areas of training or other operational needs.

Wildlife refuge, as I said, would give us the flexibility that we need in order to continue our operations on that property.

General BURR. The Air Force supports the designation of the property as a wildlife refuge as opposed to critical habitat. We would much prefer a wildlife refuge for that land that covers Andersen Air Force Base.

Mr. UNDERWOOD. And does either the Air Force or the Navy or DOD plan to participate in this court case that the Audubon Society has?

Admiral KRISTENSEN. Yes, sir, we are supporting and providing background information to the Fish and Wildlife Service in order to assist them in this court case.

Mr. UNDERWOOD. Also, I note that in both of your presentations you noted that the Government of Guam was an initial party in the action concerning the critical habitat. I know this matter has been brought up on a number of occasions, but I am sure both of you recognize that, as I understand it, certainly the Guam Legislature and the Governor's office are now on record as being in favor of the wildlife refuge as opposed to the critical habitat. I imagine you are both aware of that.

Admiral KRISTENSEN. Yes, sir, I am. It was last fall at a public hearing for the critical habitat that the Governor of Guam did come out at those hearings in opposition to the critical habitat and in favor of the overlay refuge.

Mr. UNDERWOOD. In your presentation, Admiral, you mention that the Government of Guam should pick up the costs related to environmental cleanup, and I have noticed in some of the presentations, noticeably that by Speaker San Agustin, yet to come in the next panel, there is some discussion about the lands that are being turned over in these 3,200 acres.

What is your understanding of the environmental condition of these lands?

Admiral KRISTENSEN. At this point in time we have two IR sites—environmental restoration sites—involved in the 3,200 acres. We are currently at the remedial investigation stage of those sites, so that is we really don't know what the extent of those two particular environmental sites are at this point in time.

I think our feeling is the fact if the land is returned to the Government of Guam at no cost, and we are talking about land worth the value somewhere close to \$900 million, that perhaps it is the Government of Guam's responsibility to transfer that land and put it to use; that they should pick up the cost of any transfer of that property, surveys and the like.

Mr. DE LUGO. Would the gentleman yield at that point?

Mr. UNDERWOOD. Sure.

Mr. DE LUGO. Well, of course, Admiral, I admire the fact you are doing a good job of protecting the Federal Government here and the Department of Defense I think this is some lands around Apra Harbor.

Admiral KRISTENSEN. Yes, sir, Apra Harbor.

Mr. DE LUGO. And parcel 7, it is toward parcel 7, it is thought that might possibly be contaminated with toxic waste.

You know, I know we have a budget problem here, a deficit and all that, but it would seem to me, I realize this is being transferred at no cost to the Government of Guam, but if the military contaminated this area, it should be cleaned up.

Admiral KRISTENSEN. Yes, sir, and in fact we are in the process of doing just that. We are following the required procedures in order to establish the scope of the cleanup. We are at the remedial investigation stage and proceeding forward with that and funding that, sir.

Mr. DE LUGO. And funding it?

Admiral KRISTENSEN. Yes, sir.

Mr. DE LUGO. All right.

Mr. UNDERWOOD. Thank you. Were these conditions included in any previous GAO reports on environmental pollution, the sites on Guam?

Admiral KRISTENSEN. What conditions are that, sir?

Mr. UNDERWOOD. The conditions you are referring to here, in terms of the two sites that you have identified as having potential environmental problems.

Admiral KRISTENSEN. Yes, sir, they have been identified as environmental sites, and as I said, they are in the process of being developed. Just exactly what extent the environmental damage has been that has taken place, and the remedial investigation will scope that problem so that we understand what it is that we have to clean up and the extent of the cleanup.

Mr. UNDERWOOD. In terms of the remaining Federal property that is on Guam, the land that is not part of this 3,200 acres, there is, obviously, a continuing responsibility on your part to assess the environmental conditions on those properties and clean them up as deemed necessary.

Are there current plans under way for that?

Admiral KRISTENSEN. As the regional environmental coordinator for the Department of the Navy, we continually assess the land that we have the stewardship of to ensure that we are not environmentally contaminating that land. When we find contamination, we take the necessary steps to stop the contamination and clean up what is there, yes, sir.

Mr. UNDERWOOD. Just a comment on a point that you made in your written testimony regarding the balancing of the military strategic needs and the local civilian community of Guam. I would like to simply make the point, and this is not meant to be disrespectful of military needs, but I think, clearly, that the perspective of the people on Guam of this issue is that the balance has been noticeably on the side of the military, and I would just like to make that point.

And along those lines, in your presentation, General Burr, you mention a couple of historical items in your presentation that I don't necessarily want to take issue with, but I do want to clearly indicate that the history here is being a little skewed.

You made mention of the fact that in 1898, under the terms of the Treaty of Paris, that 27 percent of the land of Guam was deemed crown lands and that the Federal Government, in a sense, inherited those crown lands. There is some scholarship ongoing now that indicates that the crown lands that the Spanish allegedly owned is limited basically to the property on which the public buildings existed, and that this figure of 27 percent, we are still trying to figure out where actually it came from, and so there is kind of a cloud over that particular item.

Also in your presentation you made reference to the fact that some of the property owned by the military now was originally taken from the people during the Japanese occupation, and in a sense, it transferred over to the U.S. military as a result of that.

And those are two historical points that seem to me quite curious because those historical points really pertain not to issues of justice and the issues of what happened and what did the Federal Government do after World War II in terms of these lands, but rather refer to a kind of justification of the right of conquest, and that somehow or other, because previous governments, which we acknowledge now, both Spain and Japan, which had perpetrated a series of things on the people of Guam, somehow provides some legitimacy to the acquisition.

I want to make it clear that we do not dispute the fact that the Federal Government has title to this property, and we do not dispute the fact there are military needs on the island, but we do take issue with the fact that the Federal Government acquired this property in a legitimate way, and we do take issue with the fact that there has to be a clear perspective on what are the needs of the people of Guam in this instance, and it is not the whole rhetoric and the whole agenda attached to the land protestors and all

the issues that are attached to this which point this up in a very dramatic fashion.

So I think if we were to use history as an example or as justification for any legislation here in Congress, history would clearly fall on the side of the people of Guam and their experience after World War II.

Thank you.

Mr. DE LUGO. I thank the gentleman from Guam, and at this time let me recognize the gentleman from Puerto Rico for any questions.

Mr. ROMERO-BARCELÓ. Thank you, Mr. Chairman.

I was just bothered by a couple of statements that I would like to ask a little bit more about, where they are coming from.

Was it your statement, Admiral, that the transfer of the lands to Guam, that the Government of Guam should pay for the environmental cleanup; am I correct, is that what you said?

Admiral KRISTENSEN. Yes, sir, I think they should pay the cost for the transfer of the land, which would include survey costs, environmental costs and those types, yes, sir.

Mr. ROMERO-BARCELÓ. What is the reasoning behind that? Has the Navy paid rent throughout all these years to Guam?

Admiral KRISTENSEN. No, sir.

Mr. ROMERO-BARCELÓ. They just paid an amount of money to Guam or to the people that owned the land originally, or if the lands were taken over during the Japanese occupation and then the Navy took them over—DOD took them over, apparently?

Admiral KRISTENSEN. Yes, sir, at the end of World War II. There were condemnation procedures and there were payments made to the original landowners at fair market value at the time. There was an additional suit brought against the Federal Government in which \$39 million was awarded to the original landowners and then paid to those original landowners.

Mr. ROMERO-BARCELÓ. So during this time, if it was used by the Armed Forces and it has been contaminated by the use, why should the people of Guam pay for that, the cleanup? I just don't understand that.

Admiral KRISTENSEN. Well, we feel if the land is returned at no cost to the Government of Guam, rather than going through the regular excess procedures where fair market value is usually assessed for excess property, that with the Government of Guam receiving over \$900 million worth of properties, they should pay for the cost.

Mr. ROMERO-BARCELÓ. You say \$900 million is at today's price?

Admiral KRISTENSEN. Yes, sir.

Mr. ROMERO-BARCELÓ. Shouldn't it be at the original price? You have not paid any rent for all that time. You have saved a lot of money, the Armed Forces. Why should it be at today's price and not the original price? What is the fairness of that?

Admiral KRISTENSEN. We use the fair market value because that is what the excess process calls for, sir.

Mr. ROMERO-BARCELÓ. Well, then, the process could be unfair, it could be unjust to the people of Guam, couldn't it?

Admiral KRISTENSEN. Yes, sir, it could be.



Mr. ROMERO-BARCELÓ. And then the other thing that bothered me is when you said the land is transferred to Guam and then there should be some authority by the Department of Defense to look over and oversee what would be good for Guam for the use of those lands. So Guam itself could not determine what is good for itself? Why is that? I don't understand that one.

Admiral KRISTENSEN. Well, we feel that the legislation is not clear; that is, H.R. 2144 is not clear in what the benefit of the good of the people really means.

Mr. ROMERO-BARCELÓ. Isn't that up to them and not up to the Department of Defense? Up to the people of Guam.

Admiral KRISTENSEN. We are not saying the Department of Defense, we are saying the Federal Government should have some oversight as to what that is used for so that, in fact, it ends up to the good of all the people of Guam.

Mr. ROMERO-BARCELÓ. Why should the Government of the United States be determining what is good for the people of Guam? Isn't that up to them? In the State of the Union, the people of the State determine what is good for the people of the State, within the law. There are Federal laws applicable but it is a determination of the State. Why should the U.S. Government be involved in telling what is good for Guam? What moral authority is there to tell the people of Guam what is good for them? Isn't that their choice?

Admiral KRISTENSEN. We are just attempting to ensure that the land is used for the benefit of all the people of Guam, sir.

Mr. ROMERO-BARCELÓ. That means there is a presumption, then, that the people of Guam will not use it for their own benefit, somehow use it for some harmful benefit to themselves. There is a presumption understood like that, that is what bothers me.

Admiral KRISTENSEN. Yes, sir, you could read it that way, I guess.

Mr. ROMERO-BARCELÓ. Thank you.

Mr. DE LUGO. Thank the gentleman from Puerto Rico for those observations, and we would like to recognize at this time the gentleman from American Samoa, Congressman Faleomavaega.

#### STATEMENT OF HON. ENI F.H. FALEOMAVAEGA

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I want to certainly thank you for taking this initiative in calling this hearing, and especially to hear the testimonies with reference to the bill that has been introduced by my good friend, Congressman Underwood, from Guam. And I want to initially express my appreciation and commendation to Congressman Underwood for doing such a splendid job in providing for the provisions of this bill. That is such a controversial issue that has evolved with the people of Guam and the military for so many years now.

My only regret, Mr. Chairman, is that the bill does not go far enough to actually return other portions of land that rightfully should be returned to the people and the Government of Guam. I will have some questions that I want to follow up on that line.

First of all, I also want to express my personal Hafa Adai to Lieutenant Governor Blas and Speaker San Agustin and our Senators Manibusan, former Lieutenant Governor Edward Reyes, and, I am sorry if I didn't see everyone else.

Mr. UNDERWOOD. Speaker Ada.

Mr. FALEOMAVAEGA. Speaker Ada, sorry.

We all know that approximately 30 percent of the land in Guam is controlled by the military. Whether it was taken by due compensation I am not clear on that, but I wanted to ask our panelists this morning a couple of questions.

I hear that there is no objection from the Department of Defense, through both of you gentlemen, that the 3,200 acres that we are talking about should be returned to the Government of Guam?

Admiral KRISTENSEN. Yes, sir, that is correct.

Mr. FALEOMAVAEGA. With the condition that the Government of Guam has to pay for the environmental costs or cleanup?

Admiral KRISTENSEN. Not with the condition, sir, but we are recommending if the land is transferred at no cost that the Government of Guam might be responsible for the transfer costs of that property.

Mr. FALEOMAVAEGA. Let me ask you this, if there is a sense of consistency in our policies emanating here from Washington within the Beltway.

You are recommending the Government of Guam be responsible for the cleanup of the transfer of these 3,200 acres, and by the same token, after bombing this island called Kaho'olawe in the State of Hawaii, the approximate cost that will take to clean up this island before it can be transferred to the Native Hawaiians is approximately \$360 million. That has been proposed it be borne by the Federal Government. I see a clear contradiction here in our policy.

We are asking the Guamanian Government to take responsibility for the cleanup and yet we are willing to take the responsibility to expend over \$300 million to clean up the island of Kaho'olawe before it is returned to the Native Hawaiians.

Can you explain that, Admiral? If I am way off on this one or am I singing the blues here—I am trying to clarify this policy.

Admiral KRISTENSEN. I cannot address the policy with regard to Hawaii, sir, I am not knowledgeable in that area.

Mr. FALEOMAVAEGA. Well, it is quite simple. The military controls the island of Kaho'olawe. They have been conducting bombing missions for all these years. There are a lot of duds there, a lot of bombs that did not explode. The island is approximately 65 square miles. It is a big island. And the way it was done, when it was transferred for the use of the military, was as a target to conduct target practice both by the Air Force as well as by the Navy.

The information that has come to my attention recently is that there has to be some responsibility before this island is to be returned either to the Government of Hawaii or to the Native Hawaiians, the indigenous and original owners of this island.

Admiral KRISTENSEN. Well, sir, I can't provide an answer at this time but I will provide an answer for the record to that question.

[The information follows:]

The Navy is actively working with Senator Inouye's staff to draft legislation which will provide for the transfer of Kaho'olawe Island to the State of Hawaii, and for certain environmental cleanup at federal expense. Kaho'olawe Island is markedly different from federal excess land on Guam. Kaho'olawe Island was a military bombing range for many years, and contains substantial amounts of unexploded ordnance. By comparison, the Navy parcels of land identified in H.R. 2144 contain only



two IR sites, which are in the process of being cleaned up by the Navy. No other environmental problems have been discovered, so the costs of environmental clean-up are not expected to be so extensive.

Mr. FALCOMA. Well, I will have to strongly disagree then and oppose your recommendation that the Government of Guam take up this responsibility if we see in other instances that the Government of the United States is willing to take responsibility for cleaning up other areas of properties that the military had once utilized.

What is the total acreage of the Naval Air Station?

Admiral KRISTENSEN. Total acreage of the Naval Air Station is approximately 2,700 acres.

Mr. FALCOMA. Three thousand seven hundred?

Admiral KRISTENSEN. Two thousand seven hundred.

Mr. FALCOMA. What about Andersen Air Force Base?

General BURR. It is in excess of 20,000 acres.

Mr. FALCOMA. So when we talk about 30 percent of the islands controlled by the military, we are talking about how many acres, total?

Admiral KRISTENSEN. About 42,000 acres, sir.

Mr. FALCOMA. Forty-two thousand acres.

I believe things have changed tremendously. Obviously, gentlemen, we all realize here that the Cold War is over. I am always curious what exactly is the policy of the Department of Defense, our strategic and military interests, towards the Pacific.

I know the Department of Defense always seems to have the higher hand when it comes to planning our overall policies as far as affecting our strategic interests both in the western Pacific region as well as all over the Pacific Ocean, for that matter.

I want to ask you, gentlemen, what exactly is DOD policy now towards the territory of Guam? Do we consider it still the highest priority as far as our military interests are concerned? Or do you see that perhaps because we have moved out of Subic Bay, no more Clark Air Force Base, do we see now Guam even more important or do you see perhaps we have other options we can exercise? Because this seems to be really the bottom line, our presence in Guam is because of our strategic interests at the cost of the welfare of the needs of our Chamorro U.S. citizens.

Can you share with us what is DOD policy now with reference to the territory?

Admiral KRISTENSEN. The territory of Guam is an integral part of the strategy, military strategy, in the western Pacific. It is a tremendous logistics operation in support of all of the forces deployed under the 7th Fleet's area of responsibility: The Indian Ocean, Persian Gulf, the entire western Pacific.

It has become more valuable, as you have indicated, with the closing of Cubi Point Naval Air Force Station, Subic Bay Station, and Clark Air Force Base in the Philippines. We moved approximately 1,700 active duty billets on the Navy side from the Philippines to Guam in support of the strategic needs of the military in the western Pacific.

Mr. FALCOMA. Do both you gentlemen feel it is absolutely necessary we have two air bases in Guam, one run by the Air Force and the other run by the Navy?

Admiral KRISTENSEN. Well, I think that question has been answered by the BRAC Commission, sir.

Mr. FALEOMAVAEGA. And what was that answer?

Admiral KRISTENSEN. Naval Air Station Agana, Guam is going to be closed.

Mr. FALEOMAVAEGA. When will that be?

Admiral KRISTENSEN. Once the legislation is approved, I believe we have 1 to 5 years to close that air station, sir.

Mr. FALEOMAVAEGA. And then the land will be returned to the Government of Guam?

Admiral KRISTENSEN. Through the excess process, and I believe the Government of Guam is in that process, yes, sir.

Mr. FALEOMAVAEGA. Will it be at a later time that the Government of Guam will have to take up some financial responsibility for the value of the air station?

Admiral KRISTENSEN. Well, the entire 2,700 acres, I don't believe, will be going back to the Government of Guam. We are going to maintain our military family housing and our bachelor quarters as directed by the BRAC Commission on that naval station right now at NAS.

So it will be the operational areas of the Naval Air Station that will be returned to the Government of Guam.

Mr. FALEOMAVAEGA. What is the approximate total investment of our military presence in Guam?

Admiral KRISTENSEN. We estimate our input to the economy of Guam at about \$650 million to \$700 million a year.

Mr. FALEOMAVAEGA. To the economy of Guam?

Admiral KRISTENSEN. Yes, sir.

Mr. FALEOMAVAEGA. What about the total investment of the fixtures, all the things that the military has put in place?

Admiral KRISTENSEN. I don't have an estimate of that figure.

Mr. FALEOMAVAEGA. Can you provide that for the record?

Admiral KRISTENSEN. Yes, sir, we will provide that for the record.

[The information follows:]

The total Navy investment since 1945 in facilities at Naval Air Station Agana, Guam is \$67 million. This equates to a current plant value of \$247 million which approximates the replacement cost. These figures do not include the 488 units of married family housing but do include bachelor housing (barracks) and all associated support and recreational facilities. These housing areas and associated support and recreational facilities are to be retained by the Navy, pursuant to the recommendation of the Base Realignment and Closure Commission.

Mr. FALEOMAVAEGA. So you are saying our presence in Guam provides for about \$600 million to \$700 million to the Guam economy?

Admiral KRISTENSEN. Yes, sir.

Mr. FALEOMAVAEGA. And the number of military personnel we have on the island?

Admiral KRISTENSEN. Twenty four thousand active duty and dependents.

Mr. FALEOMAVAEGA. Mr. Chairman, I thank both gentlemen for their responses, and thank you again, Mr. Chairman. I have some other questions but will take them in the next round. Thank you very much.

Mr. DE LUGO. Thank the gentleman from American Samoa.

I have one or two questions for General Burr. General, you mentioned individuals on Guam occupying Federal land and being told by the courts to leave the areas. What is the current situation and have any of the 3,200 acres that are covered in this bill been occupied?

General BURR. One of the parcels of land in this bill has been occupied by squatters. The current situation is that Mr. Santos and Mr. Blas/DeSoto have vacated the property that they were squatting on. It was clearly Air Force property. In Mr. Santos' case, his squatting was not on his grandfather's original land.

There are some three or four other squatters' camps, where tents and other structures have been raised, and there are still varying amounts of activity around those other camps. But Mr. Blas/DeSoto and Mr. Santos have both been to court and they have vacated the property that they were occupying.

Mr. DE LUGO. General, Congressman Underwood, along with Governor Ada, Speaker San Agustin, worked tirelessly to get the operations of NAS Agana transferred to Andersen Air Force Base, and there was an exchange a moment ago between Congressman Faleomavaega and Admiral Kristensen regarding the air base.

Can you tell us how this will work and what it will mean to the Navy and the Air Force and to the people of Guam?

General BURR. Once the Navy decides which operational missions they are going to move to Andersen, the Air Force's position is that we welcome the Navy to come to Andersen. We obviously have parking space to put their flying missions there. We do not have the infrastructure to support operations, maintenance structures and hangars, nor do we have excess housing. So it will require money to be poured into Andersen Air Force Base to bed down those flying operations that the Navy decides to move into Andersen from NAS Agana.

Mr. DE LUGO. How many aircraft are at Andersen at the present time?

General BURR. There are approximately three C-130s, about six or eight S-3s, and about ten or twelve C-2s at the current time.

Mr. DE LUGO. Those are all the questions the Chair has.

Gentleman from Guam, do you have any additional questions of these witnesses?

Mr. UNDERWOOD. Yes, the question goes back again to the issue of the land planning and the issue pertaining to the cost of possibly cleaning up, because this land is being given back to the Government of Guam without cost.

As I understand it now, you are indicating that the value of the property here, the 3,200 acres, is around \$900 million; am I correct?

Admiral KRISTENSEN. That is our estimate of the current market value.

Mr. UNDERWOOD. The current market value. Why would it not be logical that if the Government of Guam, if they wanted to put them in a position to purchase back the land at the original price that the military paid for it, then the Government of Guam could do with the property whatever it sees fit, given the circumstances under which the land was taken, in which case we had the Department of the Navy setting up a court system through which they

condemned the property and then the people were asked to adjudicate their concerns through a court system that was in fact established by the military.

It seems to me that would be clearly a logical case of dealing with it on a just basis, given all the things that had occurred.

Admiral KRISTENSEN. Yes, sir, the process through which the land was acquired was, to my knowledge, legal at the time. The Federal excess process for land today, that process calls for the land to be sold at current market value.

If the Government of Guam went through the process, current market value would have to be paid for that property to have it returned to a new owner. And we feel that if, in fact, the process is legislatively not followed through with and that the excess property is returned at no cost, then with the downsizing of the Federal budgets today, then we feel it would be beneficial for the benefactor of that property to pay for the transfer costs.

Mr. UNDERWOOD. Well, part of the reason why we are doing this legislatively is because there are indeed special circumstances here. If indeed there were no special circumstances or no unusual characteristics about how this land was taken and the kinds of concerns and issues that have been raised about it, it would seem entirely appropriate to use the standard Federal excess process that is in existence, a process which, according to my calculation, has netted the Government of Guam 49 acres per year.

So it seems to me that one of the reasons why we are using this process is to step outside the bounds of that and to take into account the special considerations. I think this is the reason why there is a great deal of concern about the tendency to continue to use existing Federal rules and procedures to impact this return of excess property, when one of the reasons why we are trying to do this on a "fast track basis" and which we failed miserably on a fast track basis in the past is because there are unusual circumstances here.

If there were no unusual circumstances, Admiral, I think that clearly we could use the existing circumstances.

Admiral KRISTENSEN. Yes, sir, and, again, this is a concern of mine and the Department of the Navy's with regard to the transfer of this property. But if it is the sense of Congress that it should be done at no cost, and the Department of the Navy to pick up the transfer costs, then that would be the law, sir.

Mr. UNDERWOOD. Okay. I would like to again thank you personally, both of you gentlemen, for your cooperation on this. I know that this is a difficult process to go through, and I thank both of you for your openness and your willingness to discuss this issue here, not only here but in our previous meetings on Guam. Thank you.

Mr. DE LUGO. The gentleman from American Samoa.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. We were discussing earlier the value of the 3,200 acres that is to be transferred. Can you state that again, the value of this 3,200 acres?

Admiral KRISTENSEN. We estimate the value of the 3,200 acres to be somewhere in the area of \$900 million.

Mr. FALEOMAVAEGA. \$900 million?

Admiral KRISTENSEN. Yes, sir.

Mr. FALEOMAVAEGA. And who did the appraisal, the Department of Defense?

Admiral KRISTENSEN. My staff, sir.

Mr. FALEOMAVAEGA. This is on the commercial value or military value.

Admiral KRISTENSEN. Commercial value, sir.

Mr. FALEOMAVAEGA. And the appraisal is sustained also by the government officials of Guam as well as the private sector? They agree this is the value of this excess land?

Admiral KRISTENSEN. We used the commercial value that land is being sold for on Guam today.

Mr. FALEOMAVAEGA. How did the Department of Defense determine the 3,200 acres are considered excess? \$900 million is considered excess?

Admiral KRISTENSEN. This land was considered excess, it was part of 5,000 acres that was originally considered and found to be excess by the Guam Land Use Plan that was developed in 1977, sir.

Mr. FALEOMAVAEGA. Is this piece of land adjacent to NAS or NCS or Andersen?

Admiral KRISTENSEN. The 3,200 acres are the red areas on this chart here, sir.

Mr. FALEOMAVAEGA. Is that next to NAS?

Admiral KRISTENSEN. No, sir. If I can go to the chart I will point to it.

Mr. FALEOMAVAEGA. I see the red spot but that is—

Admiral KRISTENSEN. It is up in Dededo.

Mr. FALEOMAVAEGA. Oh, Dededo by the Naval Communication Station?

Admiral KRISTENSEN. Just south of the Naval Computer Telecommunication Master Station.

Mr. FALEOMAVAEGA. I used to go to Whitten Elementary School in Houston so I have my bearings. I thought maybe I lost my bearings there, Admiral. I wanted to make sure.

You know, in the past, the Department of the Interior has thrown a couple of monkey wrenches on this whole issue of land. Have you been in consultation with our friends in the Department of the Interior. Are they also involved in the whole deliberation process? I hope they don't mess it up again.

Admiral KRISTENSEN. We have been in discussions with the Department of the Interior for some time. I have been on Guam for 15 months and I have been in discussions with the Department of the Interior that whole time with regard to critical habitat, overlay refuge, land use, my whole area of responsibility, sir.

Mr. FALEOMAVAEGA. So you have not heard any objections or concerns from the Department of the Interior?

Admiral KRISTENSEN. Yes, sir.

[Clarification follows:]

"Yes, sir" may be misleading (since the question posed a double negative). For clarification, the response is intended to indicate that I (RADM Kristensen) had heard of concerns from the Department of the Interior.

Mr. FALEOMAVAEGA. I was listening to your dialogue with Congressman Underwood about the historical perspective about Guam. I have my own prejudices, too, about the history of Guam.

We recently sent a satellite or some sort of thing up in the solar system called the Magellan, and if it wasn't a butcher, then I would like to label without any hesitation, that this man that came to the islands, we call him the butcher of Guam and the island people, is Mr. Magellan. Of course, his conduct and some of the things he did, not only to the Chamorros but to the Filipino Natives, is not exactly my kind of conduct that I consider to be very Christian, by way of history, and some of the things that he did against the Chamorro people.

It concerns me, and I just wanted to ask you, in your statement about the historical aspects of how Guam was annexed and all of this, was this based on a battery of historians with the Department of Defense that were very scholarly in their research in saying how this relationship evolved and that the people of Guam, given the fact they were never given any exercise of their self-determination, as a nonself-governing territory under the provisions of the United Nations Charter?

I am just curious if you could help me put it in a proper way as it was shared by my friend Congressman Underwood. There seems to be a disagreement on the history and exactly how Guam was annexed and our war with Spain. I suppose that was how this whole thing evolved.

Was there at any time and at any point in our relationship with the Chamorros, did we ever ask the Chamorros at that time after the war with Spain what is their perspective for their future and their problems?

Like anything, we have been exposed to this kind of thing for several other Army groups, but I wanted to know your feelings about this.

General BURR. Mr. Congressman, I am obviously not an expert on Guamanian history. I can just refer to the facts that the United States did acquire the current situation after the Spanish-American War of 1898, and I would have to submit for the record any dialogue that the United States Government had with the Chamorro people on their status.

Mr. FALCOMA. There was not one speck of light somewhere indicating that perhaps the Chamorros in some way or somehow are somewhat sovereign as indigenous people to this island, way before Magellan came, way before the Spanish came, way before the Spanish-American War.

I was just wanting to ask if we have any historians at the Department of Defense that would like to submit more documents and materials for the record on how this whole historical dialogue came about.

I, certainly, Mr. Chairman, would love to get more information about that, as, I am sure, my good friend—

Mr. DE LUGO. Well, I understand where my friend from American Samoa is going, and if we go back to my area, we had Columbus down there, but that is not the purpose of this hearing today.

We have two distinguished military officers here before us. We certainly don't blame them for the mistakes of Magellan, that is for sure.

Admiral KRISTENSEN. Thank you, Mr. Chairman.



Mr. FALEOMAVAEGA. I couldn't agree more, Mr. Chairman. I was just suggesting for the purposes of our hearing the fact there was an historical account giving our relationship with Guam in the past, and I wanted a greater clarification of some of the historical points and issues affecting our relationship and I thought that perhaps this will certainly help this Member to appreciate it more.

But in closing, Mr. Chairman, and to our good friends on the panel, the next anthropologist coming to my islands, I think I will shoot him.

Thank you very much, Mr. Chairman.

Mr. DE LUGO. Let me just say, in listening to the gentleman from American Samoa, your statements are important because many times, because of a lack of understanding of history and certainly a lack of understanding of many of the native or indigenous people who were involved, you get into—did you say that there is a satellite named for Magellan?

Mr. FALEOMAVAEGA. Yes, Mr. Chairman.

Mr. DE LUGO. Well, you see, that is the same thing. You know, one group of people will view Magellan in a positive way and other people looking at the history may have a completely different view of Magellan and the conquistadors, depending on what end of the bayonet you were on.

So many of these things are offensive to many people. Many people are enlightened as to what went on, and I understand what you are saying. But, as I said, these gentlemen are not responsible for Magellan. They may have a responsibility here with regard to the cleanup. That is different.

Admiral KRISTENSEN. Mr. Chairman, if I may?

Mr. DE LUGO. But we will not use Magellan as a cover here.

Admiral KRISTENSEN. Mr. Chairman?

Mr. DE LUGO. Yes, Admiral.

Admiral KRISTENSEN. General Burr and myself really cannot take responsibility for Magellan and those that followed up until about a year and a half ago, but I would like just to say that—

Mr. DE LUGO. Let me interrupt to say about a year and a half ago things started to look up.

Admiral KRISTENSEN. Well, thank you, sir. I would like to say, though, that we feel that the military presence on Guam is really—that Guam is a one-community island. We don't see it as a civilian population and a military population. We attempt in every way to involve the community in what we are doing as well the community involves us in what they are doing.

In the parcels of land that have already been transferred to the Government of Guam for schools for the good of the people of Guam, I think that we have made every effort to take into account the Chamorros' desires, what they want to see happen on Guam. Thank you.

Mr. FALEOMAVAEGA. Would the Chairman yield?

Mr. DE LUGO. Yes.

Mr. FALEOMAVAEGA. I just want to say, Mr. Chairman, that I did not in any way intend to caste any aspersions on our friends on the panel, and certainly not to you. You are absolutely correct, we do have different perspectives about history, some in a very glorious way and some in a very inhuman way. But because of the fact that

our friends gave us the historical account with what had happened in our relationship with Guam, I felt that perhaps we ought to delve into it a little more so that we could be further enlightened. But I couldn't agree with the Chairman more, let's get on with the work of the 3,200 acres.

I do not want to dwell on the sins of the past, but given the Floor deliberations yesterday, one of the Members was advocating we should give some thought to the process and the things we need to correct some of these deficiencies, and the gentleman from Maryland said we also have to have a good understanding of history so that we can better appreciate what we are planning for now and especially for the future.

I thank the Chairman.

Mr. DE LUGO. Thank you. I understand the gentleman from Guam has one final question.

Mr. UNDERWOOD. Right. In terms of your discussions with other Federal agencies on this particular 3,200 acres, has there ever been any discussion about use of any of these 3,200 acres by any other Federal agency?

Admiral KRISTENSEN. Not in my discussions with any other Federal agency, no, sir. The only discussions we have had with other Federal agencies, they have all indicated that they agreed, in principle, to the transfer of that 3,200 acres.

Mr. UNDERWOOD. Okay, very good. And not to belabor the point about the \$900 million, since it is your figure, but just to point out that in the compensation for the entire 40,000 acres, which is now under military control, the original payoff was \$1.7 million for all of it, and then in the second round, it was \$39.5 million, yet we are talking about the value here of less than 10 percent of that property at being \$900 million.

I want to know who your broker is and where I can get in on some of that action.

Admiral KRISTENSEN. I would like to know also, sir.

Mr. DE LUGO. That certainly is a dramatic appreciation.

Well, I want to thank both of you for having come again. You have been very helpful.

When we quote this figure of \$900 million and you go back and take a look at what the land was originally acquired for, it is a fact that most of this land was taken by eminent domain and other land was willingly—the people of Guam did believe that they were helping our country. They are a very patriotic people. They proved this during World War II.

And I think that we are all aware of this and I think that we can move forward with good will on both sides to try to resolve this whole issue; that it will be best not only for the people of Guam but also for the United States and for the Department of Defense dealing with this new world situation that we deal with today.

Again, I want to thank both of you. Thank you.

Admiral KRISTENSEN. Thank you, Mr. Chairman.

General BURR. Thank you, Mr. Chairman.

Mr. DE LUGO. Our next witnesses are a panel from the territory of Guam. The Honorable Frank F. Blas, Lieutenant Governor of Guam; Honorable Joe T. San Agustin, Speaker of the Legislature of Guam; the Honorable Thomas C. Ada; Honorable Marilyn D.A.



Manibusan; and the Honorable Edward Reyes, all Senators of the Legislature of Guam.

Let me welcome you all here on behalf of our Subcommittee. Let me say that we appreciate your traveling all this way and crossing the State line to be with us here today. I have known all of you for a long time, have spoke to some of you recently about the problems with Guam, and as I indicated privately, before assuming the Chair this morning, I will have to ask the gentleman from Guam to assume the Chair at shortly before 12 o'clock today because of other responsibilities that I have. I am a conferee on the President's budget package, the reconciliation package, and as you know, we are trying to resolve that and I have that meeting and several other conflicts.

So I will try to come back before this is over, but if I cannot, please understand it does not indicate any less of an interest.

With that, let me say without objection all of your statements will be placed in the record at this point. Also, let me say that we have received a statement from the Assistant Secretary of the Interior, Secretary Turner, on this legislation, and without objection, the Secretary's statement will be placed in the record just before the appearance of this panel.

[Prepared statement of Ms. Turner follows:]

STATEMENT OF LESLIE M. TURNER, ASSISTANT SECRETARY OF THE INTERIOR FOR TERRITORIAL AND INTERNATIONAL AFFAIRS, REGARDING H.R. 2144 AND THE CONVEYANCE OF SURPLUS FEDERAL LAND ON GUAM. SUBMITTED FOR THE JULY 29, 1993 HEARING OF THE HOUSE SUBCOMMITTEE ON INSULAR AND INTERNATIONAL AFFAIRS ON H.R. 2144.

Mr. Chairman and members of the Subcommittee on Insular and International Affairs, I am pleased to submit this written statement on H.R. 2144 and the conveyance of surplus Federal land on Guam, and to offer the Department of the Interior's position on several issues raised by the bill.

On a personal note, Mr. Chairman, I would like to thank you, several other members of the subcommittee, and Chairman Miller for the warm reception given me in initial meetings we have had over the past several months. I look forward to a cooperative and mutually beneficial working relationship as we attempt to resolve issues confronting the insular areas.

It is significant that in my initial statement for your subcommittee, the subject is land. Land has profound implications in insular areas. The intensity of debate about land issues is heightened on islands because it is a limited resource and because its historic value is so intertwined with cultural identity. During my visit to Guam in mid-July, I had the opportunity to extensively tour the island. I have seen

the island's beauty and I recognize the need to address the issue of surplus Federal land in an expeditious manner.

Delegate Robert Underwood, as sponsor of the Guam lands legislation, is to be commended for introducing H.R. 2144. The Department of the Interior agrees with the major principle of Mr. Underwood's bill -- that unneeded Federal land on Guam should be returned to the Government of Guam and that the Government of Guam, within parameters that adequately address environmental and stewardship concerns, should determine the optimum public benefit use of the properties.

#### Brief History

Most of the 45,000 acres on Guam that is owned by the United States was acquired after the United States liberated Guam from Japanese occupation in 1944. Other statements at today's hearing provide a more detailed chronicle of Federal land holding in Guam. For the purposes of my statement, it suffices to say that the private landowners from whom the land was acquired through condemnation procedures remembered the Japanese occupation. They were happy to see the United States return, and, for the most part, were willing to make their land available to the military, if needed. These private landowners received \$1.6 million in initial compensation for the land in the late 1940s and early 1950s. Most of these landowners also received additional compensation from a \$39.5 million

settlement made available through the courts in 1983, pursuant to Public Law 95-134. That 1977 statute had authorized the U.S. District Court on Guam to adjudicate claims from former owners who believed they had not received fair market value for their property.

These 45,000 acres are Federal land. The Department of the Interior, however, recognizes the special interest of the people and Government of Guam and seeks to accommodate those interests within current legal and political limitations. The Government of Guam and many former landowners or their heirs would like to acquire the lands once owned by residents of Guam. However, under existing law, [P.L. 152, Chapter 288, 63 Stat 377 (40 U.S.C. 471) - The Federal Property and Administrative Services Act], it was anticipated that much of the land would be sold to the highest bidder, which would likely be foreign interests which have substantial resources available to pay the market price for this valuable property. It would not seem appropriate for this land to pass into foreign hands, especially in light of the history of land issues on Guam and the scarcity of land on the island.

Accordingly, in 1985, members of the U.S. Congress wrote to the Administration and urged that surplus Federal lands on Guam not be conveyed under existing law, but that Congress be given an opportunity to pass legislation designed to deal with the

special circumstances on Guam. To date, Congress has been unable to enact such legislation. It is important to note that of the approximately 5,100 acres of Federally-held land identified as excess in the 1977 Guam Land Use Plan, the Government of Guam has already acquired about 1400 of those acres for public purposes under the Federal Property Disposal Act. In addition, about 500 acres were withdrawn from the excess list over the years. The remaining excess land, about 3,200 acres, is the object of Mr. Underwood's bill.

#### Support for Legislation with Changes

The Administration supports Mr. Underwood's bill, with its ultimate conveyance of land to the Government of Guam, if a number of issues are resolved.

#### Transfer Procedures

First, the bill provides for transfer of named parcels of land to the Government of Guam 180 days after Guam submits a land use plan for the properties. The rationale for this method of transfer is to foreclose withdrawals from the excess land list. The Administration does not see DOD's reporting of its unneeded property to GSA as an impediment, provided a procedure is established that ensures a careful analysis of potential uses of the land under Guam's ownership, and assures compliance with Administration and Congressional guidelines on such uses. This desire for careful planning can be accommodated if, for the

temporary planning period, the land is transferred to the Secretary of the Interior. The Government of Guam would then be required to submit its land use plan for the properties to the Secretary of the Interior. The Secretary would work with DOD, other relevant agencies and the Government of Guam to revise the plan, if necessary, to ensure it meets public benefit use guidelines, before the Secretary issues final approval.

GSA should also be designated as the transferring agency once the plan is approved. All conveyance costs should be borne by Guam.

#### Public Benefit Use

Second, in order to insure that the transfer is for public benefit use and to guard against turn-around sales to foreign interests, we believe it is vital that the Government of Guam work closely with the Secretary of the Interior to develop the public benefit use plan. There has been debate in the past over what the appropriate definition of "public benefit use" in Guam should be. Providing flexibility for the Secretary and the Government of Guam to work out an appropriate "public benefit use" definition is appropriate. In order to guarantee continued public benefit use, however, there should be an additional stipulation. If the Government of Guam were to subsequently decide, after the Secretary had conveyed the

lands, to use certain of those properties for purposes outside the scope of the public benefit use plan, the Government of Guam should be required to pay the Federal Government the then existing appraised fair market value of those lands.

#### War in the Pacific National Historical Park

A third issue not factored into H.R. 2144, at present, is the unfinished land acquisition program for the War in the Pacific National Historical Park. This includes privately held land within the Park's boundaries as well as Government of Guam lands (most of which are submerged lands) which have not yet been transferred to the park. It would be imprudent of the Federal government, in these times of severely tightened budgets, to release valuable lands without compensation, only to turn around and appropriate new funds to pay for the purchase of all private inholdings in the Park. Therefore, the Secretary of the Interior, while holding the lands for conveyance, should have the authority to make arrangements for the acquisition of privately-held Park lands necessary for the park by exchanging excess Federal lands for the inholdings and to securing the conveyance of Government of Guam lands in the Park before the remainder of the surplus Federal lands are transferred to the Government of Guam.

#### Critical Habitat Versus National Wildlife Refuge

Finally, it also is important to note the potential effects on Federal excess lands on Guam of a recent National Audubon Society legal action against the Department of the Interior. The complaint seeks to compel Interior to issue a critical habitat designation which was initially requested by the Government of Guam in 1987. However, over the past several years, the Government of Guam has been working with the Department of the Interior's Fish and Wildlife Service and the Department of Defense to develop protective land management measures which may obviate the need for critical habitat designation. This would be accomplished through the establishment of a National Wildlife Refuge Overlay on 28,000 acres of Federal and Government of Guam lands.

However, should the courts impose a critical habitat designation, a larger land area may be affected than under the Refuge Overlay alternative, and the restrictions on use and development of those lands could be more stringent.

#### Conclusion

For the reasons set out above, it is necessary to recommend modifications to Mr. Underwood's bill. With revisions that adequately address the issues we have outlined, the Department of the Interior could support the measure to convey surplus Federal property to the Government of Guam for public benefit use. Thank you.



Mr. DE LUGO. So at this point, we will begin with the Lieutenant Governor. Good to have you with us, Governor Blas. Please begin.

**PANEL CONSISTING OF HON. FRANK F. BLAS, LIEUTENANT GOVERNOR OF GUAM; HON. JOE T. SAN AGUSTIN, SPEAKER OF THE LEGISLATURE OF GUAM; AND HON. THOMAS C. ADA, HON. MARILYN D.A. MANIBUSAN, AND HON. EDWARD D. REYES, SENATORS, LEGISLATURE OF GUAM**

**STATEMENT OF HON. FRANK F. BLAS**

Mr. BLAS. Thank you, Mr. Chairman.

Good morning, and to our Congressman from Guam, Mr. Underwood. Thank you for this opportunity to testify on this most important measure.

I am here of course representing the views of our Administration, as a proud member of the Team Guam, to support H.R. 2144, introduced by our Congressman.

This is indeed an important measure, addressing as it does one of the deepest concerns of our people, especially the indigenous Chamorro. Our people look forward to the return of this first 3,200 acres.

Our people see the return of this land as a possible way to address the needs of landless Chamorros, many of whom are landless in part because of these condemnations that took place in Guam years ago. They see possibilities in addressing housing needs for our people, for other good uses of public benefit, and of course addressing the needs of those people from whom this land was taken so long ago.

It is fitting that this hearing take place so soon after the forty-ninth anniversary of the recapture of Guam by American forces, on July 21, 1944. Fitting, because the subject matter we are discussing is a direct product of those turbulent times. World War II was a very traumatic time, of course, for Guam and for the Chamorro people.

But as devastating as the loss of so many loved ones was, as much as our people suffered during that time, we do not dwell on it. It is past and nothing can be done to bring them back. And although the losses were great, the events which had the longest and most profound continuous effect upon Guam and the Chamorro people were those that took place in the years immediately after World War II. I speak of the massive taking of land from our people by the U.S. military. The takings were almost universal.

But after World War II, the Federal Government overnight became by far the largest landowner in Guam, destroying forever the basis of our pre-war economy. We talk frequently about the Federal Government holding one-third of Guam's land area. What we sometimes overlook is that in the immediate post-World War II period, Federal takings were greater even than that. In fact, at one point prior to 1950, and according to the best information we currently have, the military possessed more than 79,000 acres in Guam.

Now, that may not sound like so much land to someone from Texas. But my friends, I remind you that Guam is only some 230 square miles in area. All of Guam is only about 130,000 acres.

The results of these massive takings live on to this very day, and no doubt have forever changed the future of Guam, for good and bad.

And many of our people, thousands of them, no longer could walk the land that their parents had always intended they would inherit.

The conditions under which the military took this land have long been the subject of controversy. When many of these condemnations occurred, Chamorros were not even U.S. citizens. And while the power of the Federal Government is always very broad when it comes to administering territories and people who are viewed as spoils of war, the question arises: Is it moral to exercise eminent domain over people who are denied full and equal participation in the Government exercising sovereignty over their property? And who indeed were not even token citizens at the time?

And why was basic due process denied in the execution of these condemnations? In America, when the Government condemns land, the executive branch condemns, the people literally have their day in court, in the judiciary, to seek just compensation. In Guam at that time, the military was the taker, the prosecutor, the judge and the court, all rolled into one. The only way in Guam, in 1949, to pursue a grievance about compensation in a Federal land taking was to go to precisely the same people who took the land from you in the first place and complain. That hardly sounds like due process.

All these issues were, in theory, dealt with in the land claims cases of several years ago, but what about the final consideration?

We had just gone through a military occupation during World War II. The people taking this land represented the biggest, the most intimidating military machine that our people, or the world for that matter, had ever known.

Is it any wonder that these condemnations went as smoothly as they did?

Although there are those who say that these issues of taking and compensation became moot with the land claims cases, others argue that there are still issues, especially dealing with the fiduciary responsibilities implicit in the Treaty of Paris that ceded Guam to the United States, that must still be addressed.

In any event, why was it necessary for the U.S. military to acquire so much of our land? In fact, when the military condemned all these properties after World War II, it was to implement a strategy that never came to pass. Initially, as you know, Guam was to be a major staging area for the invasion of Japan, an invasion which thankfully became unnecessary as a result of Hiroshima and Nagasaki.

Subsequently, it was planned that Guam would become a major forward deployment area, not just for a strategic air wing and naval forces, but for land forces. This strategy changed due to the fall of China to Mao Tse Tung in 1949, and the outbreak of the Korean War. Suddenly, a forward military position in Asia became the Asian continent itself. From the very day that these lands were condemned, to this day in 1993, a good percentage of the lands taken by the military in Guam have never been used, never been used, for anything.

Even at the height of the Vietnam War, when military activity in Guam was at its peak, many thousands of acres were unused. How much more is this the case today, when military activity is at a post-war low in Guam, and with further military cuts likely.

Consider the fact that the Base Realignment and Closure Commission has recommended the closure of NAS Agana. If even an active military base in Guam is no longer of significant value to the Federal Government, how much less valuable must be the thousands upon thousands of acres of land that has been kept fallow for more than 40 years?

The time has come to return, not just the 3,200 acres in this bill, but thousands of acres more. This bill, however, is a great first step, but it is only a first step.

We believe that if a new and honest study of the military requirement for land in Guam would be conducted immediately, the amount of land available for return to Guam would be tripled at the very least.

It is vital that we take this first step, however—the passage of this bill. We cannot continue to delay this process. Chamorro families have camped on Federal properties in Guam, protesting the continued Federal holding of these properties. These people, my people, these families, my families, have risked so much to make their point in Guam. And in spite of our deep affection for America and our long history of cooperation, and even devotion to American causes, voices are being raised in that most original of American cause—dissent—and the search for justice and fairness.

A dynamic is under way in Guam. After decades of acquiescence, Chamorros are beginning to say no, that most powerful of words, in defense of their rights. In Guam, our people are no longer willing to look at injustice as simply our lot in life, and are determined to work, indeed struggle, to make things better. The Chamorro people no longer simply look at things as they are and ask why. In the words of Robert Kennedy, they are looking at things as they should be and demanding why not.

What was viewed as radical but a few years ago is today mainstream thinking in Guam. Perhaps the greatest lesson we have learned in Guam, in the past two decades, is the American lesson that states clearly that one must vociferously speak out in defense of one's own liberty.

The dynamic I speak of has many manifestations. In its most pristine, it is a desire to maintain our language and our culture; our desire to promote the welfare of our people. In its deepest expression, it is our move to regain the right of self-government and self-determination that God gave us and that no man may take away. It is our fervent desire to make our own decisions for ourselves, as all free people must.

And in its most emotional context, it is the move to reclaim our natural resources because land is sacred to us, perhaps because we have so little. We will be grateful to you, Mr. Chairman and Subcommittee, if as a first step the bill becomes law, a first step in a long journey towards justice.

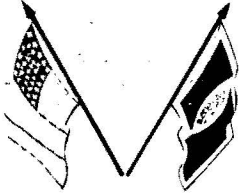
The dynamic I speak of in Guam is historically rooted, and in the final analysis, an inevitable consequence of the worldwide movement towards freedom and self-determination, a movement that

this Nation has done much to sponsor. We all pray, we hope, and we work towards harnessing this dynamic to forge even stronger friendship and partnership with America. Our success in this goal depends on legislation such as this bill. If you pass this bill, you will bring hope to many of our elderly who saw these lands taken from them and have dreamed of a day when they would be restored. If you pass this bill, you will give a new chance for thousands of our young ones, who will have, at long last, the opportunity to reclaim at least a part of their lost birthright.

Please pass this bill. Thank you, Mr. Chairman.

Mr. DE LUGO. Thank you very much, Governor Blas, for an excellent statement. A very compassionate, moving statement.

[Prepared statement of Mr. Blas follows:]



*Territory of Guam  
Northern Mariana Islands*

OFFICE OF THE GOVERNOR  
LIFESAN L MAGATSAH  
AGANA, GUAM 96910 U.S.A.

**TESTIMONY  
H. R. 2144  
before the  
HOUSE SUBCOMMITTEE ON  
INSULAR AND INTERNATIONAL AFFAIRS**

The Honorable Frank F. Blas  
Lieutenant Governor of Guam  
JULY 29, 1993

CHAIRMAN DE LUGO ... MEMBERS OF THE COMMITTEE ... THANK YOU FOR THIS OPPORTUNITY TO TESTIFY ON THIS MOST IMPORTANT MEASURE.

I AM HERE REPRESENTING THE VIEWS OF OUR ADMINISTRATION, AS A PROUD MEMBER OF TEAM GUAM. I AM HERE, ALONG WITH THE SPEAKER OF OUR LEGISLATURE, THE HONORABLE JOE T. SAN AGUSTIN, TO SUPPORT BILL 2144, INTRODUCED BY OUR DELEGATE, THE HONORABLE ROBERT UNDERWOOD.

THIS IS INDEED AN IMPORTANT MEASURE, ADDRESSING AS IT DOES ONE OF THE DEEPEST CONCERNS OF OUR PEOPLE, ESPECIALLY THE INDIGENOUS CHAMORU PEOPLE OF GUAM. OUR PEOPLE LOOK FORWARD TO THE RETURN OF THIS FIRST 3,200 ACRES. IN GUAM, WE ARE IN THE PROCESS OF CONDUCTING SURVEYS TO DETERMINE PUBLIC ATTITUDES ABOUT LAND RETURN AMONG OUR PEOPLE. AND ALTHOUGH THE SURVEYS ARE NOT YET COMPLETE, I CAN SHARE SOME PRELIMINARY FINDINGS FROM THESE EFFORTS.

OUR PEOPLE SEE THE RETURN OF THIS LAND AS A POSSIBLE WAY TO ADDRESS THE NEEDS OF LANDLESS CHAMORUS, MANY OF WHOM ARE LANDLESS IN PART BECAUSE OF THESE CONDEMNATIONS THAT TOOK PLACE IN GUAM YEARS AGO. THEY SEE POSSIBILITIES IN ADDRESSING HOUSING NEEDS FOR OUR PEOPLE, FOR OTHER GOOD USES OF PUBLIC BENEFIT, AND OF COURSE, ADDRESSING THE NEEDS OF THOSE PEOPLE FROM WHOM THIS LAND WAS TAKEN, SO LONG AGO.

IT IS FITTING THAT THIS HEARING TAKE PLACE SO SOON AFTER THE 49TH ANNIVERSARY OF THE RECAPTURE OF GUAM BY AMERICAN FORCES, ON JULY 21, 1944. FITTING, BECAUSE THE SUBJECT MATTER WE ARE DISCUSSING IS A DIRECT PRODUCT OF THOSE TURBULENT TIMES. WORLD WAR II WAS A VERY TRAUMATIC TIME FOR GUAM AND FOR THE CHAMORU PEOPLE. WE WERE INVADED, WE WERE OCCUPIED, WE SUFFERED FORCED LABOR, INTERNMENT, BEATINGS, AND IN MANY CASES, MURDER. DURING THE RECAPTURE OF GUAM, WE WERE BOMBED, SHOT AT ... MUCH OF WHAT OUR PEOPLE HAD WAS DESTROYED. MORE THAN 1,000 OF OUR PEOPLE DIED ... A FULL TWENTIETH PART OF WHAT WAS THEN, OUR SMALL POPULATION.

BUT AS DEVASTATING AS THE LOSS OF SO MANY LOVED ONES WAS... AS MUCH AS OUR PEOPLE SUFFERED DURING THAT TIME ... WE DO NOT DWELL ON IT. IT IS PAST AND NOTHING CAN BE DONE TO BRING THEM BACK. AND ALTHOUGH THE LOSSES WERE GREAT ... THE EVENTS WHICH HAD THE LONGEST AND MOST PROFOUND CONTINUOUS EFFECT UPON GUAM AND THE CHAMORU PEOPLE WERE THOSE THAT TOOK PLACE IN THE YEARS IMMEDIATELY AFTER WORLD WAR II. I SPEAK OF THE MASSIVE TAKING OF LAND FROM OUR PEOPLE BY THE U.S. MILITARY.

THE TAKINGS WERE ALMOST UNIVERSAL. PRIOR TO WORLD WAR II, GUAM WAS AN AGRARIAN ECONOMY AND MOST LAND BELONGED TO PRIVATE CHAMORU LANDOWNERS. THE ACREAGE TRANSFERRED TO THE U.S. NAVAL GOVERNMENT BY THE TREATY OF PARIS AT THE END OF THE SPANISH-AMERICAN WAR, WAS MINUTE IN COMPARISON TO FEDERAL LANDHOLDINGS TODAY, AND ALTHOUGH THERE WERE TAKINGS PRIOR TO THE SECOND WORLD WAR, THESE WERE MINOR.

BUT AFTER WORLD WAR II, THE FEDERAL GOVERNMENT OVERNIGHT BECAME BY FAR THE LARGEST LANDOWNER IN GUAM, DESTROYING FOREVER THE BASIS OF OUR PRE-WAR ECONOMY. WE TALK FREQUENTLY ABOUT THE FEDERAL GOVERNMENT HOLDING ONE THIRD OF GUAM'S LAND AREA. WHAT WE SOMETIMES OVERLOOK IS THAT IN THE IMMEDIATE POST WORLD WAR II PERIOD, FEDERAL TAKINGS WERE GREATER EVEN THAN THAT.

THOSE OF YOU WHO HAVE SOME KNOWLEDGE OF GUAM WILL UNDERSTAND WHAT I MEAN, WHEN I SAY THAT IN ADDITION TO THOSE LANDS, CONSTITUTING A THIRD OF GUAM, THAT THE MILITARY CONTINUES TO OCCUPY ... AT ONE TIME THE MILITARY OCCUPIED MOST OF TUMON BAY AS AN OFFICER'S RECREATION AREA ... THE MILITARY CONDEMNED A GOOD PART OF AGANA. IN FACT, AT ONE POINT PRIOR TO 1950, AND ACCORDING TO THE BEST INFORMATION WE CURRENTLY HAVE, THE MILITARY POSSESSED MORE THAN 79,000 ACRES IN GUAM.

THAT MAY NOT SOUND LIKE SO MUCH LAND TO SOMEONE FROM TEXAS. BUT MY FRIENDS, I REMIND YOU THAT GUAM IS ONLY SOME 230 SQUARE MILES IN AREA. ALL OF GUAM IS ONLY ABOUT 130,000 ACRES.

THE RESULTS OF THESE MASSIVE TAKINGS LIVE ON TO THIS VERY DAY, AND NO DOUBT HAVE FOREVER CHANGED THE FUTURE OF GUAM ... FOR GOOD AND BAD. AS SAID EARLIER ... OUR AGRARIAN ECONOMY WAS DESTROYED FOREVER. THE SECURITY RESTRICTIONS PLACED ON US BY THE MILITARY, PREVENTING FREE TRAVEL TO GUAM ... EVEN BY RETURNING CHAMORUS ... RETARDED THE DEVELOPMENT OF A BUSINESS-BASED ECONOMY.

AND MANY OF OUR PEOPLE ... THOUSANDS OF THEM ... NO LONGER COULD WALK THE LAND THAT THEIR PARENTS HAD ALWAYS INTENDED THEY WOULD INHERIT.

THE CONDITIONS UNDERWHICH THE MILITARY TOOK THIS LAND HAVE LONG BEEN THE SUBJECT OF CONTROVERSY. WHEN MANY OF THESE CONDEMNATIONS OCCURED, CHAMORUS WERE NOT EVEN U.S. CITIZENS. AND WHILE THE POWER OF THE FEDERAL GOVERNMENT IS ALWAYS VERY BROAD WHEN IT COMES TO ADMINISTERING TERRITORIES AND PEOPLE WHO ARE VIEWED AS SPOILS OF WAR, THE QUESTION ARISES: IS IT MORAL TO EXERCISE EMINENT DOMAIN OVER PEOPLE WHO ARE DENIED FULL AND EQUAL PARTICIPATION IN THE GOVERNMENT EXERCISING SOVEREIGNTY OVER THEIR PROPERTY. AND WHO INDEED WERE NOT EVEN TOKEN CITIZENS AT THE TIME?

AND BY WHAT AUTHORITY DID THE NAVY EXERCISE SUCH CONDEMNATIONS? IF INDEED CONGRESS HAD THIS POWER IN THE POST-WAR PERIOD, BY WHAT MECHANISM WAS IT CONFERRED UPON THE U.S. NAVY OR THE U.S. AIR FORCE? THE TRUTH IS, NO SPECIFIC MECHANISM EVER CONFERRED UPON THE WAR DEPARTMENT THIS AUTHORITY.

AND WHY WAS BASIC DUE PROCESS DENIED IN THE EXECUTION OF THESE CONDEMNATIONS? IN AMERICA, WHEN THE GOVERNMENT CONDEMNS LAND, THE EXECUTIVE BRANCH CONDEMNS, AND PEOPLE LITERALLY HAVE THEIR DAY IN COURT, IN THE JUDICIARY, TO SEEK JUST COMPENSATION. IN GUAM AT THAT TIME, THE MILITARY WAS THE TAKER, THE PROSECUTOR, THE JUDGE AND THE APPEALATE COURT, ALL ROLLED INTO ONE. THE ONLY WAY IN GUAM, IN 1949, TO PURSUE A GRIEVANCE ABOUT COMPENSATION IN A FEDERAL LAND TAKING WAS TO GO TO PRECISELY THE SAME PEOPLE WHO TOOK THE LAND FROM YOU IN THE FIRST PLACE AND COMPLAIN. THAT HARDLY SOUNDS LIKE DUE PROCESS.

ALL THESE ISSUES WERE, IN THEORY, DEALT WITH IN THE LAND CLAIMS CASES OF SEVERAL YEARS AGO, BUT WHAT ABOUT THE FINAL CONSIDERATION?

WE HAD JUST GONE THROUGH A MILITARY OCCUPATION DURING WORLD WAR II. THE PEOPLE TAKING THIS LAND REPRESENTED THE BIGGEST, MOST INTIMIDATING MILITARY MACHINE THAT OUR PEOPLE, OR THE WORLD FOR THAT MATTER, HAD EVER SEEN.

IS IT ANY WONDER THAT THESE CONDEMNATIONS WENT AS SMOOTHLY AS THEY DID?

ALTHOUGH THERE ARE THOSE WHO SAY THAT THESE ISSUES OF TAKING AND COMPENSATION BECAME MOOT WITH THE LAND CLAIMS CASES, OTHERS ARGUE THAT THERE ARE STILL ISSUES, ESPECIALLY DEALING WITH THE FIDUCIARY RESPONSIBILTIES IMPLICIT IN THE TREATY OF PARIS THAT CEDED GUAM TO THE UNITED STATES, THAT MUST STILL BE ADDRESSED.



IN ANY EVENT, WHY WAS IT NECESSARY FOR THE U. S. MILITARY TO ACQUIRE SO MUCH OF OUR LAND? IN FACT, WHEN THE MILITARY CONDEMNED ALL THESE PROPERTIES AFTER WORLD WAR II, IT WAS TO IMPLEMENT A MILITARY STRATEGY THAT NEVER CAME TO PASS. INITIALLY GUAM WAS TO BE A MAJOR STAGING AREA FOR THE INVASION OF JAPAN, AN INVASION WHICH THANKFULLY BECAME UNNECESSARY AS A RESULT OF HIROSHIMA AND NAGASAKI.

SUBSEQUENTLY, IT WAS PLANNED THAT GUAM WOULD BECOME A MAJOR FORWARD DEPLOYMENT AREA, NOT JUST FOR A STRATEGIC AIR WING AND NAVAL FORCES, BUT FOR LAND FORCES ... BOTH ... MARINE AND ARMY.

THIS STRATEGY CHANGED DUE TO THE FALL OF CHINA TO MAO TSE TUNG IN 1949, AND THE OUTBREAK OF THE KOREAN WAR, SUDDENLY, A FORWARD MILITARY POSITION IN ASIA BECAME THE ASIAN CONTINENT ITSELF. FORCES ORIGINALLY INTENDED FOR GUAM BECAME PERMANENT FIXTURES AT JAPANESE AND EVENTUALLY KOREAN BASES. YET, ALTHOUGH MILITARY NEEDS FOR GUAM CHANGED, THE MILITARY DESIRE TO ACQUIRE PROPERTY DID NOT. FROM THE VERY DAY THAT THESE LANDS WERE CONDEMNED, TO THIS DAY IN 1993, A GOOD PERCENTAGE OF THE LANDS TAKEN BY THE MILITARY IN GUAM HAVE NEVER BEEN USED... FOR ANYTHING.

EVEN AT THE HEIGHT OF THE VIETNAM WAR, WHEN MILITARY ACTIVITY IN GUAM WAS AT ITS PEAK, MANY THOUSANDS OF ACRES WERE UNUSED. HOW MUCH MORE IS THIS THE CASE TODAY, WHEN MILITARY ACTIVITY IS AT A POST WAR LOW IN GUAM, AND WITH FURTHER MILITARY CUTS LIKELY.

CONSIDER THE FACT THAT THE BASE REALIGNMENT AND CLOSURE COMMISSION HAS RECOMMENDED THE CLOSURE OF NAVAL AIR STATION AGANA. IF EVEN AN ACTIVE MILITARY BASE IN GUAM IS NO LONGER OF SIGNIFICANT VALUE TO THE FEDERAL GOVERNMENT, HOW MUCH LESS VALUABLE MUST BE THE THOUSANDS UPON THOUSANDS OF ACRES OF LAND THAT HAS BEEN KEPT FALLOW FOR MORE THAN FORTY YEARS?

THE TIME HAS COME TO RETURN, NOT JUST THE 3,200 ACRES IN THIS BILL, BUT THOUSANDS OF ACRES MORE. THIS BILL IS A GREAT FIRST STEP, BUT IT IS ONLY A FIRST STEP.

WE BELIEVE THAT IF A NEW AND HONEST STUDY OF THE MILITARY REQUIREMENT FOR LAND IN GUAM WOULD BE CONDUCTED IMMEDIATELY, THE AMOUNT OF LAND AVAILABLE FOR RETURN TO GUAM WOULD BE TRIPLED AT THE VERY LEAST. WE LOOK FORWARD TO A NEW LAND USE STUDY THAT WILL DO THIS.

IT IS VITAL THAT WE TAKE THIS FIRST STEP, WE CANNOT CONTINUE TO DELAY THIS PROCESS. CHAMORU FAMILIES HAVE CAMPED ON FEDERAL PROPERTIES IN GUAM, PROTESTING THE CONTINUED FEDERAL HOLDING OF THESE PROPERTIES. THESE PEOPLE, THESE FAMILIES, HAVE RISKED SO MUCH TO MAKE THEIR POINT, IN GUAM, AND IN SPITE OF OUR DEEP AFFECTION FOR AMERICA AND OUR LONG HISTORY OF COOPERATION ... AND EVEN DEVOTION TO AMERICAN CAUSES ... VOICES ARE BEING RAISED IN THAT MOST ORIGINAL OF AMERICAN CAUSE ... DISSENT ... AND THE SEARCH FOR JUSTICE AND FAIRNESS.

A DYNAMIC IS UNDERWAY IN GUAM. AFTER DECADES OF ACQUIESCENCE, CHAMORUS ARE BEGINNING TO SAY NO ... THAT MOST POWERFUL OF WORDS ... IN DEFENSE OF THEIR RIGHTS. IN GUAM, OUR PEOPLE ARE NO LONGER WILLING TO LOOK AT INJUSTICE AS SIMPLY OUR LOT IN LIFE... AND ARE DETERMINED TO WORK, INDEED STRUGGLE, TO MAKE THINGS BETTER. THE CHAMORU PEOPLE NO LONGER SIMPLY LOOK AT THINGS AS THEY ARE AND ASK WHY ... IN THE WORDS OF ROBERT KENNEDY, THEY ARE LOOKING AT THINGS AS THEY SHOULD BE ... AND DEMANDING "WHY NOT?"

WHAT WAS VIEWED AS RADICAL BUT A FEW YEARS AGO IS TODAY MAINSTREAM THINKING IN GUAM. INDEED THE MAN WHO REPRESENTS US IN THE HALLS OF CONGRESS, ELECTED BY HIS PEOPLE, WAS ONLY A DECADE AGO LABELED A RADICAL. HIS ELECTION BY HIS PEOPLE IS ... IN SOME WAYS, BELLWEATHER OF DEEP SOCIAL CHANGES. WE HAVE LEARNED, THAT OUR DESIRES ARE NOT RADICAL AT ALL ... OR THAT IF THEY ARE ... THEY ARE RADICAL ONLY IN THE WAY OF SUCH GREAT AMERICAN RADICALS AS SAMUEL ADAMS, THOMAS JEFFERSON ... AND THE MAN FOR WHOM THIS CITY IS NAMED, GEORGE WASHINGTON. PERHAPS THE GREATEST LESSON WE HAVE LEARNED IN GUAM, IN THE PAST TWO DECADES, IS THE AMERICAN LESSON THAT STATES CLEARLY THAT ONE MUST VOCIFEROUSLY SPEAK OUT IN DEFENSE OF ONE'S OWN LIBERTY.

THE DYNAMIC I SPEAK OF HAS MANY MANIFESTATIONS. IN ITS MOST PRISTINE, IT IS A DESIRE TO MAINTAIN OUR LANGUAGE AND OUR CULTURE ... OUR DESIRE TO PROMOTE THE WELFARE OF OUR PEOPLE. IN ITS DEEPEST EXPRESSION, IT IS OUR MOVE TO REGAIN THE RIGHT OF SELF-GOVERNMENT AND SELF-DETERMINATION THAT GOD GAVE US AND THAT NO MAN MAY TAKE AWAY. IT IS OUR FERVENT DESIRE TO MAKE OUR OWN DECISIONS FOR OURSELVES, AS ALL FREE PEOPLE MUST.

AND IN ITS MOST EMOTIONAL CONTEXT, IT IS THE MOVE TO RECLAIM OUR NATURAL RESOURCES ... TO RECLAIM OUR LAND. LAND IS SACRED TO US, PERHAPS BECAUSE WE HAVE SO LITTLE. WE WILL BE GRATEFUL TO YOU IF AS A FIRST STEP ... THIS BILL BECOMES LAW ... A FIRST STEP IN A LONG JOURNEY TOWARDS JUSTICE.

THE DYNAMIC I SPEAK OF IN GUAM IS HISTORICALLY ROOTED, AND IN THE FINAL ANALYSIS, AN INEVITABLE CONSEQUENCE OF THE WORLDWIDE MOVEMENT TOWARDS FREEDOM AND SELF-DETERMINATION, A MOVEMENT THAT THIS NATION HAS DONE MUCH TO SPONSOR. WE ALL PRAY, WE HOPE ... AND WE WORK TOWARDS HARNESSING THIS DYNAMIC TO FORGE EVEN STRONGER FRIENDSHIP AND PARTNERSHIP WITH AMERICA. OUR SUCCESS IN THIS GOAL, DEPENDS ON LEGISLATION SUCH AS THIS BILL.

IF YOU PASS THIS BILL, YOU WILL BRING HOPE TO MANY OF OUR ELDERLY, WHO SAW THESE LANDS TAKEN FROM THEM, AND HAVE DREAMED OF A DAY WHEN THEY WOULD BE RESTORED. IF YOU PASS THIS BILL, YOU WILL GIVE A NEW CHANCE FOR THOUSANDS OF OUR YOUNG, WHO WILL HAVE, AT LONG LAST, THE OPPORTUNITY TO RECLAIM AT LEAST A PART, OF THEIR LOST BIRTHRIGHT.

PLEASE PASS THIS BILL.

THANK YOU.

Mr. DE LUGO. Our next speaker, and before I recognize the next speaker, I want to say again that I am going to have to leave the Chair in a few minutes, and I really deeply regret that. I had a lot of questions that I wanted to engage in a colloquy with you all. I am deeply concerned about this issue, but unfortunately, I simply must leave in a few minutes. Please accept my apologies and let me assure you that my interest is very deep here and that I greatly appreciate your coming all this way.

Our next witness is the distinguished Speaker of the Legislature of Guam and a good friend of the Chair, the Honorable Joe T. San Agustin. Mr. Speaker, welcome.

#### STATEMENT OF HON. JOE T. SAN AGUSTIN

Mr. SAN AGUSTIN. Mr. Chairman, Congressman de Lugo, my good friend, Delegate Faleomavaega, American Samoa, and Mr. Underwood have left the room.

I am pleased to have this opportunity to once again appear in this forum to offer testimony on an issue of great importance to the people of Guam. H.R. 2144, sponsored by our own Congressman, Robert Underwood, represents a significant step in addressing the issue of excess Federal lands on Guam and their rightful return to Guam's people. For this reason, I am pleased to support this measure in order that the 3,200 acres identified in this bill may be returned to our community.

Mr. Chairman, the concerns which have prompted this legislation, in many ways, transcend the specifics regarding the 3,200 acres identified in this bill. This is more than a question of whether the Federal Government needs the 23 parcels identified in the bill or the possible future utilization of these properties by the civilian community on Guam. As in the case of other such measures directly related to Guam, the specifics of this bill are merely a reflection of larger Federal-territorial issues which are in need of resolution. To a great extent, the issues surrounding Federal land on Guam are not really land use issues as much as they are self-determination issues.

As you know, Congressman Underwood plans to convene a land conference on Guam later this year to delve into this subject more fully. It is our hope and expectation that the larger questions regarding Federal land use on Guam can be addressed at this conference. In the interim, though, I believe this bill represents a positive first step in arriving at a comprehensive solution to this important question.

Aside from commonwealth, there is no issue of greater interest to our people than the issue of land. A high regard for land is ingrained in our culture, traditions, and our people's outlook for their community. The challenges brought by modern society have served to reinforce this concern. Guam, being an island, is limited in its land resources. An expanding population and economy have intensified the demands for these resources. As is natural, I guess, these demands are often conflicting. The Federal Government, being the owner of almost one-third of our island, is sometimes drawn into these conflicts. Indeed, as evidenced by today's hearing, the scale of Federal ownership on Guam becomes a question in and of itself.

This question has at times proven to be contentious, even more so in recent years. Certain aspects of Federal or military land ownership on Guam are the source of considerable controversy for several reasons. First of all, there is the manner in which the Federal Government is using, or rather not using, the property it controls. Our people have always been proud of the role our island plays in the Nation's defense. To the extent that Federal land on Guam is used for this cause, our people are generally supportive. However, it has long been evident that a great deal of the land on Guam owned by the Defense Department is not used for defense purposes. As a matter of fact, as far as we can tell, much of this land has not been used for any purpose whatsoever for the past 40 years.

This brings me to the second reason why the question of Federal land ownership has developed into such an irritant. In considering this issue, one needs to be cognizant to how so much of our island ended up in Federal hands in the first place. Specifically, the massive Federal land takings in the period immediately following World War II bear examination. If you will recall, Mr. Chairman, I referred to this history in my June 17, 1993, letter to the Chairman of the full Committee, Representative George Miller. In my letter, I elaborated at length on the Naval Government's approach to these land takings. Suffice to say that I believe that given the limited political, legal, and financial resources available to Guamanians at that time, it remains questionable as to whether those land takings were truly fair or just.

Allow me to restate, Mr. Chairman, the people of Guam support the presence of the U.S. military on Guam in the performance of missions vital to our Nation's defense. What our people have difficulty in accepting, though, is DOD's insistence on retaining control of so much of our land without actually using the land for anything. In this regard, H.R. 2144 is welcome progress in securing DOD's cooperation in releasing much of this unused land. I believe, though, that it also serves, in part, to depict the perceived reluctance of the military to approach this issue realistically. To begin with, let us keep in mind that the 3,200 acres identified in this bill represents only a small fraction of the 30 percent of our island which is in Federal hands. Even so, it is clear that many of these parcels were released not because they were excess but because they were unusable.

By way of illustration, consider the parcels the Navy has identified as excess. One of the largest lots, Apra Harbor Parcel 7, contains areas contaminated with toxic waste. This parcel is, in fact, a likely Superfund candidate, if it is not on the list already.

In the case of Apra Harbor Parcel 7, there were discussions a few years ago about using this as a site for a sewage treatment plant. However, this idea was dropped when it was found that the soil was contaminated. Actually, the 73 acres which comprise Apra Harbor Parcel 7 is part of a larger, contiguous piece of naval property. The front portion of this property runs along the main highway and amounts to about 26 acres. The Navy, though, decided to retain this front 26 acres, which is uncontaminated, and release the back 73 acres which is contaminated. Interestingly, though, neither the uncontaminated 26 acres, nor the contaminated 73 acres, has not been used by the Navy for the past 40 years. As a

matter of fact, part of the uncontaminated 26 acres is now licensed, by the Navy, to the Government of Guam for use as a bus transfer station. Even so, the Navy evidently does not consider this area excess. The Navy apparently feels it needs to retain the uncontaminated 26 acres while giving the people of Guam the contaminated 73 acres. It is, nevertheless, our soil and we look forward to its return.

Much of the remainder of the Navy parcels are suitable only as conservation areas. Nimitz Hill Parcel 1, for example, starts up at a 40 percent slope, stretches around a reservoir, and then extends across a road, which is the only access for an existing residential neighborhood. On top of this, there are existing Navy fuel line easements which run through this property and several of the other Navy parcels. Difficult as it may be to use this land for other than conservation purposes, we seek the return of this parcel as well.

As a further illustration of the difficulty inherent in utilizing some of these properties, I would like to draw your attention to the four-acre parcel known as ACEORP Maui Tunnel. Again, this parcel is part of a much larger lot which is adjacent to Marine Drive, a major thoroughfare on Guam. The Navy has retained use of the front portion of this lot which runs along Marine Drive. What has been declared excess is the remaining portion, which as I indicated, is in the back and cut off from Marine Drive. The other three sides of this parcel are adjacent to private property. As a matter of fact, one side of this property is flush against a sheer cliff. As a result of being blocked off by Navy property, and a cliff line which is over 100 feet high, the parcel we are left with is essentially landlocked. Even though there is no legal ingress or egress to it, our people would welcome the opportunity to determine for themselves the best use of this land.

In contrast, I must say that the Air Force has been far more generous in its determination of excess land. These parcels are located outside the Andersen Air Force Base fence are all on flat land and, to the best of our knowledge, environmentally sound. These parcels are eminently suited for a number of public purposes including the construction of low-cost homes to address Guam's affordable housing shortage. We are convinced, though, Mr. Chairman, that given the current level of military activity on Guam, additional DOD property can be declared excess. We believe that it would be appropriate if the Defense Department were to conduct a new, comprehensive assessment of its land requirements in order to identify further excess property. Indeed, I sincerely hope they will do so as soon as possible.

To a great extent, Mr. Chairman, the real value of H.R. 2144 goes beyond the advantages or deficiencies of either the Navy or Air Force parcels identified in this bill. This bill is important to the people of Guam because it allows them to determine for themselves the future use of this land. Yes, the bill only deals with 3,200 acres and larger questions regarding Federal land use on Guam will need to be dealt with at some future point. Such a step, no matter how small, is nevertheless welcome and vitally significant for us. If enacted into law, bill H.R. 2144 would represent an important mile-

stone in ongoing efforts to deal with the serious questions of Federal land use on Guam.

It is on this basis, Mr. Chairman, that I appeal to your Subcommittee and to Congress as a whole for their support of this measure. As you know, this proposal, in one form or another, has been on the table for over 15 years now. We hope that during this Congress we will finally see its enactment into law. In this regard, we would like to respectfully request that the Congress grant the Government of Guam as much flexibility as possible in determining the use of these parcels. When this matter was last before Congress, the Bush Administration supported the concept of fully empowering the local government in the design of a land use plan that would best serve the interests of our people. In her letter to the House Interior Committee, dated June 22, 1992, then-Assistant Secretary Stella Guerra outlined the Administration's position with respect to this matter.

Noting that this position was endorsed by the Office of Management and Budget, Ms. Guerra suggested a broad definition for the term "public benefit" as used in the pending excess lands legislation. As in the case of this bill, previous excess land bills provided that the parcels, upon transfer, would be used for public benefit. The Bush Administration's suggestion, as presented by Ms. Guerra, called for permitting the Government of Guam to define "public benefit," which definition may include the use of land for government activities, including the return of the land to former owners. In approving the transfer of these parcels, we hope that the Congress will provide similar latitude to the Government of Guam in determining the future use of this land.

In the final analysis, this legislation is not really concerned so much with land as it is with people. What is really at issue here is the people of Guam, their rights to self-determination, their place in the American family, and the extent to which they will have a say in deciding how the land of their ancestors will be used in the future. It is my hope that the Congress will respond positively to these concerns and grant its expeditious approval to H.R. 2144.

Thank you and si yuus maase.

Mr. UNDERWOOD [presiding]. I thank you, Mr. Speaker, for your very detailed and informative presentation.

[Prepared statement of Mr. San Agustin follows:]





SENATOR JOE T. SAN AGUSTIN (D)  
SPEAKER

## Office of the Speaker

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Speaker Joe T. San Agustin

Testimony before the House Subcommittee on Insular &  
International Affairs

July 29, 1993

Good Morning Mr. Chairman and Members of the Subcommittee. I am pleased to have this opportunity to once again appear in this forum to offer testimony on an issue of great importance to the People of Guam. H.R. 2144, sponsored by our own Congressman Robert Underwood, represents a significant step in addressing the issue of excess federal lands on Guam and their rightful return to Guam's People. For this reason, I am pleased to support this measure in order that the 3,200 acres identified in the H.R. 2144, may be returned to our community.

Mr. Chairman, the concerns which have prompted this legislation, in many ways, transcend the specifics regarding the 3,200 acres identified in H.R. 2144. This is more than a question of whether the Federal Government needs the 23 parcels identified in the bill or the possible future utilization of these properties by the civilian community on Guam. As in the case of other such measures directly related to Guam, the specifics of H.R. 2144 are merely a reflection of larger federal-territorial issues which are in need of resolution. To a great extent, the issues surrounding federal land on Guam are not really land use issues as much as they are self-determination issues.

As you know, Congressman Underwood plans to convene a Land Conference on Guam later this year to delve into this subject more fully. It is our hope and expectation that the larger questions regarding federal land use on Guam can be addressed at this Conference. In the interim though, I believe that H.R. 2144 represents a positive first step in arriving at a comprehensive solution to this important question.

Aside from Commonwealth, there is no issue of greater interest to our people than the issue of Land. A high regard for land is ingrained in our culture, traditions, and our people's outlook for their community. The challenges brought by modern society have served to reinforce this concern. Guam, being an island, is limited in its land resources. An expanding population and economy have intensified the demands for these resources. As is natural I guess, these demands are often conflicting. The Federal Government, being the owner of almost one third of our island, is sometimes drawn into these conflicts. Indeed, as evidenced by today's hearing, the scale of federal ownership on Guam becomes a question in and of itself.

This question has, at times, proven to be contentious ---- even more so in recent years. Certain aspects of federal or military land ownership on Guam are the source of considerable controversy for several reasons. First of all, there is the manner in

which the Federal Government is using, or rather not using the property it controls. Our people have always been proud of the role our island plays in the nation's defense. To the extent that federal land on Guam is used for this cause, our people are generally supportive. However, it has long been evident, that a great deal of the land on Guam, owned by the Defense Department, is not used for defense purposes. As a matter of fact, as far as we can tell, much of this land has not been used for any purpose whatsoever at all, for the past 40 years!

This brings me to the second reason why the question of federal land ownership has developed into such an irritant. In considering this issue, one needs to be cognizant of how so much of our island ended up in Federal hands in the first place. Specifically, the massive federal landtakings, in the period immediately following World War II, bear examination. If you'll recall Mr. Chairman, I referred to this history in my June 17, 1993, letter to the Chairman of the full Committee, Rep. George Miller. In my letter, I elaborated at length on the Naval Government's approach to these landtakings. Suffice to say that I believe, that given the limited political, legal, and financial resources available to Guamanians at that time, it remains questionable, as to whether those landtakings were truly fair or just.

Allow me to reiterate Mr. Chairman, the People of Guam support the presence

of the U.S. Military on Guam in the performance of missions vital to our Nation's Security. What our people have difficulty in accepting though, is DOD's insistence on retaining control of so much of our island without actually using the land for anything. In this regard, H.R. 2144 is welcome progress in securing DOD's cooperation in releasing much of this unused land. I believe though that it also serves, in part, to depict the perceived reluctance of the Military to approach this issue realistically. To begin with, let us keep in mind that the 3,200 acres identified in the bill represents only a small fraction of the 30% of our island which is in federal hands. Even so, it is clear that many of these parcels, were released not because they were excess, but because they were unusable.

By way of illustration, consider the parcels the Navy has identified as "excess." One of the largest lots, Apra Harbor Parcel 7, contains areas contaminated with toxic waste. This parcel is in fact, a likely Superfund candidate, if it is not on the list already. In the case of Apra Harbor Parcel 7, there were discussions a few years ago about using this as a site for a sewage treatment plant. However, this idea was dropped when it was found that the soil was contaminated. Actually, the 73 acres which comprise Apra Harbor Parcel 7 is part of a larger, contiguous piece of Naval Property. The front portion of this property runs along the main highway and amounts to about 26 acres. The Navy though decided to retain this front 26 acres, which is

uncontaminated, and release the back 76 acres which is contaminated. Interestingly though, neither the uncontaminated 26 acres, nor the contaminated 73 acres, has been used by the Navy for the past 40 years. As a matter of fact, part of the uncontaminated 26 acres is now licensed, by the Navy, to the Government of Guam, for use as a bus transfer station. Even so, the Navy evidently does not consider this area excess. The Navy apparently feels it needs to retain the uncontaminated 26 acres while giving the People of Guam the contaminated 73 acres. It is nevertheless, our soil, and we look forward to it's return.

Much of the remainder of the Navy parcels are suitable only as conservation areas. Nimitz Hill Parcel 1, for example, starts up a 40% slope, stretches around a reservoir, and then extends across a road which is the only access for an existing residential neighborhood. On top of this, there are existing Navy fuel line easements which run through this property and several of the other Navy parcels. Difficult as it may be to use this land for other than conservation purposes, we seek the return of this parcel as well.

As a further illustration though, of the difficulty inherent in utilizing some of these properties, I would like to draw your attention to the 4 acre parcel known ACEORP Maui Tunnel. Again, this parcel is part of a much larger lot which is

adjacent to Marine Drive, a major thoroughfare on Guam. The Navy has retained use of the front portion of this lot which runs along Marine Drive. What has been declared excess, is the remaining portion, which as I indicated, is in the back and cut off from Marine Drive. The other three sides of this parcel are adjacent to private property. As a matter of fact, one side of this property is flush against a sheer cliff. As a result of being blocked off by Navy property, private property, and a cliffline which is over a hundred feet high, the parcel we are left with is essentially landlocked. Even though, there is no legal ingress or egress to it, our people would welcome the opportunity to determine, for themselves, the best use of this land.

In contrast, I must say that the Air Force has been far more generous in it's determination of excess land. These parcels are located outside the Anderson Air Force base fence, are all on flat land and to the best of our knowledge, environmentally sound. These parcels are eminently suited for a number of public purposes including the construction of low cost homes to address Guam's affordable housing shortage. We are convinced though Mr. Chairman, that given the current level of military activity on Guam, additional DOD property can be declared excess. We believe that it would be appropriate if the Defense Department were to conduct a new, comprehensive assessment of it's land requirments in order to identify further excess property. Indeed, I sincerely hope they will do so as soon as possible.

To a great extent though, Mr. Chairman, the real value of H.R. 2144 goes beyond the advantages or deficiencies of either the Navy or Air Force parcels identified in this bill. H.R. 2144 is important to the people of Guam because it allows them to determine for themselves the future use of this land. Yes, the bill only deals with 3,200 acres and larger questions regarding federal land use on Guam will need to be dealt with at some future point. Such a step, no matter how small, is nevertheless welcome and vitally significant for us. If enacted into law, H.R. 2144 would represent an important milestone in ongoing efforts to deal with the serious questions of federal land use on Guam.

It is on this basis Mr. Chairman, that I appeal to your Subcommittee and to Congress as a whole, for their support of this measure. As you know this proposal, in one form or another has been on the table for over 15 years now. We hope, that during this Congress, we will finally see it's enactment into law. In this regard, we would like to respectfully request that the Congress grant the Government of Guam as much flexibility as possible in determining the use of these parcels. When this matter was last before Congress, the Bush Administration supported the concept of fully empowering the local government in the design of a land use plan that would best serve the interests of our people. In her letter to the House Interior Committee, dated June 22, 1992, then Asst. Secretary Stella Guerra, outlined the Administration's

position with respect to this matter. Noting that this position was endorsed by the Office of Management and Budget, Ms. Guerra suggested a broad definition for the term "public benefit" as used in the pending excess lands legislation. As in the case of H.R. 2144, previous excess land bills provided that the parcels, upon transfer, would be used for "public benefit." The Bush Administration's suggestion, as presented by Ms. Guerra, called for permitting the Government of Guam to define "public benefit", which definition may include the use of land for governmental activities, including return of the land to former owners. In approving the transfer of these parcels, we hope that the Congress will provide similar latitude to the Government of Guam in determining the future use of this land.

In the final analysis, this legislation is not really concerned so much with land as it is with people. What is really at issue here is the People of Guam, their rights to self determination, their place in the American family, and the extent to which they will have a say in deciding how the land of their ancestors will be used in the future. It is my sincere hope that the Congress will respond positively to these concerns and grants it's expeditious approval to H.R. 2144.

THANK YOU AND SI YUUS MAASE.



Mr. UNDERWOOD. And now we will go to the remainder of the Senators present and we will go by alphabetical order to prove that we are not favoring anyone. Having a last name beginning with "U," I know how unfair that has been throughout my life, but nevertheless we will go to Senator Ada.

#### STATEMENT OF HON. THOMAS C. ADA

Mr. ADA. Mr. Chairman, thank you very much, and Members of the Subcommittee.

I am in full support of H.R. 2144, insofar as it proposes the release of federally held excess lands and their return to the Government of Guam. However, I must object to the requirements which must be complied with before return is effected.

At any rate, this bill will be a positive factor in reducing the strife and disharmony rapidly building within our community. To get a full grasp of the importance and the equity issues which compel its passage, it is imperative the issues relevant to the topic of federally held lands be briefly examined. My intent is not the pointless heaping of disparagements, but rather to bring attention to the unique circumstances of a situation which would be found intolerable were it applied within the United States.

Points at issue which need to be conveyed for your consideration are: One, fiduciary obligations; two, international commitments by the United States; three, the impact of breach of trust; and four, a growing local sentiment and movements.

With regard to earlier actions on this issue, some will argue the matter has been adequately addressed pursuant to U.S. Public Law 95-134 which is the Omnibus Territories Act of 1977. However, from the perspective of the Chamorro people, such is not the case.

The 1977 Act was little more than a symbolic gesture but effectively minimized U.S. liabilities. The Federal land taking remains a devastating economic injury that has not been adequately redressed through fair compensation for usage and return of surplus lands.

Perhaps the dilemma is due to the fact that the land taking issues are often argued by Federal officials in terms of minimizing U.S. liabilities, instead of within the context of how the mother country might assist the people of Guam in optimizing their economic opportunities.

In establishing that a fiduciary relationship existed, dominance becomes a key point. The acute dominant/subordinant relationship which most notably existed from 1898 through 1963 is readily exemplified by Naval Government policies which sanctioned the closure of borders, restrictions on economic activities, and neo-slavery. The Naval Government kept Guam's borders closed until 1963. This restriction effectively excluded most trade and commerce opportunities, which in the long run would have contributed to economic self-sufficiency. In particular, economic development opportunities were limited to activities compatible with military interests.

As a consequence of the economic restraints and the taking of 70 percent of Guam's most productive land areas, employment with the Naval Government was virtually our only option in pursuing an economic livelihood.

Contrary to American history books, slavery, pursuant to policy, ended in the 1940s, not the 1860s. Once a Chamorro was employed by the Naval Government, quitting or absenteeism without permission was punishable by fine or imprisonment. Additionally, a system of multiple wage scales was established which invariably placed Chamorros at the bottom of that scale for identical work.

Furthering an argument of responsible trust, it must be recognized that gratitude for being rescued from the Japanese occupation forces made Chamorros reticent to object to these policies. Few objections were raised, most trusting to the good will of an entity they identified as their protector and benefactor.

Unfortunately, military strategic considerations became the overriding factor for policy decisions. All else became secondary to include the needs and interests of the Chamorro people. As a consequence, the trust inherent in the fiduciary relationship was breached.

I raise these points not for the purpose of shock effect but rather to demonstrate that complete dominance was a fact of life in Guam and that a fiduciary relationship, in fact, existed. Basic to this relationship, therefore, is an inherent prohibition against a dominant party taking any action to the detriment of the subordinate.

On the premise that the actions taken were detrimental, there is an inherent mandate to justly correct it in a timely manner. Although we acknowledge the earlier attempts to address the land-taking issue, these efforts were plagued with major impediments; such as the limitation of fair compensation to a period prior to the existence of an open market economy, the restriction that the security closure of Guam's borders was not to be considered as sufficient proof of duress, unfair influence, or other unconscionable and inequitable actions, thereby limiting U.S. liabilities, the placement of the burden of proof on the victimized subordinate, in favor of the dominant trustee, and, finally, the inability of the Chamorro claimant to fight a protracted and costly legal battle.

Pursuant to its treaty obligations under Article 73 of the U.N. Charter, the United States, in 1946, specifically pledged to protect and promote the social, political, economic and resource interests of the Chamorro people. Extra care was taken towards commitment to the protection of land rights within the U.S. policy of Guam for the Guamanians.

Certainly there has been a raising of the standard of living, medical care, education, and a recent expansion of economic opportunities. Great strides have been made thanks to U.S. influences. However, it must be recognized that our best case opportunities have been denied and subjugated to suit American strategic needs.

Collectively, Chamorros have been unable to replace even a small fraction of the lands taken. Inhibited as well has been the ability to convert these precious assets into investment or educational endeavors thereby limiting their ability to effectively compete in Guam's modern economy.

Frustrated by unfulfilled commitments, shortage of land and an inhibited economy, the situation is resulting in growing tensions and mounting acts of dissension by our people. In defiance, some Chamorros have moved on to the lands in question and public dem-

onstrations of civil disobedience heretofore unheard of are becoming more frequent.

Although I am definitely not calling for a storming of the gates, I am nonetheless moved to denounce the historical circumstances which have motivated these acts of civil disobedience. The blame for resorting to civil disobedience by otherwise law-obeying citizens lies at the feet of the U.S. political leadership to effectively address the land-taking issue and provide alternative solutions.

In conclusion, Mr. Chairman, the passage of H.R. 2144, is of great importance to the people of Guam. However, the people of Guam should be the ones to make the final decisions on the beneficial public use of these surplus lands within the context of the Chamorro Land Trust Act. While recognizing the necessity of the military presence in Guam and its land needs, there must nonetheless be a process which continues to legitimately assess the true scope of these land requirements.

Concurrently, the creation and support of programs premised on indigenous rights, comparable to the Hawaiians Homes Commission and the Alaskan Aboriginal Native Claims Settlement Act, should be actively pursued. Thank you.

Mr. UNDERWOOD. I thank you, Senator Ada.

[Prepared statement of Mr. Ada follows:]

**Senator Thomas C. Ada**  
Twenty-Second Guam Legislature  
July 29, 1993

Testimony on

**H. R. 2144**

**Mr. Chairman, Congressman, I am in full support of H.R. 2144, in so far as it proposes the release of Federally held lands, and their return to the Government of Guam. However, I must object to the requirements which the Government of Guam must comply with before return of lands is effected.**

**None-the-less Mr. Chairman, I respectfully call upon this Subcommittee to support H.R. 2144, and further, request that appropriate steps be taken to expedite its passage. When considered within the overall context of Guam's land controversy, H.R. 2144 will be a positive factor in reducing the strife and disharmony rapidly building within our community.**

Furthermore, we strongly hope that H.R. 2144 not be amended to conform to traditional conservative or liberal doctrine. Conceivably, the conservative school of thought would push for the sale of surplus federal lands to off-set the national debt. Conversely, liberals would promote the conversion of surplus lands into parks or give it to the homeless. Either consideration would be a travesty of justice.

In this regard, I cannot overstate the importance of this Subcommittee. The ability of the people of Guam to bring to Congress an awareness of our unique circumstances is severely hindered by a fact of geography and economics. Education is a precursor to any resolution to the issues with which we are faced. Your facilitation of the dissemination of information provided today or subsequently, is vital to the process.

Our land situation is a long standing topic of serious concern; a contentious issue neither appropriately addressed, nor justly resolved. Those who have the power must be made to understand the reality of our situation. Regardless of whether the land takings were conducted with callous intent or simply the result of a colonial bureaucratic mind-set, the outcome remains the same; the economic and social displacement of a native people within their own homeland.

Historically, the Department of Defense has utilized 'worst-case' scenarios, never implemented through three wars, as a justification for continued control. Today, such creative justifications for extended control include establishing large tracts as conservation areas or wildlife refuges. These actions are viewed as unreasonable and another unjustified attempt at retention and control versus return.

To get a full grasp of the economic importance and the equity issues involved in the passage of H.R. 2144, it is imperative that the issues relevant to the topic of federally held lands be briefly examined. I beg your indulgence and request that you allow me to elaborate. My intent is not the pointless heaping of disparagements, but rather to bring to your attention the unique circumstances of a situation you would find intolerable were it applied within the United States.

Points at issue which need to be conveyed for your consideration are: (1) Fiduciary obligations; (2) International commitments made by the United States; (3) Impact of breach of trust; and (4) Growing local sentiment & movements.

The attached document entitled, Socio-Economic Influences In The Territory of Guam, 1898 Through 1963<sup>1</sup>, is a critical part of my testimony. The basis for asserting the existence of America's legal

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<sup>1</sup> "Abnormal Socio-Economic Influences In The Territory of Guam, 1898 Through 1963", August 12, 1981, John Bohn, Atty., for the Guam Landowners Association, hereinafter Socio-Eco.

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and fiduciary responsibility to the Chamorro people is succinctly discussed therein and merits your consideration.

If accomplishing little else, the passage of US P.L. 95-134 (Omnibus Territories Act of 1977 (Title II, Section 204)) allowed Guam's researchers to compile the citations referenced in the aforementioned document. Heretofore, official documentation of the conditions which existed in Guam through the mid-sixty's had never been made available for public review.

US Attorneys will argue that US P.L. 95-134 adequately addressed and resolved Guam's Federal land taking issues. However, from the perspective of the Chamorro people, the aggrieved party, such is not the case.

The Omnibus Territories Act of 1977 was little more than a symbolic gesture which effectively minimized US liabilities. The federal land taking remains a devastating economic injury that has not been adequately redressed through fair compensation for usage and return, of lands deemed to be surplus. The latter being the commitment made by the US at the time of taking. The optimal realization of economic opportunities will continue to be impeded until full redress is made as mentioned above.

Perhaps our current dilemma is due to the fact that the land-taking issues are often argued by federal officials in terms of minimizing US liabilities, instead of within the context of how the mother country might assist the people of Guam in optimizing their economic opportunities, and the humane application of American fair play. It is with high expectations and confidence that we specifically solicit your help Mr. Chairman.

## **I. FIDUCIARY RELATIONSHIP & OBLIGATIONS**

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In a democracy, absolute control and dominance carries with it an obligation of 'responsible trust', in favor of the subordinate. An examination of US policies (Attachment-1) applied to Guam prior to 1963, will clearly demonstrate circumstances of absolute control and dominance.

The acute dominant/subordinant relationship which existed is readily exemplified by policies which sanctioned: (1) the military closure of civilian borders<sup>2</sup>, (2) restrictions on economic activities<sup>3</sup>, to include the sale or transfer of real property<sup>4</sup>, (3) establishment of multiple wage systems<sup>5</sup>, and (4) neo-slavery<sup>6</sup>.

For purposes of control, but under the guise of protecting the people of Guam from "outside exploitation"<sup>7</sup>, the Naval government closed Guam's borders until 1963. By controlling entry and exit, as deemed appropriate by the Naval Government, trade and commerce activities were controlled.

In addition to restricting interstate commerce, intrastate commerce was also controlled by the Naval government by determining who could engage in business activities, as well as the types of businesses to be engaged in - compatibility with military interests being the main criteria.

Strict military control (between 1944 through 1950) of the transfer or sale of real property included price fixing and prohibitions against sale to non-Chamorros, the latter requiring the approval and/or permission of the Department of the Navy. Although again justified as a

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<sup>2</sup> "Sea and Air Space Military Reservation Area (Security Zone)"; See also Socio-Eco, p.76, @ 9.

<sup>3</sup> Socio-Eco, p. 44, @ 21.

<sup>4</sup> Socio-Eco, p. 47, @ 21.

<sup>5</sup> Socio-Eco, p. 34, @ 3.

<sup>6</sup> Socio-Eco, p. 46, @ 28.

<sup>7</sup> "Report to the United Nations, 1946, Department of the Navy". See also Report to the United Nations, 1947; and 1948..

protection against "outside" exploitation<sup>8</sup>, Naval records demonstrate an intent to minimize inflationary shifts in the real property market, thus impacting the federal takings relative to compensation. The post-Organic Act continuation of the security closure through 1963 effectively maintained real property values at pre-1950 levels.

Economically stifled through restriction of free trade and commercial activities, and the taking of about 70% of Guam's most productive land areas, employment with the Naval government was virtually our only option in pursuing an economic livelihood. Unfortunately, the Navy implemented a system of multiple wage scales which invariably placed Chamorros at the bottom of that scale for identical work, regardless of qualifications. Ironically, this multiple wage system<sup>9</sup> was justified before the United Nations in 1946<sup>10</sup> as a 'United States effort to protect us by avoiding the creation of a false economy prior to our exercise of self-determination'<sup>11</sup>.

Contrary to American history books, slavery, pursuant to policy, ended in the 1940's, not the 1860's. Once a Chamorros was employed by the Naval Government, quitting or absenteeism, without permission, was punishable by fine or imprisonment. This practice was limited to the non-self-governing territory of Guam. No matter how one would try to gloss over or minimize the policy and practice referenced, it was in fact a situation of neo-slavery, by policy, promoted with the defacto blessing of the Congress albeit without it's knowledge.

When considered alongside the closure of our borders, prohibitions on private sector development, the loss of our lands, and the multiple wage system, this policy of neo-slavery becomes even more heinous. Especially when you consider it was conducted under the guise of American democracy, for our benefit.

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<sup>8</sup> Socio-Eco, p. 47, @ 21.

<sup>9</sup> Socio-Eco, p. 46, @ 21.

<sup>10</sup> Socio-Eco, p. 47, @1.

<sup>11</sup> Report by the Naval Government of Guam to the United Nations, 1946.



Furthering an argument of responsible trust, it must be recognized that gratitude for being rescued from Japanese occupation forces, made Chamorros reticent to object to the administrative application of laws for purposes of control. Unfortunately, Chamorro acceptance of 'the law', was well known to American military planners<sup>12</sup>. Few objections were raised, most trusting to the good will of an entity they identified as their protector and benefactor<sup>13</sup>.

Strategic necessity, both during and subsequent to WWII, motivated policy makers and planners alike to take any and all actions deemed necessary to protect America's strategic interests. Ironically, the zealous accomplishment of their mission took priority over the principles of democracy they were tasked to defend. This dominance, carried to the extreme, created situations not conducive to the optimal interests of the subordinate, and thereby breached the trust.

Compensation through judicial due process, by circumstance and policy, was neither timely nor applied with any sense of equity<sup>14</sup>. Initial efforts by Congress were handicapped by a lack of funding, and the failure of the Department of the Navy to carry out the intent of the Congress. In this regard, Naval administrators, lacking an understanding of civil due process, saw their mission as one of minimizing federal liabilities, as opposed to the dispensation of justice. An examination of the policies applied evidence this fact<sup>15</sup>.

Efforts during the 1950's (post Organic Act) to revisit this issue fared poorly, with only the guise and trappings of due process. The conclusion of these proceeding accomplished little more than the protecting of federal interests, which from our perspective, was the actual intent.

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<sup>12</sup> Socio-Eco, p. 18, @ 11.

<sup>13</sup> Socio-Eco, p. 19, @ 1.

<sup>14</sup> Socio-Eco, p. 59, @ 28.

<sup>15</sup> Socio-Eco, p. 68, @ .29; see also p.69, @ 28.

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I raise these points, not for the purpose of shock effect, but rather, to demonstrate that complete dominance was a fact of life on Guam. If such was not the case, these contradictions to American principles could not have occurred. Since complete dominance was, and is, a fact, a fiduciary trust did, and does, exist.

We contend that a fiduciary relationship does in fact exist, therefore there is an inherent prohibition against the dominant party taking any actions to the detriment of the subordinate. If such actions are taken, which we contend were, then there is an inherent mandate to justly correct it in a timely manner.

It took forty years before rising frustrations over US laws, which continue to unilaterally serve the interests of the United States, culminated in public displays of extreme displeasure and, recently, civil disobedience by families who have, until now, been respectable and law abiding citizens.

## **II. INTERNATIONAL COMMITMENTS MADE BY THE UNITED STATES**

The argument of fiduciary responsibility carries with it two assumptions. First, that the parties live within, or are a part of, a democratically structured government wherein the interests of the subordinant take precedent<sup>16</sup>. Second, that the dominant party, even though moved to take actions in its own interests, is not relieved thereby of its obligations to the subordinate. Should a fiduciary argument not suffice, I bring to your attention an international treaty commitment.

Pursuant to its treaty obligations under Article 73 of the United Nations Charter, the United States, in 1946, specifically pledged to

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<sup>16</sup> Socio-Eco, p. 84, @ 40, through p. 91, @ 18.

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protect and promote the social, political, economic and resource interests of the Chamorro people. Extra care was taken towards commitment to the protection of land rights within "...the U.S. policy of 'Guam for the Guamanians'..."<sup>17</sup>. Though realizing that rights, pursuant to United Nation treaty, is a touchy subject with certain members of the Congress, it is none-the-less a legitimate US commitment.

Up until 1992, the United States annually reported to the United Nations on the status of the people of Guam, relative to US commitments, and our right to self-determination. Having met with little success in other forums, representatives of non-governmental organizations from Guam began petitioning the UN Special Committee on De colonization in 1979. More recently, representatives of the Government of Guam have followed suit.

The United States has utilized the United Nations forum to defend and justify the rights of peoples around the world. Interestingly, the US reaction to Guamanian participation has been one of distress, embarrassment and the denial of well documented facts. Most distressing to them are the discussions on Guam's land and self-determination issues.

I bring to the attention of this Subcommittee, the 1986 statement of US Ambassador Harvey J. Feldman, before the Fourth Committee of the United Nations. Ambassador Feldman, accompanied by former Congressman Ben Blaz, emphatically stated 'that the lands, we are discussing here today, had if fact already been returned'. He further stated that 'the issue of utilization was now in the hands of the people of Guam'. Needless to say, this federal tap-dance is wearing thin the patience of our people.

### **III. IMPACT OF BREACH OF TRUST**

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<sup>17</sup> Socio-Eco, p. 47, @ 23.

What has not been recognized is the rights and capabilities of the Chamorro people to make best use of this valuable piece of real-estate. There is the assumption that American governance and influences have only promoted best case circumstances. Such an assumption is only correct when the examination is conducted within the limited comparative context of a colonial beauty contest. It is inappropriate to consider Guam within the scope of regional progress or by comparison to non-self-governing territories held by other countries. An examination of rights per US commitments, versus our actual situation, is the only legitimate criteria for evaluation.

Chamorro landowners are the exclusive source of all lands currently held by the Department of Defense for US bases. Regardless of whether the land takings were conducted with callous intent, or are simply the result of a bureaucratic mind-set, the outcome remains the same; the economic and social displacement of a native people within their own homeland.

Certainly, there has been a raising of the standard of living, medical care, education and a recent expansion of economic opportunities. Great strides have been made thanks to US influences. However, the question cannot be limited to a comparison of current status vs. 1898, 1944, or even 1950. It must be recognized that our best case opportunities have been denied and suborned to suit American strategic needs.

The effects in 1993 are readily seen through an examination of the demographics of land ownership, as compared to 1941, and the level of economic participation in private sector activities. Just compensation, AT THE TIME OF TAKING, was necessary if the desired replacement of lands taken was to be realized. Redress must be reflective of the times. The US Department of Justice and the Courts have applied "adequate compensation" in the 1990's at artificially depressed 1953 levels. This has only served to inflame the sense of injustice, and continues to skirt the issue of redress.

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Lacking this, land claimants have been unable to replace even a small fraction of the lands taken. Inhibited as well has been the ability to convert this precious asset into investment or educational endeavors, thereby limiting their ability to fairly compete in Guam's modern economy. It is the contention of most, that compensation to date is unconscionably inadequate, even if considered with the context of rental, let alone payment for fee simple purchase.

The major impediments to just redress, pursuant to P.L. 95-134, have been: (1) the limitation of "fair compensation" to a period prior to the existence of an open market economy, i.e. "time of taking"; (2) the restriction that the security closure of Guam's borders was not to be considered as sufficient proof of "duress, unfair influence, or other unconscionable actions . . . and inequitable actions", thereby limiting US liabilities; (3) the inability of Chamorro claimants to fight a protracted and cost prohibitive engagement with a world superpower; and (4) the placement of the burden of proof upon the victimized subordinate, in favor of the dominant trustee.

Attached for your consideration is a document entitled, "The Markets for Lots No. 10001-REM and 317AT". It is offered for its historical references to US Statutes relative to federal land taking on Guam, as presented from the perspective of an appraiser representing two claimants in the point case argued pursuant to US P.L. 95-134 (Title II, Section 204).

#### **IV. GROWING LOCAL SENTIMENT & MOVEMENTS**

Angered by broken commitments, a shortage of land and an inhibited economy, the situation is resulting in growing tensions and mounting acts of dissension by our people. Frustration has reached such high levels that the original landowners and/or their heirs have acted to take physical possession of their lands by moving on to them and building homes in defiance of the official position that the United States legally own these lands. The response of the Federal

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Government to the acts of the landowners has been the filing of actions in the courts for criminal trespass and the eviction of these families.

Although I am definitely not calling for a storming of the gates, I am none-the-less moved to denounce the historical circumstances which have motivated these families to take matters into their own hands. The blame for resorting to civil disobedience, by otherwise law abiding citizens, lies with the refusal of US political leadership to provide alternative solutions.

### **Recommendations and Direction**

Foremost at this point in time, is the passage of H.R. 2144. Despite any other considerations I have proffered, it's passage is of great importance to the people of Guam.

We, the people of Guam, must be the ones to make the final decisions. It is incumbent upon this body to facilitate this right, thereby playing a positive role in our islands future, and the realization of collective efforts towards making Guam a true showcase of democracy.

At the heart of this issue, is the need for the establishment of processes, within US law, requiring (1) the realistic evaluation of federal land use on Guam, (2) the timely return of all lands for which utilization cannot be legitimately justified, and (3) the creation and support of realistic programs of protection, economic development and redress<sup>18</sup>, comparable to the Hawaiian Homes Commission and the Alaskan Aboriginal Native Claims Settlement Act, but not so limited in scope.

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<sup>18</sup> Programs comparable to those for Native Hawaiians and Alaskan aboriginals, and structured to fully comply with US in 1946 commitments before the United Nations.

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We cannot idly accept the argument that Federal lands cannot be released because of US Statutes - or that those statutes are written in stone. Any policy prohibiting the direct and unconditional return of lands to the Chamorro people must be seen as a matter of attitude - not law. What the Congress has created or condoned, it can change.

Because of the rapidly increasing volatility of this issue, local efforts to seek acceptable solutions have increased. Most notably, the plans of Delegate Underwood to organize and hold a 'Lands Summit' on Guam, and the local initiative of the Guam Legislature's funding of the Chamorro Land Trust. I look forward to the proposed Land Summit, and strongly encourage the sincerely cooperative participation of the various administrative entities of the United States.

It is within our means to at least partially redress the unique situation of Guam. Certain actions are required by this body - other actions are required by the political leadership of Guam. Action is required of both. If the United States does not become a legitimate part of the solution, it will remain as a part of the problem. Any failure to redress our situation can only be seen as the acceptance of injustice.

Though we fully recognize that the situation is politically difficult to resolve, such can no longer be accepted as an excuse to avoid the issue altogether. Firm decisive steps must be taken which address to the greatest extent possible some form of solution, for the greatest number possible.

Mr. UNDERWOOD. And at this time I will call for a recess of approximately 10 minutes so I can get over there and vote in the Committee of the Whole and then come back. So with your indulgence, we will recess for 10 minutes. I am going to vote even if it doesn't count.

[Brief recess.]

Mr. UNDERWOOD. We will now reconvene the subcommittee hearing, and we will go to Senator Manibusan.

#### STATEMENT OF HON. MARILYN D.A. MANIBUSAN

Ms. MANIBUSAN. Mr. Chairman and Members of the subcommittee, I am honored to join the Guam delegation on behalf of our people, and I thank you for the opportunity to present testimony on H.R. 2144.

As you are all aware, land is a sensitive issue in Guam and the Federal Government's resolution of the land issue is long overdue.

Land is a precious resource in Guam, and the issue of land, specifically federally held lands, continues to be an area of serious difficulty between the people of Guam and the Federal Government.

That the issue is an emotional one is undeniable. In the first instance, it should be remembered that the manner in which the Federal Government acquired its property holdings is questioned, even to this day.

In the second instance, on an island as small as Guam, land is a precious commodity. Idle land in the hands of a strange government when the children and grandchildren of so many of the original owners are landless becomes a very tense point of contention.

While the Commander of Naval Forces Marianas was recently quoted as saying, "We own the property whether you agree with the means by which we acquired title to it or not. . . ." Chamorro families are explaining to their children and grandchildren why they are landless. This contentious issue is not simply going to go away. Moreover, the amount of land to be returned to Guam in H.R. 2144 is not the end of this process. The return of these properties should be but the beginning.

In an attempt to soothe many of the bruised emotions and to assuage many of the volatile tempers, much effort has been expended since the mid-1970s. The late Congressman Antonio Won Pat, Guam's first delegate to Congress, introduced legislation to return to the people of Guam land identified by the Federal Government as excess to its requirements. The excess property identified in what many refer to as the Army Report, after its author, former Assistant Secretary of the Navy, Wayne Arny, was approved by the Department of Defense and submitted to the General Services Administration where it was further approved for release. Since that time, Mr. Chairman, the list of properties has been reduced from 7,000 to 3,400 acres and there is fear that with the inclusion of NAS Agana on the base closure and realignment list that that amount of 3,400 acres will again be reduced substantially.

In this vein, the Guam Legislature, on behalf of the people of Guam, is requesting your assistance to secure the passage and enactment of H.R. 2144, legislation introduced by Guam's Congressman, Robert Underwood, which would return those 3,200 acres to



the Government of Guam for utilization beneficial to all of the people of Guam, now and in the future.

We are requesting that H.R. 2144 be amended so as to expedite its passage, as it now appears that the legislation may be bogged down.

First of all, it is difficult to comprehend why H.R. 2144 must be referred to more than one congressional committee. As the congressional process would have it, this multiple referral would effectively relegate the legislation to the back burner. The length of this limbo cannot be ascertained simply because no one can accurately determine the priority the measure would receive by each committee nor the workload that each committee has. More so, it is incomprehensible why any other committee than the House Committee on the Interior or the Senate Committee on Energy and Natural Resources would have oversight jurisdiction over Federal properties in an unincorporated territory such as Guam.

Therefore, in response to this, it would be most beneficial if the sequential referral could be reviewed with the purpose of having H.R. 2144 referred but to a single committee for the sake of expedition.

Mr. Chairman and Members, with respect to the disposition of the returned properties, it is also likewise very difficult to understand why a land use plan would be necessary for the release of excess Federal land holdings. I trust that a satisfactory explanation can be given to H.R. 2144's requirement that a land use plan be submitted by Guam to congressional committees. I recognize that the same provision existed in a similar bill submitted by former Delegate Blas, but I am, frankly, at a loss in seeing the need to require the Government of Guam to report to committees in Congress on what it specifically intends to do with returned lands no longer required by the United States.

If a land use plan developed by Guam is a bottom line issue in the Congress, then I am sure we will develop one. However, in principle, I personally consider this requirement demeaning, particularly since the U.S. agencies which hold the properties have not had an active land use for the last 20 years, and since all these lands taken under conditions have been a source of contention in Guam for almost five decades.

If the Congress is concerned about the Government of Guam selling returned lands to Japanese, Korean or Taiwanese investors, then let me put your fears to rest: Any such move would be the equivalent of signing a political death warrant given the real needs of the people of Guam for affordable housing and other public infrastructure.

The point is, Mr. Chairman, these properties will result in a public benefit, not just because it is a requirement of a congressional legislation here in H.R. 2144, but also because of our own political processes. The people of Guam in the Commonwealth Act have mandated for a new process of land return and it is instructive to keep this in mind as we look beyond this initial return of 3,200 acres that is outlined in H.R. 2144.

I suggest that the Congress allow these processes to run their course without the paternal requirement of oversight.

We support the provisions in H.R. 2144 that would exempt the release of the property from provisions of law requiring the disposition of the real estate through the General Services Administration system. If the GSA procedures are to be followed, the release of the property to the Government of Guam would actually be of a reduced priority. Rather, other Federal agencies would have first crack at the lands to be released.

We additionally support the provisions which call for the exemption of these properties from the McKinney Act which would make the real estate available to nonprofit organizations which are involved in caring for the homeless. As understandable and desirable as care for the homeless is, it must be remembered that land on Guam is a very limited resource. To require that the properties be subject to the McKinney Act would be to relegate the needs of our people of Guam to a priority below the homeless of California or other jurisdictions in the United States. This would not only perpetuate an injustice but would add insult to injury. It is our contention, our peoples' contention, and understandably so, to you that the benefit of the people of Guam should be foremost in the eyes of many, even those who work to provide a decent living to the homeless.

Mr. Chairman and Members, as I mentioned earlier, the lands identified have been in the process of return for nearly 20 years. They should be returned now. A new process for evaluating the military's true need for property should be developed. These properties are, in fact, a part of a patrimony that has been sidelined for half a century. Like anyone or anything that once belonged to a family and was taken from them, Mr. Chairman and Members, these properties will be welcomed back in Guam with open arms.

Finally, Mr. Chairman and Members, you are to be commended for your concern and sensitivity in moving this issue forward. I join the people of Guam in celebrating your actions and look forward to the liberation of Guam property for the benefit of our island community.

Dangkolu Na Si Yu'os Ma'ase'.

Mr. UNDERWOOD. Thank you, Senator Manibusan, for your presentation this morning.

[Prepared statement of Ms. Manibusan follows:]



## TWENTY-SECOND GUAM LEGISLATURE

MARILYN D.A. MANIBUSAN

Senator

Statement of Senator Marilyn Manibusan  
Member, 22nd Guam Legislature

Before the House Interior Subcommittee on Insular and International Affairs  
on H.R. 2144

July 29, 1993

Mr. Chairman and Members of the Committee, I am honored to join the Guam delegation on behalf of our people, and I thank you for the opportunity to present testimony on H.R. 2144, an Act to provide for the transfer of excess land to the government of Guam. As you are all aware, land is a sensitive issue in Guam and the federal government's resolution of the land issue is long over due.

Land is a precious resource in Guam, and the issue of land, specifically federally-held lands, continues to be an area of serious difficulty between the people of Guam and the federal government.

That the issue is an emotional one is undeniable. In the first instance, it should be remembered that the manner in which the federal government acquired its property holdings is questioned even to this day. In the second instance, on an island as small as Guam, land is a precious commodity. Idle land in the hands of a strange government when the children and grandchildren of so many of the original owners are landless becomes a very tense point of contention.

While the Commander of Naval Forces Marianas was recently quoted as saying, "We own the property whether you agree with the means by which we acquired title to it or not..." (National Journal, June 12, p.1418), Chamorro families are explaining to their

children and grandchildren why they are landless. This contentious issue is not simply going to go away. Moreover, the amount of land to be returned to Guam in H.R. 2144 is not the end of this process. The return of these properties should be but the beginning.

In an attempt to soothe many of the bruised emotions and to assuage many of the volatile tempers, much effort has been expended since the mid 1970's. The late Congressman Antonio Won Pat, Guam's first delegate to Congress, introduced legislation to return to the people of Guam land identified by the federal government as excess to its requirements. The excess property was identified in what many refer to as the Army Report, after its author, former Assistant Secretary of the Navy Wayne Army. This list was approved by the Department of Defense and submitted to the General Services Administration where it was further approved for release. Since that time the list of properties has been reduced from 7000 to 3400 acres and there is fear that with the inclusion of NAS Agana on the base closure and realignment list that the 3400 acres will again be reduced substantially.

In this vein, the Guam Legislature, on behalf of the people of Guam, is requesting your assistance to secure the passage and enactment of H.R. 2144, legislation introduced by Guam's Congressman Robert Underwood, which would return those 3400 acres to the government of Guam for utilization beneficial to all of the people of Guam, now and in the future.

We are requesting that H.R. 2144 be amended so as to expedite its passage as it now appears that the legislation may be bogged down by several factors which are inherent in the manner in which the legislation was prepared.

First of all, it is difficult to comprehend why H.R. 2144 must be referred to more than one Congressional committee. As the Congressional process would have it, this multiple referral would effectively relegate the legislation to the back burner. The length of this limbo cannot be ascertained simply because no one can accurately determine the priority the measure would receive by each committee nor the workload that each committee has. Moreover, it is incomprehensible why any committee other than the House Committee on the Interior or the Senate Committee on Energy and Natural Resources would have oversight jurisdiction over federal properties in an unincorporated territory such as Guam. Therefore, in response to this, it would be most beneficial if the sequential referral could be reviewed

with the purpose of having H.R. 2144 referred but to a single committee for the sake of expedition.

Mr. Chairman and Members, with respect to the disposition of the returned property, it is also likewise difficult to understand why a land use plan would be necessary for the release of excess federal landholdings. I trust that a satisfactory explanation can be given to H.R. 2144's requirement that a land use plan be submitted by Guam to Congressional Committees. I recognize that the same provision existed in a similar bill submitted by former Delegate Blaz, but I am frankly at a loss in seeing the need to require the government of Guam to report to Committees in the Congress on what it specifically intends to do with returned lands no longer required by the United States. If a land use plan developed by Guam is a bottom line issue in the Congress then I am sure we will develop one. However, in principle, I personally consider this requirement demeaning, particularly since the U.S. agencies which hold the properties have not had an active land use for the last 20 years, and since all these lands taken under conditions have been a source of contention in Guam for almost five decades. If the Congress is concerned about the Government of Guam selling returned lands to Japanese, Korean or Taiwanese investors, then let me put your fears to rest: any such move would be the equivalent of signing a political death warrant given the real needs of the people of Guam for affordable housing and other public infrastructure. The point is, Mr. Chairman, these properties will result in a public benefit, not just because it is a requirement of H.R. 2144, but also because of our own political processes. The people of Guam, in the Commonwealth Act, have mandated for a new process of land return and it is instructive to keep this in mind as we look beyond this initial return of 3,200 acres that is outlined in H.R.2144.

I suggest that the Congress allow these processes to run their course without the paternal requirement of oversight.

We support the provisions in H.R. 2144 that would exempt the release of the property from provisions of law requiring the disposition of the real estate through the General Services Administration system. If the GSA procedures are to be followed, the release of the property to the government of Guam would actually be of a reduced priority. Rather, other federal agencies would have first crack at the lands to be released.

We additionally support provisions which call for the exemption of these properties from the McKinney act which would make the real estate available to non-profit organizations which are involved in caring for the homeless. As understandable and desirable as care for the homeless is, it must be remembered that land on Guam is a very limited resource. To require that the properties be subject to the McKinney Act would be to relegate the needs of the people of Guam to a priority below the homeless of California or other jurisdictions in the U.S. This would not only perpetuate an injustice but would add insult to injury. It is our contention that the benefit of the people of Guam should be foremost in the eyes of many, even those who work to provide a decent living to the homeless.

Mr. Chairman and members, as I mentioned earlier, the lands identified have been in the process of return for nearly twenty (20) years. They should be returned now and a new process for evaluating the military's true need for property should be developed! These properties are in fact a part of a patrimony that has been sidelined for half a century. Like anyone or anything that once belonged to a family and was taken from them, these properties will be welcomed back with open arms.

Finally, Mr. Chairman and members, you are to be commended for your concern and sensitivity in moving this issue forward. I join the people of Guam in celebrating your actions and look forward to the liberation of Guam property for the benefit of our island community.

Dangkolu Na Si Yu'os Ma'ase'.

Mr. UNDERWOOD. Now we go to Senator Reyes.

**STATEMENT OF HON. EDWARD D. REYES**

Mr. REYES. Thank you. Good morning, Congressman Underwood. I want to personally congratulate you for introducing H.R. 2144. I think it is something that is vitally needed for our territory and you are to be commended.

I also want to thank the Chairman of the Subcommittee, Congressman de Lugo, for expeditiously hearing this important resolution for our people, and also thank the other Members who were here earlier, who came to share the testimony today.

Of course we are pleased to be here, Mr. Chairman, to testify on this very important measure. The introduction of H.R. 2144 I believe provides the people of Guam with some reassurances that their pleas concerning excess Federal land issues have not fallen by the wayside.

For many years now, island residents have voiced concern that the U.S. military authorities on Guam that control some 44,000 acres of land, of prime lands, have been reluctant to apply or even suggest mutual consent guidelines in the planning and development of military lands in Guam. In fact, the BRAC Commission's hearing on the closure of the NAS, the Naval Air Station on Guam, was one of the few occasions Government of Guam officials had the opportunity to participate in upper level land-related discussions.

Nevertheless, the Commission's decision to consolidate operations at the Naval Air Station and Andersen Air Force Base, and the anticipated passage, I am confident, of H.R. 2144, clearly demonstrate to the people of Guam that there are alternatives available to resolve the Guam excess lands issue but that these solutions will not evolve without the active participation and persuasion of yourself, the Members of this Committee, and the U.S. Congress.

At first glance, the process for releasing lands as described in Section 3 of the Act appears simple and straightforward. However, there are concerns shared that the process established in the bill relies too heavily on the mood of the Federal agency, its authorities and other considerations as well. For instance, most Federal lands in Guam fall under the charge of the Department of the Defense, and historically, there has not been an inclination by DOD to readily, to readily, identify what lands could be returned to the Government of Guam and its people. As alluded to earlier, of the approximately 44,000 acres controlled by DOD, only some 14,000 have thus far been released to the Government of Guam in over 15 years and many of these lands were returned with conditions.

At this rate, it is reasonable to assume that it may take centuries before the excess land issue is resolved. As it stands, the military utilizes no more than 12,000 acres for its facilities and operations with less than 50 percent utilization rate, and in some cases 30 percent utilization.

I maintain that they could physically double or even triple their operations without requiring any more lands. In spite of this, there is little indication that DOD is willing to accelerate disposal of lands not needed for their families or operations both today, tomorrow, and a year from now.

Another concern with the process delineated in H.R. 2144 lies in the fact that certain costs would have to be incurred by any Federal agency when disposing of excess lands. This implies that the Federal entity would have to secure funds from the Congress to support any land conveyance to the Government of Guam. Frankly speaking, and noting the extent of the budget cuts that have been imposed upon the DOD, I believe that this type of funding request will not be a higher priority within the Defense Department or any other respective agency. I can only hope that such financial requests when it comes to this Committee or to the other Committees of the Congress that they be looked at favorably for funding so that the process of return could be expedited.

In Section 3 of H.R. 2144, there is a provision requiring the Government of Guam to develop a land use plan for properties identified as excess to the Federal Government's needs. I fully appreciate the concern of the Congress with respect to the need of such a plan, and I support the intent of such provision; however, this provision would further extend the time and cost elements associated with the release of excess lands. It is my feeling that the Government of Guam could assure the Federal Government that such plans will be developed for the respective lands but it would be unreasonable, inefficient, and costly to approach such land use planning in a fragmented manner. In other words, we more than likely will be expecting more lands to be returned back to the Government of Guam, and to do planning now, without those future lands to be returned, will be inefficient.

The people of our island already have a plan at hand. Presidential Executive Order 10178, dated back in October 1950, which reserved Guam lands for use by the Federal agencies and which delegated responsibility by the Secretary of the Interior to transfer other lands not reserved by the President of the United States to the Government of Guam was followed on August 29, 1951, with the policy established by the First Guam Congress, through the Public Lands Act, directing priorities for sale or lease of land being returned to the Federal Government as follows:

First of all, the First Guam Congress indicated that, as a matter of priority, resettlement and rehabilitation should be given to persons who have had all their land acquired by the United States to the Naval Government of Guam or the Government of Guam and who have owned no lands since January, 1945; second, within that category, persons who have had their lands substantially taken or acquired by July 1, 1944, by the United States Naval Government of Guam, the remaining portion of their land is not adequate or sufficient for reasonable agricultural or residential purposes.

The second major category that the First Guam Congress articulated is that the land could be disposed of for homestead purposes, for vacant and unreserved public lands of Guam. In other words, we have this priority for the disposition of lands returned by the Federal Government as far back as 1950, Mr. Chairman, and we can use that as a point of departure.

What can be recommended is that clusters or aggregated parcels of properties be cleared for release prior to the formulation of the land use plans.



I would like to bring to the committee's attention, Mr. Chairman, the Resolution 93, Guam legislation, Resolution 93, which proposes what I believe is a viable system for addressing the excess lands dilemma. Resolution 93, which I am attaching as part of my testimony, with your permission, I would like for it to be inserted as part of the record, recommends a reversal of the current excess lands process.

In other words, instead of allowing the Department of Defense to determine what lands should be declared excess, they should be mandated to determine and justify the amount of land needed for their operations based on reasonable Department of Defense basing requirements. The Congress then could determine lands outside of that need as excess to be returned to the people of Guam.

I strongly feel that with the approval of this Committee and the Congress, there is the possibility of having this entire system simplified. As envisioned in the said measure, there would be numerous advantages to having the Federal agencies in Guam develop a comprehensive land use plan for the properties based on their mission requirements. It is proposed that this plan be submitted to the Congress for review, ratification, and funding.

Once approved, the plan should provide clear guidance for the Federal entities insofar as what, when, and how much land is needed to support the respective agency's mission, and further, that all lands found by the Congress to be in excess to the Federal Government's needs be returned to the people of Guam for their benefit.

Resolution 93 also makes the U.S. Government, asks, rather, the U.S. Government to allow original landowners to use their properties in question on a temporary basis pending resolution of the entire excess land issue. I sincerely feel that this will streamline the entire process and, moreover, eliminate the layers of bureaucracy envisioned in H.R. 2144.

Resolution 93 identifies a system for disposing of excess lands in a rational, efficient, and economical way. There may be certain features of this measure that the Committee may want to improve on, but after much deliberation and debate by the Guam Legislature, it is the sense of the people of Guam that this is the one alternative course and perhaps is the course that the Committee could pursue.

I respectfully suggest that this Committee transfer the control of Federal land outside the immediate confines of the U.S. military installations in Guam to some other entity within the U.S. Federal Government. Land management is outside the scope of the military department any place in the world. It has become a bone of contention in Guam that the DOD is having a difficult time with the civilian community as of right now because of this situation of the landlordship problem that arose because the military has been chartered to manage all of the land held by the Federal Government in Guam.

To further illustrate this problem, Mr. Chairman, I refer to a group of individuals comprised of the members and descendants of the DeSoto/Blas family on Guam who elected to stage a peaceful public protest concerning their displeasure with a particular land transaction negotiated between the U.S. Air Force and the Depart-

ment of Education, an entity of our Government of Guam. The transaction involved the assignment of long-term conditional lease agreements for certain properties which had been conveyed by the U.S. Naval Government prior to 1950 and which was claimed to be ancestral lands belonging to the Blas/DeSoto family, despite several attempts to secure authorization or permission from the local and regional military authorities to allow the Blas/DeSoto family to access and conduct a peaceful demonstration at the site in question and to cause enjoyment of the family's constitutional rights guaranteed under the First Amendment.

To date, there has been no encouraging response offered by the respective military commands. Instead, there have been notices of disbarment issued to the protecting family members and their supporters, litigation initiated by the military officials charging individuals with trespassing, harassment of the DeSoto/Blas family by active duty personnel and other gestures of intimidation.

I defer to the judgment of this Committee, Mr. Chairman, and the wisdom to identify other government entities within the U.S. Government as far as the control of Federal land in Guam.

Once again, Congressman Underwood, Mr. Chairman, H.R. 2144 is a good measure, a good beginning. It sends the right message to our people, that the Congress is still willing to address the excess lands issue on behalf of the people of Guam. It is my fervent hope that the Committee would find a way to return the parcels of land identified in H.R. 2144 to the people of Guam without conditions. This will allow us to ameliorate the injustices suffered by many original landowners whose properties were taken without complete due process.

It is imperative that some measure of equity and justice be accorded these original landowners before we can close this chapter on Federal land taking. I realize that addressing these issues now may jeopardize the passage of H.R. 2144. I would, therefore, ask the question of yourself, Congressman Underwood, that these and other related matters be addressed in some other forum in the future such as the upcoming land conference proposed by yourself.

I believe that we should continue to address the injustices imposed on our original landowners and, of course, the entire island of Guam, and, again, I commend you for introducing H.R. 2144 and having the foresight in planning that land conference, and hopefully we can have all of the people involved in the land situation in Guam together for an eventual solution of this very thorny problem in our island.

Thank you. And I will be pleased to respond to questions that you may have, Mr. Chairman, and the rest of the Subcommittee when they come later on. Thank you.

Mr. UNDERWOOD. Thank you, Senator Reyes.

[Prepared statement of Mr. Reyes and attachment follow:]

ADDENDUM TO TESTIMONY OF SENATOR EDWARD D. REYES ON H.R. 2144

Once again Mr. Chairman, H.R. 2144 is a good measure, a good beginning. It sends the right signal that Congress is still willing to address the excess lands issue on behalf of the people of Guam.

It is my fervent hope that the Committee would find a way to return the parcels of land indentified in 2144 to the people of Guam without conditions. This will allow us to ameliorate the injustices suffered by many original land owners whose properties were taken without complete due process. It is imperative that some measure of equity and justice be accorded these original land owners before we can close the chapter on federal land taking. I realize that addressing these issues now may jeopardize the passage of H.R. 2144. I would therefore ask that these and other related land matters be addressed in some other forum in the future such as the upcoming land conference proposed by Congressman Underwood.

**Testimony of Senator Edward D. Reyes, Chairman,  
Committee on Housing and Community Development, 22nd Guam  
Legislature  
before the  
House Subcommittee on Insular and International Affairs  
U.S. House of Representatives, Washington, DC  
July 29, 1993**

**Honorable Chairman Congressman Ron de Lugo, Congressman Robert Underwood, Distinguished Members of this Committee:**

My name is Edward D. Reyes, a member of the 22nd Guam Legislature and currently presiding Chairman of the Committee on Housing and Community Development.

I am happy to appear before this Committee to present testimony on House Resolution 2144, a measure that proposes "to provide for the transfer of excess lands to the Government of Guam and for other purposes." I would like to thank Congressman Robert Underwood for introducing H.R. 2144 and the Chairman of the Committee as well for expeditiously hearing this important measure and, of course, to all the distinguished Committee members who have set time aside to be present today. From the people of Guam and my colleagues in the Twenty-Second Guam Legislature, let me extend a warm Hafa Adai to all of you..

The introduction of H.R. 2144, I believe, provides the people of Guam with some reassurance that their pleas concerning excess federal lands issue have not fallen by the wayside. For many years now island residents have voiced concern that the U.S. military authorities on Guam who control some 44,000 acres of prime lands have been unwilling to apply or even suggest mutual consent guidelines in the planning and development of military lands in Guam. In fact, the BRAC Commission's hearing on the closure of the Naval Air Station facility on Guam was one of the few occasions government of Guam officials had the opportunity to participate in upper policy level land-related discussions. Nevertheless, the Commission's decision to consolidate operations at Naval Air Station and Andersen Air Force Base and the anticipated passage of H.R. 2144 clearly demonstrates to the people of Guam that there are alternatives available to resolve the Guam excess lands issue but that these solutions will not evolve without the active participation and persuasion of the U.S. Congress.

At first glance, the process for releasing lands as described in Section 3 of the Act appears simple and straightforward. However, there are concerns shared by some that the process established in the Bill relies too heavily on the mood of the Federal agency, its authorities and other considerations as well. For instance, most federal lands in Guam fall under the charge of the Department of the Defense and historically, there has not been an inclination by DOD to readily identify what lands could be returned to the government of Guam. As alluded to earlier, of the approximately 44,000 acres controlled by DOD, no more than 1,000 acres have been released to the government of Guam in over 15 years and many of the lands were returned with conditions. At this rate, it is reasonable to assume that it may take centuries before the excess land issue is resolved. As it stands, the military utilizes no more than 12,000 acres for its facilities and operations with

less than 50% utilization. I maintain that they could physically double or even triple their operations without requiring any more lands. In spite of this, there is little indication that DOD is willing to accelerate disposal of lands not needed for their facilities or operations, both in the near or longer term..

Another concern with the process delineated in H.R. 2144 lies in the fact that certain costs would have to be incurred by any Federal agency when disposing of excess lands. This implies that the Federal entity would have to secure funds from the Congress to support any land conveyance to the government of Guam. Frankly speaking and noting the extent of budget cuts that have been imposed upon the Department of Defense, I believe that this type of funding request will not be a higher priority of DOD or any other respective agency. I can only hope that such financial requests coming before this or other committees of Congress would be given favorable consideration, however.

In Section 3 of the Act, there is a provision requiring the government of Guam to develop a land-use plan for properties identified as excess to the federal government's needs. I appreciate the concern of the Congress with respect to the need for such a plan and I support the intent of such a provision, however, this provision would further extend the time and cost elements associated with the release of excess lands. It is my feeling that the government of Guam could assure the federal government that such plans would be developed for the respective lands but it would be unreasonable, inefficient and costly to approach such land use planning in a fragmented manner. The people of Guam already have a plan of action at hand. Presidential Executive Order 10178, dated October 30, 1950, which reserved Guam lands for use by Federal agencies and which delegated responsibility to the Secretary of Interior to transfer other lands not reserved by

the President to the government of Guam was followed on August 29, 1951 with policy established by the Guam First Congress, through the Public Lands Act, directing priorities for sale or lease of land being returned by the Federal government as follows:

a. Resettlement and Rehabilitation of: (1) persons who have had all their land acquired by the United States, the Naval government of Guam, or the government of Guam, and who have owned no other land since January 1, 1945; and, (2) persons who have had a substantial portion of their land acquired by the United States, the Naval government of Guam, or the government of Guam, since July 1, 1944, the remaining portion whose land is not adequate or sufficient for reasonable agricultural or residential purposes;

b. A Homestead Program for vacant and unreserved public lands of Guam.

What could be recommended is that clusters or aggregated parcels of properties be cleared for release prior to the formulation of land-use plans.

I would like to bring to the Committee's attention Resolution 93 which proposes what I believe is a viable system for addressing the excess lands dilemma. Resolution 93, which I am attaching as part of my testimony, recommends a reversal of the current excess lands process. In other words, instead of allowing DoD to determine what lands should be declared excess, they should be mandated to determine and justify the amount of land needed for their operations based on standard DoD basing requirements. The Congress could then determine lands outside of that need as excess to be returned to the people of Guam. I strongly feel that with the approval of this Committee and the Congress, there is the possibility of having this entire system simplified. As envisioned in the said measure, there would be numerous advantages to having the Federal agencies in Guam develop a comprehensive land-use plan for the properties based on their mission

requirements. It is proposed that this plan be submitted to the Congress for review, ratification, and funding. Once approved, the said plan should provide clear guidance to the federal entities in so far as what, when and how much land is needed to support the Federal agency's mission and further, that all lands found by the Congress to be in excess to the federal government's needs be returned to the people of Guam for their benefit. Resolution 93 also asks the U.S. government to allow original land owners to use the properties in question on a temporary basis, pending resolution of the excess land issue. I sincerely feel that this would streamline the entire process and moreover, eliminate the layers of bureaucracy envisioned in H.R. 2144. Resolution 93 identifies a system for disposing of excess lands in a rational, efficient and economical way. There may be certain features of this measure that the Committee may want to improve on but, after much deliberation and debate by the Guam Legislature, it is the sense of the people of Guam that this is the proper course to pursue.

I respectfully suggest that this Committee transfer the control of Federal land outside the immediate confines of the various military installations from the Department of Defense to some other entity within the U.S. government. Land management is outside the scope of the normal assigned mission of the military. It has become a bone of contention that disrupts sustaining good relations between the Defense Department and the civilian community. To further illustrate the problem, I refer to a group of individuals comprised of the members and descendants of the Blas/DeSoto family on Guam who elected to stage a peaceful public protest concerning their displeasure with a particular land transaction negotiated between the U.S. Air Force and the Department of Education, an entity of the government of Guam. The transaction involved the assignment of a long-term conditional lease agreement for certain properties which had been



condemned by the U.S. Naval Government prior to 1950 and which was claimed to be ancestral lands belonging to the Blas/DeSoto family. Despite several attempts to secure authorization or permission from the local and regional military authorities to allow the Blas/DeSoto family to access and conduct a peaceful demonstration at the site in question and to cause enjoyment of the family's constitutional rights under the First Amendment. To date, there has been no encouraging response offered by the respective local military command. Instead, there have been notices of disbarment issued to protesting family members and their supporters, litigation initiated by military officials charging individuals with trespassing, harassment of the Blas/DeSoto family by active duty personnel and other gestures of intimidation.

I defer to your collective wisdom to identify another government entity, which surely will be an improvement.

**Thank you for the opportunity to present testimony before the Committee and once again, A Warm Hafa Adai.**

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) Regular Session

Resolution No. 93 (LS)

As amended by the author.

Introduced by:

E. D. Reyes  
J. T. San Agustin  
M. Z. Bordallo  
T. S. Nelson  
M. D. A. Manibusan  
V. C. Pangelinan  
P. C. Lujan  
T. C. Ada  
J. P. Aguon  
E. P. Arriola  
J. G. Bamba  
A. C. Blaz  
D. F. Brooks  
F. P. Camacho  
H. D. Dierking  
C. T. C. Gutierrez  
D. Parkinson  
F. R. Santos  
D. L. G. Shimizu  
T. V. C. Tanaka  
A. R. Unpingco

Relative to requesting the United States Government to reverse the process for determining as excess all remaining Federal lands in Guam not yet determined as excess and mandating that the U.S. military precisely determine what lands are needed to support the local military mission using standard basing requirements and further, to request that lands beyond military needs be returned to the people of Guam.

1 BE IT RESOLVED BY THE LEGISLATURE OF THE TERRITORY OF  
2 GUAM:

1       WHEREAS, prior to and at the end of the Second World War, after the  
2 reoccupation of Guam by the U.S. Armed Forces, thousands of acres of  
3 property to establish military and defense-related facilities throughout the  
4 island were acquired "as a result of duress, unfair influence or other  
5 unconscionable actions of the United States"; and

6       WHEREAS, the above action allowed the U.S. Government to gain  
7 control of approximately 85,000 acres or sixty-three percent of the island's  
8 prime properties on which were situated whole communities containing the  
9 homes and farmlands of thousands of Chamorro families, this condemnation  
10 of homelands by the U.S. Naval government causing major social and  
11 economic displacement of families, irreversibly altering patterns of ancestral  
12 land uses, thereby disrupting the socio-economic and cultural values of the  
13 people of Guam; and

14       WHEREAS, aside from its indigenous human resources, the island of  
15 Guam is not blessed with abundant natural resources or other forms of  
16 wealth, thus causing local people to place the highest intrinsic value and  
17 importance on land inherited from their ancestors; and

18       WHEREAS, at the end of the Vietnam War era (mid-70's), the  
19 Department of Defense was prepared to designate an additional 8,000 acres  
20 of Chamorro homelands as "excess lands", but of this figure, only 1,000 acres  
21 has actually been released to the government of Guam for port development,  
22 bringing the total of Federal lands released to Guam since 1950 to  
23 approximately 41,000 acres; and

24       WHEREAS, of the remaining 44,000 acres of land under the military's  
25 control only twenty-seven percent (27%) or no more than 12,000 acres have  
26 been physically separated through fencing, and of these 12,000 fenced acres,

1 less than 6,000 acres are presently under use, thus reflecting a utilization rate  
2 of less than fifty percent of lands confined, making it the sense of the  
3 Legislature that the Department of Defense could double or perhaps triple its  
4 operations within an area consisting of 12,000 acres leaving a total of 32,000  
5 acres that could be identified as excess and released without adversely  
6 hampering the level of U.S. security needs in Guam and throughout the Asia-  
7 Pacific region; and

8 WHEREAS, the current political stability in the Pacific region and in  
9 most parts of the world and the improving relations between the U.S., Asian  
10 and the Pacific Rim nations establish a declining need for military expansion  
11 in the region and worldwide as seen in the recent base closure policies and the  
12 planned reduction in DOD expenditures that have affected the U.S. Armed  
13 Forces globally; and

14 WHEREAS, the Legislature finds it unreasonable, insensitive and unjust  
15 for the Department of Defense to continue to possess excessive amounts of  
16 land beyond its current and future needs, particularly when thousands of  
17 Guam landowners who have been deprived of access and productive use of  
18 such lands for over forty years were not accorded due process and full  
19 protection under the Constitution of the United States at the time the Naval  
20 government acquired the properties in the mid-40's; and

21 WHEREAS, the current process used by the Department of Defense and  
22 in particular by the authorities overseeing U.S. military base operations in  
23 Guam, does not require the said authorities to justify to the U.S. Congress  
24 and the people of the United States what lands in Guam should be classified  
25 as excess to the military's needs, using established plans and programs and  
26 standard-basing criteria and requirements; and

1       WHEREAS, it is the sense of the people of Guam and their elected  
2 leadership that Guam must convey its plea and increasing concern to the U.S.  
3 Congress to obtain the support and assistance of the U.S. Congress in  
4 directing the Secretary of Defense to examine what basing standards,  
5 requirements and criteria are applied to Guam in light of the military's  
6 overall mission in the region and to determine the compatibility and  
7 justification of the military's use of and control over Guam lands in view of  
8 its current mission; and

9       WHEREAS, it is the finding of the Legislature that there is mounting  
10 tension between the military authorities and Guam residents due to the issue  
11 of landtakings described earlier herein and that such relations will continue to  
12 worsen if policy guidance and decisions regarding the lands controversy are  
13 not satisfactorily addressed; and

14       WHEREAS, it is the sense of the people of Guam that a strong and  
15 continued presence of the U.S. military is both needed and welcomed in  
16 Guam as long as such presence does not interfere with the social, economic,  
17 cultural and political aspirations of the people of Guam, the people of Guam  
18 recognizing the need for the military establishment to possess, safeguard and  
19 control a certain amount of land compatible with the applicable standards for  
20 base requirements and the mission of the military in the region; now,  
21 therefore, be it

22       RESOLVED, that the Twenty-Second Guam Legislature does hereby  
23 respectfully demand that the Secretary of Defense and the United States  
24 Congress assist the people of Guam in their plight caused by the Federal  
25 acquisition of invaluable ancestral homelands consisting of approximately  
26 32,000 acres which for more than forty-five years have been set aside for

1 national defense and for security of the nation, although, because of the  
2 current peace and stability in the region and growing global peace, such land  
3 may never be used for the purpose for which it was acquired either now or in  
4 the future; and be it further

5 RESOLVED, that the Legislature desires to continue the process of  
6 returning without conditions those Federal excess lands identified in the  
7 Guam Land Use Plan and enumerated in H.R. 2144; and be it further

8 RESOLVED, that the Legislature respectfully demands that the  
9 procedure for releasing Federal excess lands in Guam under the jurisdiction  
10 of the Department of Defense be altered and reversed by the Secretary of  
11 Defense whereby the appropriate local military authorities shall be required  
12 to justify through short-term or long-term plans or programs the need to  
13 continue holding lands for national defense purpose or purposes through the  
14 use and application of established Department of Defense basing standards;  
15 and be it further

16 RESOLVED, that the Legislature respectfully requests that in the event  
17 the Secretary of Defense refuses to reverse the procedure for determining  
18 what lands are excess to defense needs in Guam, the Congress of the United  
19 States through legislation of its choice require the Secretary to reverse the  
20 Department of Defense policy for determining excess military lands in  
21 accordance with the request contained in the preceding resolve clause and  
22 declare that all lands beyond defense needs shall be excess lands to be  
23 returned to the people of Guam; and be it further

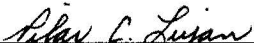
24 RESOLVED, that the Legislature further respectfully requests that the  
25 procedure for the release of excess Department of Defense lands in Guam be  
26 exempt from the McKinney Act and any provision of the General Services

1 Administration regulations that require excess Federal lands in Guam to be  
2 cleared and released by Federal agencies before such properties are declared  
3 excess and conveyed to the people of Guam; and be it further

4 RESOLVED, that the Legislature hereby seeks the approval of the  
5 Secretary of Defense to allow original property owners to have access to and  
6 temporarily use of their former lands until such time as the final disposition of  
7 the property is determined; and be it further

8 RESOLVED, that the Speaker certify to and the Legislative Secretary  
9 attest the adoption hereof and that copies of the same be thereafter  
10 transmitted to the U.S. Secretary of Defense; to the Commander-in-Chief  
11 Pacific; to the Commander Naval Forces Marianas; to the Administrator,  
12 General Services Administration; to the U.S. Secretary of Interior; to the  
13 Honorable Ron De Lugo, M.C., Chairman of the House Subcommittee on  
14 Insular and International Affairs; to the Honorable Robert A. Underwood,  
15 M.C., Guam's Delegate in Congress; and to the Governor of Guam.

DULY AND REGULARLY ADOPTED ON THE 9TH DAY OF JUNE, 1993.

  
PILAR C. LUJAN  
Senator and Legislative Secretary

  
JOE T. SAN AGUSTIN  
Speaker

Mr. UNDERWOOD. And thank all of you for your very large stirring statements. I think the tone that certainly has been set by all of you on this differs radically from the previous panel and indicates some of the sentiments that motivate the people of Guam towards a clear resolution of these issues, and I commend each and every one of you, I know for the great deal of thought and soul searching that went into your testimonies.

Even though some people may argue and some people may indicate that the statements are strong, I think all of you have practiced a great deal of restraint in making your remarks. I think that there is no doubt in my mind that even more strong statements could be made. I don't think the depth of the emotions of the people of Guam relative to this question has been yet touched, even by the stirring statements that have been made this morning and this afternoon. So I want to thank you for that.

I have a series of questions and I think most of them have been discussed, even in the previous panel, but there are a couple of items that I would like to be addressed and one of them pertains to the statement introduced in the record at the request of the Assistant Secretary of the Interior, Ms. Leslie Turner, and I would like to have some comments on that particular statement.

I know you have only had a brief time to review that, but there are a number of items in there that should attract your attention.

The other is perhaps we could begin by clarifying a statement that I made, and I hope I didn't misspeak, but perhaps you can clarify it, and this pertains to the discussion on the critical habitat and the wildlife refuge. At the time Admiral Kristensen and General Burr were here, I indicated, as a point of contrast, that the wildlife refuge was inefficiently better than the critical habitat designation, and I had indicated, and perhaps you can clarify, that the Government of Guam, either through the legislature or the Governor's office or perhaps both, has indicated a preference for the wildlife refuge over the critical habitat.

So perhaps the Lieutenant Governor and the Speaker or other Senators may wish to speak to that point.

Mr. BLAS. Mr. Chairman, thank you very much. I think that with regard to the issue of critical habitat and, more specifically, the legal suit that is in the courts now, I think the Administration's position as of late has been that if they had to, they would choose to go with a refuge, wildlife refuge, provided that the management and control of that refuge be vested in the people of Guam, the Government of Guam.

That, of course, is an alternative to the more cumbersome and the more encompassing critical habitat that has been proposed in the early stages of even our administration when we did not realize the impact that it would have.

The position has now been that in order for us to continue to acknowledge that there is a need to protect, for example, the species that are there, the endangered species, there must be some form of consideration made to address that issue.

Mr. UNDERWOOD. Okay, thank you. Any of the Senators like to speak to that? Senator Reyes?

Mr. REYES. Thank you, Mr. Chairman.



I personally support the protection of wildlife. I think it is important. Some of the members of the legislature may correct me, but as I recall, this issue of designation of wildlife refuge and critical habitat has never really been addressed by the legislature. This is my second term down there, and some of these areas fall under my cognizance.

The business about designation of critical habitat, wildlife refuge, is a very significant event. I see it as a way, perhaps, if we are not careful, to prevent or delay the return of excess Federal land to our people. In other words, should designations be made, we are going to have to cope with various Federal regulations to surmount the restrictions.

The fact of the matter is, because of the importance of this designation, during the last session of the 21st Guam Legislature, Mr. Congressman, there was a provision in one of the bills that was passed by the legislature, signed by the Governor, now law, that says the Department of Agriculture, in collaboration with the Department of Parks and Recreation in Guam, in collaboration with the Federal Government, may come up with a plan and a designation of conservation, wildlife refuge, and such plans shall be submitted to the legislature for ratification. Public hearings will be made and so forth. That is now law, Mr. Chairman.

And just the other day, because of the importance of this matter, I went down to see the head of the wildlife refuge in the Department of the Interior, the assistant secretary for that agency of wildlife refuge, and pleaded, and I asked the folks in there, to please hold in abeyance any impending designation of Federal lands, or even our own Government of Guam land, so that we in the legislature, that the Governor, the executive branch, would have a chance to ask the people of Guam how they would want this designation. I believe it is unfair to designate some 30,000 acres of land on our island without asking the people of Guam how they feel about it.

So that is my sense about it. I believe the whole situation now should be held in abeyance until we have had a chance in Guam to look at it; ask our people how they feel about it, instead of this unilateral action on the part of even the Federal Government or even our own Government of Guam.

Thank you, Mr. Chairman. That is my comment on that.

Mr. UNDERWOOD. Thank you. Anyone else wish to make a comment?

If not, then just so that we understand, I only raise the issue so that I make sure that everyone clarifies what their sentiments are on this, but obviously there is a court case somewhere on this issue, and my understanding is that even Interior is not free to hold that decision in abeyance as of this time. And so whatever discussions need to take place in order to provide a unified Government of Guam approach, perhaps in collaboration with the Department of the Interior, should take place rather quickly.

Mr. BLAS. Mr. Chairman, just a moment, if I could?

Mr. UNDERWOOD. Yes, certainly.

Mr. BLAS. Just a few minutes.

A representative of the Department of the Interior requested that I relay the message to the Governor's office of the Department of the Interior's request whether we might want to participate in the

response to that court case that you speak about here. And so it is, I think, my duty to come back to Guam, then, and ask what our position would be. Because as I was made to understand, and I think we were the ones who first put it out, the first responses are due on or about August 6, which is just a matter of days away.

So I wanted to make sure the record shows we have been requested already and we will be consulting with the legislature to see what we can come up with.

Mr. UNDERWOOD. Okay, thank you, Governor.

Senator Manibusan, did you wish to speak on this issue?

Ms. MANIBUSAN. I think that on behalf of Senator Santos, who is one of the distinguished colleagues in the legislature, I remember that he had a position that embraces the majority of the legislature's sentiments in opposing the critical habitat.

I am not sure that that is actually reduced and a resolution was passed by the 21st Guam Legislature, but I would like to offer assistance in providing such a resolution, if there is one.

Mr. UNDERWOOD. In your testimony, Senator San Agustin, you mentioned that perhaps we should look for an expansive definition of public benefit use. This is an issue that comes up repeatedly and it is in a sense tied with the issue of the land use plan.

I asked the question to the earlier panel and I have asked this question before, what is the great fear here? What is it that is anticipated that the Government of Guam would do with this land and if there was a great fear to it, then perhaps we could encode to prevent that, I don't know. Perhaps we can put that in the legislation.

But what I would like to ask you is to perhaps respond to what are some examples that you think of that public benefit use or perhaps what is the expansive definition that we are looking for?

Mr. SAN AGUSTIN. Well, I think in responding to that, you said what is the great fear? To quote our late President Roosevelt, he said the main difficulty of fear is the word itself, "fear," and I think that is the fact the Federal bureaucracy still has not seen that Guam now can be very able to determine for itself.

I think it is an insult to the people of Guam to suggest that they should provide administrative veto power on the rights of the people to determine for themselves. The idea of having legislation delegate authority to an administrative agency is like subjugating our people. Continuing again, as for more than a century, as we have been doing. And I see no basis for that other than to just try to hang on to the umbilical cord. They have been going on for the last 50 years on Guam.

As I said, the issue of land is not just land itself but more of the right to self-determination for our people to decide for ourselves. I think we are mature enough. We are good enough to fight for the wars of the United States; we are good enough to die in the wars, but we are not good enough to decide for ourselves what is the destiny of our island. That is my response.

I think these lands were taken from the people of Guam. They were compensated, perhaps, but it was decided by a military tribunal. It was decided by people at an executive department level which has no legislative authority from this Congress, their right to acquire these properties.

Mr. Chairman, I had the opportunity to work for the Land and Claims Commission in 1946 and 1947, and I have seen these arbitrations, stipulation process procedures. I have seen the appointment of a Navy judge to expedite. I have seen the suspension of laws. Before 1950 there were laws that were actually put out by a Naval Governor. He was the judge, the Governor, the executive all in one body, in one pie.

People of Guam didn't have rights before 1950. It was never determined by this Congress. It was only by perhaps the body-elect of this Congress that the United States, the executive branch, administer the island of Guam through an executive order. And so I think it is about time. That is why we are still struggling for self-determination.

As they say, Congress should let go. And this administration, people continue to hang on to their very vested interests. They have a vested interest to feel that Guam needs to be babysat. Guam needs to be considered as wards.

In about two or three years from now, Mr. Chairman, we will be over a century under the administration of the United States. We are proud to be American, but we are not really Americans if we continue to have some bureaucrats in the Federal establishment say what is good for us and what is not.

There is a statute that we cannot whistle in Guam. That is a famous case. We cannot whistle or walk on the right side of the street. I thought we were Americans. If that is the case, let the people decide. Americans are supposed to decide for their own, for their own self-determination, and I don't see what is the fear.

I think, again quoting the late President Roosevelt, it is the word "fear" itself. The word "fear." And, unfortunately, the Federal bureaucracy doesn't seem to understand that.

Mr. UNDERWOOD. I think in the provision we have articulated here in H.R. 2144 it is, of course, as you can tell, far less restrictive than any of the stipulations that are being suggested by the executive branch. And the restrictions that are being proposed by the executive branch implies some element of continuing administrative review.

It is interesting to note that in Ms. Turner's submission she proposes that what is done with the lands is to be turned over to the Secretary of the Interior and, in a sense, subject to that process of review. And so I don't know whether this is the agency that Senator Reyes had in mind in terms of adjudicating the 3,200 acres, but perhaps all of you would like to respond to this.

Mr. REYES. Heavens no, Mr. Chairman.

Mr. SAN AGUSTIN. As I said, Mr. Chairman, I think giving it to the Secretary of the Interior, again providing a veto power, only this Congress has that right. And if Congress decides to relegate the people of Guam to the auspices of the Secretary of the Interior, then all the progress that has been made in the last, say, 20 years, from elected government or progress made in Guam will be in vain if we are going to go right back again to the Secretary of the Interior's benign benevolence.

Mr. BLAS. Mr. Chairman, it is almost an affront for the Secretary of the Interior to suggest that your bill be rewritten, if you will, to

designate that the Secretary of the Interior be the chief, if you will, of these lands that are declared excess.

What is she suggesting? She is suggesting it may be excess to the military but not to the U.S. Department of the Interior? What will she use it for?

I think it is bothersome, it is bothersome some people continue to suggest, as the Speaker implied here, that we on Guam are not capable of determining what is good for us and what is not good for us. I come here, you know we are all educated by the U.S. and we are told we have to make some decisions on our own so that the future looks good. Well, I think it really is bothersome that we continue to hear from this vantage point, if you will, up here that the people of Guam are still not in the minds of some people capable of determining what is good for them or what is not good for them.

I take very, very great exception to that.

Mr. UNDERWOOD. Okay, thank you. Senator Reyes.

Mr. REYES. Thank you, Mr. Chairman.

You raised a couple of points that I would just like to make a comment on. Regarding the land use, you asked what specific purposes perhaps the Government of Guam would find uses for these lands.

Of course, you know, there are many things we could look at, and I believe one of the things that comes to mind right now is, as I indicated in my testimony, that somehow these lands could be used to address the injustices done to the original landowners. That would be one measure or degree of justice and equity.

And, of course, the resettlement and the rehabilitation program that was initiated back in the late 1940s, can you imagine, Mr. Chairman, Congressman Underwood, that some of our people still have not resettled? Let me give you an example.

The de Nissan family up in Dededo has some 20 acres of land on northwest field that was taken away from them. At the time of the taking, back in the late 1940s, the whole family, now comprised of some 40 people, were relocated over to a Government of Guam land and settled in a land use permit type land, meaning year to year. Up to now those people have not resettled.

So what should we do with that kind of situation? Obviously, they would have priority to help those people whose lands are inside the northwest field and probably is going to take many, many more years to get those lands returned. So the resettlement issue, the rehabilitation situation, and also homesteading, we could look at those things. There are so many, many things we could do with the land.

I agree with the Lieutenant Governor and the Speaker that we are quite mature on our island to be able to decide what to do with our own land. After all, we know the island, we live there, we have been there for years. Our ancestors have been there for thousands of years, even before America was ever born. So let us take the land back, hopefully without conditions; let us figure out what to do with it. We are going to put it to good use.

That would be my response, Mr. Chairman.

Regarding my recommendation to remove the DOD's control over the land mass, Federal land in Guam, surely I didn't have DOD in

mind, but certainly they would have a role, you know, but more than likely, with the wisdom of yourself and the other Committee Members, could come up with—an approach might be to form a group around the Subcommittee, maybe yourself, maybe Chairman de Lugo, Representatives from the respective committees of the House, Armed Services, maybe; Resources, Governmental Operations, certainly DOI representation and DOD, and this way we will have a cluster of groups of people that will continue to review the situation and hopefully build consensus around that, around the land issue, and acquire advocacy to that process.

This is something that perhaps you folks may want to consider. You know, the historical record of DOD on Guam as landowners has not been too swift, so I would say that we should find a way for improvement. Not DOI by itself, no, sir.

Mr. UNDERWOOD. Thank you, Senator Manibusan. Senator Ada.

Mr. ADA. Regarding the land use plan that has been referred to many times this morning, Mr. Chairman, I would like to bring to the attention of the Chairman that we do have the Chamorro Land Trust Act, which was passed recently, and in that particular Act it does outline the uses of land, which have been declared as available lands. Additionally, that particular Act also does specify that any lands which the Government of Guam may come into possession of will be then declared as available lands and will be used either for providing residential lots to Chamorros to be used, to be leased out for commercial activities so that the revenues received from that will then go into special funds that will assist Chamorros, and also to set aside land for agricultural and pastoral uses.

I think the use of land that is set out in the Land Trust Act, although it is still very general, has enough definition to it to at least determine what those lands, what these surplus lands, will come under. Now, we can sit here I guess and we can speculate about all kinds of uses for the lands and whatnot, that is, if somebody is willing or dares to go and amend the Chamorro Land Trust Act, but I daresay I don't think anybody is going to do that. So I think we should take a look at the use of these lands within the context of the Chamorro Land Trust Act.

Second, on this matter about turning over the control of the lands from the Department of Defense to the Department of the Interior, quite simplistically, I think if we take a look at that it looks like the net gain is zero so why are we going through this exercise in futility? So I am quite surprised the Department of the Interior would take that position. And as I agree with the Lieutenant Governor, I think it is an outright affront.

Mr. UNDERWOOD. Thank you. Senator Manibusan.

Ms. MANIBUSAN. Just simply put, I am equally shocked to realize the position of the Department of the Interior, and I just support all the statements made by all my colleagues here.

You know, these lands have been deemed to be returned and you have heard the testimony from the first panel upon your inquiry whether the Navy had any reason to think that other Federal agencies would want them, and on record he said no. And so I hate to think that the statement on the position of the Department of the Interior would be another means through, for example, the Na-

tional Audubon Society to continue to frustrate returning and then would find any mechanism that they could use to frustrate the return of lands to Guam that have been deemed excess and not to be of any use to the Federal Government, or to the military.

So I find it to be very demeaning, quite frankly, and I am just shocked.

Mr. UNDERWOOD. Okay, thank you very much. I would assume that there is also in the proposal not only a shift, as a transitory measure of the control of the property over to Interior, but Interior approval of land use plans, and I am sure you recognize in the finite world of choices, we have made a good faith effort in this legislation to have some Federal input into the process by including a provision for committee review.

And now I know that in your own presentations some of you have considered that a paternalistic step. I can imagine what you think of the idea of OTIA or Interior approval of such plans. Would anyone like to comment on that?

Mr. REYES. Mr. Chairman, I just want to make one last point regarding the submission of land use plans. Some of us may remember there was a Supreme Court decision made some years ago regarding that matter; what constitutes use of land for public purposes.

There is a Supreme Court decision that says whatever the legislature decides for the use of land will meet the criteria of public purpose.

With regard to the review by the various committees, you know, I don't have any real problem with that except for the fact that it is conceivable that the action by those committees before the 180 days might be up, but the receipt of the plan, if in fact the plan comes up, that they may have a chance to just unilaterally stop the return of the plan. I hope that is not the case. Because if they don't like the plan, they can say, Underwood, stop it, don't return any more land because I don't like the plan, go down and tell Guam to do more planning. In other words, no plan to my satisfaction, no land.

Mr. UNDERWOOD. Go ahead, Senator.

Mr. SAN AGUSTIN. Just one, for the record. It seems like the Department of the Interior did a complete 360-degree turn from the previous Administration, and I quote this from the record, June 26, 1992, on a similar bill of last year that was introduced by then Congressman Ben Blaz, which was very, very supportive of the bill. In fact, it was even supportive to the point of expanding, which I quoted in my testimony.

And this was submitted and it also had the benefit of the blessing of the Office of Budget and Management, so I am not so sure where DOI is coming from unless it is purely for vested interest. But the record speaks for itself that they have changed their policy statement completely, 360 degrees, within one year.

Ms. MANIBUSAN. That is right.

Mr. UNDERWOOD. I would like to ask Mr. Mansur if he has a question from the Minority.

Mr. MANSUR. Thank you, Mr. Chairman.

There have been a number of very compelling testimonies presented today by our distinguished panel of Representatives from



Guam, certainly also mentioning a number of adverse situations that a number of past and current landowners find themselves in in Guam, such as the resettlement description that Senator Reyes talked about, as well as the lack of egress or access to some of the parcels of land that currently remain in the hands of people in Guam but they are not able to fully develop it.

Also, something that was touched on briefly, I believe in relation to the statement of the Assistant Secretary of the Interior, had to do with more in the Pacific part than Guam. I think most people are aware that there are a number of landowners who have the inholdings in there.

Rather than suggesting that it be necessarily mandatory, the question I would like to put forth to the members of this panel is would the Government of Guam agree to some type of exchange mechanism whereby a landowner who has an inholding within the park could opt to exchange for some of the land that is being declared excess?

Senator Reyes.

Mr. REYES. Well, I certainly think that that is an option, but I would imagine that the Government of Guam would not have any objection if something like that could be cleared with the owner. Because whoever owns that land that has been condemned by the Department of the Interior for the park, you would think that whatever he or she says would be determinant. Not necessarily the Federal Government, us saying, yeah, it is okay. What if the owner says no?

It seems to me that ought to be determinant. So it would be a good idea if they agree.

Mr. MANSUR. And that was precisely the nature of my comment, and the question was, although certainly I know the intent, ideal intent, of the Park Service is to acquire at some point all those inholdings, given that they have not come up with the money to do so, it leaves the owners in the position, still, of a very difficult position of should they develop their property or not. But if they so chose to go ahead and do an exchange—

Mr. REYES. One difficulty with that, Mr. Congressman, is that in the event the parcel so identified for possible exchange, say an acre or two in the 3,200 acres that is excess, in the event that an original landowner for that particular small parcel identified for possible exchange may have an interest in that, too. So that could be a complicating factor to it.

But the concept is fairly sound so long as you could get everybody to agree with it, especially the owner whose land was condemned.

Mr. MANSUR. Thank you.

Mr. DE LUGO. Thank you.

I want to thank Congressman Underwood for assuming the Chair during the period where I had to be elsewhere.

I take it that the proposal of OTIA came up while I was out.

Mr. BLAS. We would rather not have heard it.

Mr. DE LUGO. Well, I saw it this morning for the first time and I was, I must say, very taken aback by it. First of all, OTIA is saying don't transfer the land back to Guam, transfer it over to us and we are going to determine what is best for Guam. But, the worst

of it as far as I was concerned is that we may use some of this land as park land. Whew. Well, I think that is a bit much. We want this land to go back to the people of Guam.

Mr. REYES. Hooray.

Mr. DE LUGO. I think that is what we have indicated for years. I thought that was the direction we were going.

Gentleman from Guam.

Mr. UNDERWOOD. Thank you, Mr. Chairman.

I wanted to elaborate a little more about the question asked by Mr. Mansur regarding the national park. I want to make it clear what is being proposed or suggested.

What is being suggested is that a mechanism be allowed to exchange probably on a value basis the inholdings in the national park based on the 1976 boundaries of that park. What this may end up is that if you take value for value the SN beach property, it may eat up a significant amount of the 3,200 acres being proposed. I had hoped that a discussion of this kind would get real specific before it was suggested as an intermediary step, but that did not come about.

So what I would like to know is, given the dynamics of that kind of proposal, perhaps it may be more useful by legislation, redraw the boundaries and deal with the continuing issue of the national park on that basis. So perhaps the Speaker and the Lieutenant Governor and others might want to speak to that.

Mr. BLAS. Thank you. It did seem earlier that that was the suggestion, that we trade this land. I think it was the position of the Governor's office some time ago that because of this question of how long it has taken the Federal Government to put together this park, that they use other Federal lands, not identified in this bill here, as an exchange.

Certainly, I think the panel here would agree that there are more than 3,200 acres that are available if you go down to Guam and see it for yourself rather than hear some of the testimonies; in fact, that would be a possible alternative—that other excess lands be made available to exchange.

I dare say that if we went down and surveyed, and do the study right now, especially with the thought in mind that there will be continued downsizing, if you will, of the military establishment throughout the world, that you would get probably land excess that would be appropriate to exchange to those private landowners.

Mr. DE LUGO. If I may, wouldn't the land summit you have recommended be an ideal place to bring it up?

Mr. UNDERWOOD. That is a very important venue for that. Issues that are more comprehensive, and regarding issues pertaining to the national park, certainly would be appropriate to address at the land conference. Addressing it through this 3,200 acres seems to be holding the 3,200 acres in a kind of a hostage situation, whereas there are obviously going to be more lands excess.

Perhaps someone else would like to make a comment, just on the national park issue, because there may be some opportunity to redraw the boundaries.

Mr. SAN AGUSTIN. Well, I think the designation of the land has been thought about for quite some time. The Interior's position of using the 3,200 acres as a trade-off for the national park is really



uncalled for, because there are other lands they could exchange, and it does not necessarily have to be declared excess. It is just not usable, in a sense, for them.

But this 3,200 acres is now in the hopper, and it should be returned to them and not be held hostage for the national park or, for that matter, for any other use. It has already been declared and has been in the hopper for the last 15 years. And this adverse position by Interior has been going on for so long, and it is another stumbling block.

I think it is another common item that the Federal bureaucracy uses with respect to Guam to set up roadblocks. This is another example of saying Guam is not yet ready for self-determination. It is another example of saying we are not of age yet. I think the Department of the Interior needs to grow up. This is now the twentieth century.

Mr. REYES. Yes, Congressman Underwood, I fully agree with you that this issue could and should be addressed at the land conference that you proposed instead of dealing with it now. This is why I didn't insist in my testimony that you amend the bill to deal with the original landowner situation, because I think that will probably more than likely jeopardize it.

Second point, I didn't exactly say it in my testimony in a direct way, but we are looking at 3,200 acres of land to be returned back. I was going to say in my testimony—and the Lieutenant Governor and the rest of these folks here will agree with me—that somehow there is a zero that is missing. It should be 32,000 acres of land. That is my calculation that could be excess, and hopefully, the land conference will somehow take us fairly close to that.

So certainly we could find acreages of lands not identified in the 3,200 acres in that 32,000 acres that is not being used and, in my judgment, not planned to be used in the future.

Mr. UNDERWOOD. Senator Ada.

Mr. ADA. I think with regard to the park issue, unfortunately the suggestion of trading out some of the land holdings with some of that 3,200 acres that is being contemplated is analogous to trying to pay Peter with what was taken from Paul, and all it will do is complicate the problem. Maybe what we should be taking a look at is probably downsizing the park and so we can get around that problem of the land holdout.

So I think the proposal, as you suggested, might just complicate the issue further.

Mr. UNDERWOOD. Thank you.

Senator San Agustin, in your testimony, you indicated that some of the land—and I commend you for taking the time to go out and actually visit this property; you are probably one of the few people that has done that. Basically, you indicated that the land is not just unneeded but actually it is kind of undesirable, and that what may be an instance of not declaring excess in the sense that we normally think of excess is that, you know, I have no particular plans for this, I have no need for it; therefore, it is excess, is more a case of perhaps a little bit of unloading of the property.

In the testimony earlier, in the first panel, there was some discussion about expecting the Government of Guam to clean up that

property that is now undesirable or unneeded. How do you respond to that?

Mr. SAN AGUSTIN. Well, Congressman, as I indicated, I did go through each parcel of land in the last two weeks before I got here, and some of those lands are just discard, if you want to look at it. They are not usable and only good for conservation areas. Several properties are even going through an area that is right up across Camp Covington. That front 26 acres was not contaminated, but the back 73 acres are contaminated, and they are giving that up.

There is also another area down by Nimitz Hill, which is right behind the Navy housing. It is smack into a reservoir and there is a 40 percent slope. There is no way you can use anything—you cannot even get into it. They also have easements, fuel lines, petroleum fuel lines, from what is called the Ollow tank farm all the way up to NAS Agana up the back side. It is a conservation area; no way to use it.

The area down by what you call the Old Polaris Point, the Sub Point, which is wetland, is so contaminated because it used to be a fuel dock. I happened to work for the naval supply depot for 6½ years. I used to work that area; I know that area intimately, because we have what we call a drum lot where they convert oil and put it in drums so they can be shipped out. And there is also a fuel dock there where they pumped the oil up to the Sasa Valley for the fuel farm, and that is the area they want us to have. It is useless. It is so contaminated not even a coconut crab can live in it; that is how bad it is. It is so environmentally unsound.

You go to another area, by Marine Drive, the frontage is the PWC telephone station, the Code 300, and is right by the Old Club Pescador or the Old Cockpit, and it is so locked in that you have to have a helicopter to get into that. And yet they have a Maui Tunnel there, which is an underground tunnel which used to be connected before right after the war where they pumped the oil to the Harmon Field.

And there are so many of those tunnels that there actually is a line for fuel lines in servicing the area up at Harmon—what used to be Harmon Airfield—and, in fact, there is one area right in between of nowhere. But as I said, in contrast to the Air Force—the Air Force has been very generous. We have the cliff line, the NCS for that; all the soft, beautiful space, usable.

Yet within the Air Force compound, it is interesting to note there is one little, maybe four acres of property which is Navy land, and they did not declare that as excess but it is abandoned for the last 10 years. It is what they used to house the Navy printing and publication office. It is fenced in, but nobody is in there.

And if this land was transferred to Guam, Navy is going to be landlocked because there is no way to get out of that, because it is a small four acres of property right in the middle of all that huge land in the Harmon Finegajan or Harmon cliff line area.

In fact, Mr. Chairman and Mr. Underwood, we have used that. We have our own sewage treatment plant. We have our own generators for our own, for the water plant, and that area has all been more or less in a license—as the Admiral said this morning, the permitting process. They let us have it. The Harmon cliff line, we have had that for more than 20 years because it was an abandoned

Harmon housing area. I used to administer that housing program for the Olfalon teachers. It is old delapidated housing structures.

We went in there and put our Olfalon teachers and housed them. It is a beautiful piece of property now, but it is abandoned. They never use it, for the last, I dare say, 30 years.

So these properties are basic conservation areas on the Navy side. In fact, some of these properties are only given to Federal Aviation in permitting use to the soil conservation area. So I went to each of them, and as I said, for the great part of the Navy side, it is useless. They are discard, but we will take it. It is our land, you know.

Mr. DE LUGO. I want to thank you for those observations.

Mr. REYES. Mr. Chairman, I want to make a comment regarding the Speaker's comments.

Mr. DE LUGO. Just a moment, Senator. I was just going to say I was glad you made those observations. I saw Mr. Morgan of Interior making rapid notes here, and OTIA may want to reassess the situation. They may want to have this land after all.

Yes, Senator.

Mr. REYES. One minute, the Speaker was saying sounds like we are getting whole bunch of junky land. This is precisely the reason why, in my testimony, that I am asking the Committee and the U.S. Congress to consider reversing the process of identifying excess land.

In other words, when you reverse the process, you can mandate that the military identify exactly what land they need instead of what land should be excess—identify what you need, Mr. Military; we want you there, but identify the land that you need—and if they are true to the basic requirements, anything outside of that land, which I believe outside of the fences should be automatically declared excess, which is that 32,000 acres, not the 3,200.

Thank you.

Mr. DE LUGO. Thank you very much, Senator.

I have some questions I would like to ask, and I know that we spent a lot of time on the statement of OTIA; and it has whipped up a lot of emotions. But let me get back to the other issues on the legislation before us.

Lieutenant Governor Blas, the Government of Guam is implementing the Chamorro land trust laws. I have seen reports that local agencies want to exempt 11,000 acres of territory government land from going into the Trust. It was reported that Senator Reyes' committee cut that amount by 90 percent.

Why has it taken so long to establish the Chamorro Land Trust when the law establishing that Trust was enacted back in 1975?

Maybe you wish I didn't ask that question.

Lieutenant Governor BLAS. I was going to say, Mr. Chairman, just that the answer to your question lies in the court. They have decided it should be implemented.

I can't answer for all these years that it has not been implemented. We did, as a matter of fact, the next day after the court decision that the governor had no right not to implement it. I, as acting governor, appointed the Chamorro Land Trust Commission. And since then, everyone on the panel would agree that we have gone and expedited the implementation of that Commission. And I

think we are all working in concert now as a Government to make sure that the objectives of the Trust Commission are achieved.

Mr. DE LUGO. Congressman Underwood has proposed that we try to get these 3,200 acres transferred now, and then discuss the overall complicated land issues with all parties with a series of comprehensive land conferences that we have discussed today during this hearing.

Do all of you agree with that approach?

Senator REYES. Yes.

Lieutenant Governor BLAS. Yes.

Speaker AGUSTIN. Yes.

Lieutenant Governor BLAS. The Administration will say, yes, we will support that.

Mr. DE LUGO. The Administration and the legislature?

Senator REYES. Yes. I fully support that Mr. Chairman. Congressman Underwood and I talked about it, and I look forward to participating. We are really enthusiastic about it. I see many good things coming out of it moving us towards that 3,200 acres that I am talking about.

Mr. DE LUGO. Thank you, Senator Reyes sir.

Senator Ada, two Federal laws provide an extraordinary opportunity for people whose land was unfairly acquired by the military to get fair compensation. Federal agencies opposed these laws when they were being considered because they thought that the cost of compensation would be hundreds of millions of dollars.

However, an out-of-court settlement was reached with the claimants for \$39.5 million. Many people on Guam were dissatisfied with the settlements.

Why do you think the settlement was agreed to by the land claimants?

Senator ADA. Well—

Mr. DE LUGO. Why did the land claimants settle for \$39.5 million when the figures that had been bandied about were so much larger? Why do you think they did?

Senator ADA. I couldn't even take a guess at that. I really don't know.

Senator REYES. Yes. Well, I have some familiarity with the situation, Mr. Chairman.

There are three categories of land claimants in Guam that went through the process. And judging from the number of years that it has taken, before compensation could be had, some people decided to do this, do that, and not the other.

The three categories are these people who are pretty well satisfied, you know, with the compensation that was being proposed at the time; maybe they don't need the land back, they are completely land full, so to speak.

The second category are those people who are not satisfied with the compensation but took the money anyway and indicated that, put in the record, that we will see you in court; we are going to continue pursuing adequate compensation.

The third category are people that flat refused. They don't want to see one penny of it because some of the compensation was based on three cents, five cents a square meter, so that that is the category that is dissatisfied.

So you have three of them. So we cannot categorically say that everybody is satisfied. That is the situation. As far as I know, they are pursuing it in court.

Mr. DE LUGO. Thank you.

Mr. Speaker, your statement provided valuable information, as you always do. And you also were very helpful in the letter you addressed to Chairman Miller.

You heard the statement of the Air Force and military commanders. You have remarked on the land that you have personally gone over. But do you have any further observations regarding the statements made by the military here today?

Speaker AGUSTIN. Well, one statement made by the Air Force, saying that these lands were basically condemned through a Federal district court. There were no district courts in Guam prior to 1950 though; and Congress never acted or authorized the executive branch to establish a court.

My understanding on the separation of powers doctrine, only Congress has the right to establish courts, and what the Administration did was establish his own tribunal court. And I am familiar with the letter—

Mr. DE LUGO. They actually had a Navy court?

Speaker AGUSTIN. Yes.

Mr. DE LUGO. The Navy set its own price?

Speaker AGUSTIN. Yes, sir. I had the opportunity to work in the Land and Claims Commission in my early days in 1946 and 1947, in which I have some of these documents. And I am familiar with the procedure that they went through.

They went through the stipulation process, so-called added decision of Judge Fischer; the Hopkins Commission recommended they should put aside the local code, civil procedure of condemnation and go and appoint a Navy judge, which they did obtain, by the name of Judge George Fischer, who I knew at that time. He was a Navy judge. He was basically paid a salary by the Commission, and he settled it by arbitration, by a stipulation process.

You see a lot of people would go out to the communities, here is a piece of paper, you sign it, we need your property; if you don't, we will see you in court.

In those days, there were no private attorneys in the picture. Mr. Chairman, there was no legislature—

Mr. DE LUGO. This is shortly after World War II?

Speaker AGUSTIN. Exactly. The laws were suspended up to 1946. The Code of Civil Procedures was suspended because of the War Powers.

But under the Naval Government policy then, there was still no legislature, no separate judicial, no three separate branches of government as we know now.

So they established a military tribunal, the Land and Claims Commission, made up of three people.

Mr. DE LUGO. It is very important that this be put in the record because many, many people have no appreciation for this.

In my area, too, we were under military rule when we were purchased from Denmark in 1917. It was Navy captains that ran the government of the Virgin Islands up until, I think it was the mid-

1930s when we got an Organic Act and we got the first civilian governor. But before that, we were under the Department of War.

I am sure that many Members of Congress would assume when they hear testimony coming from the military that these properties were acquired by condemnation, and they assume these were before civilian courts and there was due process and that it was a fair process. This is not so.

In fact, the entire island was really occupied by the military. The military was running the whole show, and the decisions were actually arbitrated by military judges.

So that gives you some idea of why there is this tremendous feeling among the Chamorro people that there was a great deal of unfairness. This is part of the reason why some of us find that when the Federal Government is now trying to use this property as leverage, we find it to be a little offensive. Certainly it is not something that I am proud of as an American to sit here and say that here we are trying to organize a process where we are going to return this property to the Chamorro people. At the same time we are hearing from Departments that they want to use this property, and lay out parameters that perhaps Congress doesn't want them to lay out and use the property as coin to acquire property for the Federal Government.

Senator Manibusan, you questioned the viability of of the fact that the Government of Guam must disclose to the Federal Government how it will use the property that is transferred.

This requirement is a compromise which perhaps should be judged in the context that important elements of the Federal Government want the Federal Government to have to approve Guam's plans. You have heard that from Interior today.

This bill would not require approval. If an element of the Federal Government disapproved of Guam's plans, it would have to enact a law within 180 days. That is something that is very hard to do, particularly if there is not a consensus on the position.

There is a difference between the approach of this legislation and the approach that is being recommended by the Interior Department.

Do you oppose both approaches?

Senator MANIBUSAN. I definitely oppose the Interior approach. But I think my comment with regards to the land use plan is that we have talked about it. We the people of Guam know what we want to do with land. Our Congressman said there seems to be a fear that we need to justify the return of lands that we were title owners of before it was actually taken, and that as far as the land use plan is concerned, we are going to be looking at our Y-Tano Tata Plan.

And we also have a plan to mandate for the people of Guam to return any excess land to the Government of Guam and let the Government determine the destiny of its people and determine what that plan is going to be.

The comment I offer about the requirement to have Guam issue a land use plan, at this moment, we have never had to require the Federal Department to have a land use plan for that. They have never had any.

So we just find it to be a condition more than we don't want to see, maybe because we have waited for the last 15 years to see the return of 3,200 acres. The people don't want to see this as a condition or a restriction for the expeditious return of land that has been denied us for the last 20 years.

Mr. DE LUGO. Thank you, Senator.

I want to thank you all for your testimony here today.

Congressman, do you have any further questions?

Mr. UNDERWOOD. Not at this time. I would just like to ask unanimous consent to enter two statements into the record, statements that were submitted to my office by Frank C. San Nicolas and Dave T. Lotz.

In addition, Mr. Chairman, I would ask unanimous consent that the hearing record be kept open for 10 days to allow other individuals an opportunity to enter statements into the record.

Mr. DE LUGO. Without objection we will do that.

[Prepared statements of Mr. San Nicolas and Mr. Lotz follow:]



"FONDON KORASONHU"

I am here to represent my grandfather, Jose V. Martinez, and my grandmother, Rosa A. Martinez. I am here to stake rightful claimant, to "camp out", to fight, to struggle and to support for as long and whatever it takes for what is RIGHT, FAIR and JUST.

I am here for my family and for my peace of mind; to show support for the other families on Guam whose ancestral land rights are still being held illegally, unlawfully and unnecessarily; because it was taken improperly, unfairly, and unjustly. It is for their ancestors whose rights were not safeguarded, provided, nor respected. Fundamentally, I am here to stress the importance of DUE PROCESS OF LAW, and EQUAL and FAIR REPRESENTATION.

It is for Guam, the ancestral Chamorro heirs of Guam, and the people of Guam who for too long have been American citizens, CONDITIONALLY. They were expected to give, and they have given, that most ultimate sacrifice for their family, country, duty, honor, and our democratic way of life, honorably. Many of whom never returned. Those conditions must end now.

I am here to serve, fight, and protect my rightful heritage to this land. Because my grandfather and the others did not know, if at all barely, how to read, write or speak english, he was exploited. He was intimidated; he was placed under duress, coerced and suffered other similar tactics during the course of land condemnation proceedings and eventual taking of his land, our lands. He was denied, they were not afforded by the Federal government:

- freedom of speech
- freedom to assemble and petition
- due process
- fair and equal representation

Not even trial by jury...or a lawyer.

For my grandfather, I am concerned primarily for the period between 1945 and 1955. Anything after that has only added fuel to the fire. The Federal government as a result, not only increased their heat, but it also threw them out of the frying pan and into that fire. And as far as I'm concerned here, they've been burning like Hell since! How can this fire be put out now?

-What with "piecemeal" fire extinguishers?"



The land condemnations and taking began before 1950; before the "granting" of American citizenship to Chamorros and their heirs. I have not seen, read nor heard of any document to either support or convince me that right, fair, just and equal treatment was given due my grandfather. Or anybody else's for that matter. Simple basic rights which would have been treated and respected differently elsewhere in America. And I know that alot of similarities occurred with many other families here!

Although no political status concerning Guam has changed since, I challenge America and Americans, on and off-island, local and federal governments, to tell me just where and how do I really stand as a so-called "American Chamorro" citizen for if my grandfather was denied his rights then, which was, I challenge whomever or whatever is out there to deny me mine and yours, our rights now.

Especially after having been to another country, for another people and for the same causes that other full-fledged so-called "Americans" fought for and with a per capita death rate over and above those of America's, I challenge any American to deny me this now.

Since my grandfather's land was deemed "necessary" during his time, it was taken, then condemned and retaken in the interests of national security. However, little use has been made of it, limited to temporarily house Filipino workers back in the 1950s and '60s,...and as hunting grounds. No other local, national, or worldly activity has occurred since, to maintain and show cause that the condemnation and retaking of all of his land and property, as well as the Majority of others concerned (Marbo, NCS, Ritidian and others) is all that necessary for and in the interests of national security then, or now!

My grandparents are gone now; we'll all have our callings, however that calling may be. I am one, we are America's "unsung heroes", but I am neither looking for a song, nor going to sing one here. I am asserting my rightful heritage rights stronger and more fervent'y here than I did for my fellow comrades in arms and the Vietnamese people during my most unforgettable tour of duty in Vietnam. My song, if any, is on line now but to a different tune, and I will either march or dance all the way until this is resolved rightfully, fairly and justly,...or you'll have to carry me out. It is with sincerity, hope, prayer and work that with the current leadership, our strength and perseverance, we can pull each other out honorably and get this issue resolved once and for all,...rightly, fairly, and justly.

As such, I am petitioning for a redress of wrongdoings, illegal and unlawful, the injustice and unfairness that prevailed then and continuous to now. This island prevailed best, although tamed through all these "progressive" times, has finally been awakened...and will be compelled to fight, if necessary. I will cooperate and assist with whatever is necessary in good faith to accomplish that redress, for it is a mutual fight. Meantime, as a reciprocal showing of good faith by the Federal government and its cohorts, do not force me and mine to leave. Clear title was not rightfully, fairly or justly obtained. It has been reclaimed in all rightness, fairness, and justly as you had taken it in the first place. Leave me, leave us alone, until due process and equal and fair

Court,...or God will move or keep me away. But, not by stipulation of any sort.

Tentative plans exist that a new school be built on the properties of and adjacent to my grandfather's land, fine. But with just compensation first. If what is being used now is and will continue to be vital and necessary in the interests of our national security, fine, keep it, but pay for it fairly and return the rest. I will retain what I have staked claim for my grandfather's unfair, unjust and wrongful land taking by the Federal government as his rightful heir and claimant if you still desire it all, pay for it fairly. If an exchange is possible, full consideration to terms will be made. And all terms will be at current local values. Nobody in his right mind will build a house here now with homes as was built then. It is all in rightness, fairness, and justice, long and way overdue...But not as it was with token and piecemeal compensations.

I am asking support especially from our local government leaders and whom now are not leading nor ruling a naval government of and for Guam.

I am asking of my brother veterans to show support for our cause here, as those of our brothers did so honorably elsewhere...and did not return.

I am asking other fellow American Chamorros, American Guamanians...Americans to sing, march and honk in support as we continue to fight and protect what is rightfully ours here, on Guam, where America's day does begin , and UNCONDITIONALLY so.

Soon, we will be going over a century of being taught and have learned the American way of life, principles, values and beliefs. Practicing those basic principles, values, and beliefs had been only conditionally honored and respected previously; let alone acknowledged. In order for any resolution or compromise, I demand that our rights be acknowledged and respected, rightly, fairly and justly.

Sincerely,



Frank C. San Nicolas

P. O. Box 20721  
GMP, Guam 96921  
July 18, 1993

The Honorable Robert A. Underwood  
Member of Congress  
507 Cannon House Office Building  
Washington, D.C. 20515-5301

Dear Congressman Underwood:

I am submitting testimony on HR2144, a bill to provide for the transfer of excess land to the Government of Guam.

My concerns is that all of parcel NAVCAMS Beach and a portion of the South Finegayan and Harmon parcels should be transferred to the Government of Guam for a park area. The area required for a park includes 958 acres are noted on the attached map to be the Hilaan Park. The area contains the scenic coastline from Puntan dos Amantes north to Hilaan Point along with sufficient area above the cliff for the park and an entrance from Route 3. In addition to the coastline, the area contains a Chamorro Village, Hilaan, noted by latte stones and other artifacts. Inland from the beach is the limestone forest extending up the cliffs. Hidden in the limestone forest toward the northern end is the Magor or Lost Pond.

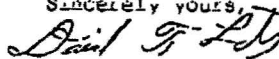
Already this coastline receives extensive recreation use with picnics, scuba diving, snorkling, hiking, camping, and related activities. A proposal for Hilaan Park could improve the existing Tanguisson Beach, establish a Cultural cultural center, establish a campground, and improve hiking trails in this unique portion of Guam.

Establishing and protecting Hilaan Park preserves a unique part of Guam, provides opportunities for recreation, and would establish an additional tourism destination on Guam. Of the three parcels stated, 1,026 acres would still be left for other uses.

I am enclosing some additional information on Hilaan. In addition, I am offering my services to lead a tour of the proposed Hilaan Park during the forthcoming Guam Lands Conference.

Thank you for your attantion to this proposal.

Sincerely yours,



DAVID T. LOTZ



Mr. DE LUGO. At this time, also without objection, hearing no objection, I will introduce into the record a statement from the FAA, from Dale E. McDaniel, Acting Assistant Administrator for Policy and Planning, International Aviation, with FAA.

[Prepared statement of Mr. McDaniel follows:]

STATEMENT FOR THE RECORD OF DALE E. McDANIEL, ACTING ASSISTANT ADMINISTRATOR FOR POLICY, PLANNING, AND INTERNATIONAL AVIATION, FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE COMMITTEE ON NATURAL RESOURCES, SUBCOMMITTEE ON INSULAR AND INTERNATIONAL AFFAIRS, CONCERNING THE TRANSFER OF LAND TO THE GOVERNMENT OF GUAM. JULY 29, 1993.

Mr. Chairman and Members of the Subcommittee:

I welcome the opportunity to provide a statement for the record concerning H.R. 2144, which is pending before the Subcommittee.

H.R. 2144 provides for the transfer of 3,200 acres of Federal land in Guam to the Government of Guam. The transfer is conditional upon a determination by the head of each Federal agency, which controls the land, that it is in excess of the needs of the United States Government.

The Department of Defense oversees the vast majority of land described in H.R. 2144, with the FAA-owned parcel named in H.R. 2144 comprised of only about 37 acres. These 37 acres were used by the FAA for an HH-Homer Facility, which is a long-range, non-directional beacon for guiding airplanes. That use was discontinued several years ago, and the FAA anticipates no future aviation uses of this parcel. Although FAA personnel continue to be stationed on Guam and play an important aviation role there, the FAA's activities are concentrated on DOD-owned land, which is not considered for transfer in the bill.

-2-

At the present time, the FAA parcel is currently used by the U.S. Department of Agriculture. USDA's Soil Conservation Service, pursuant to a memorandum of agreement with the FAA, is working with the Government of Guam to train farmers farming techniques on the type of soil found on the FAA-parcel.

Since FAA has no expected future use for this property, we anticipate no significant issues in a potential transfer of this land. Thus, the FAA has no objection to the general thrust of H.R. 2144, which would contemplate such a transfer. We would, however, defer to the views of the Departments of Interior and Defense and the General Services Administration on the specifics of the legislation, as their missions and authorities are more directly affected or associated with the proposed bill. I can assure you that we plan to continue to play a role in this process as it evolves, working in conjunction with other Federal agencies, this Committee, and the Government of Guam to achieve the best approach on this issue.

I appreciate the opportunity to provide the FAA's views for the record of this hearing.

Mr. DE LUGO. If there are no further—

Mr. UNDERWOOD. Mr. Chairman, I would like to close my participation by thanking these distinguished guests from Guam for coming here and spending their time and explaining some of the concerns that they have.

I think, from the perspectives of this panel and the first panel and some of the testimonies submitted for the record, we can see from these testimonies that there is a wide range of views and perspectives about the whole issue of land and the Federal role in the Government of Guam—in Guam in general—in terms of land issues.

I think this points out clearly the need for a land conference. I think this points out the need for having some kind of meeting where people can dialogue and participate to understand these issues.

It is, in many respects, not a land problem; it is a people problem. It is a problem that is borne out of the fact that the people of Guam trusted the Federal Government and placed themselves in the hands of the Federal Government and assumed that all would work well. And it hasn't worked well.

On the other hand, there are admittedly people on Guam who are presenting scenarios regarding Federal land issues that are not realistically going to happen—that are presenting people with false hopes about what will happen to Federal lands on Guam.

The Federal land conference will hopefully not take a middle course between those two positions but will hopefully free people to come up with alternate ideas that will lead to some kind of land summit and comprehensive plan for justice for the people of Guam.

I would like to thank you for your honesty and your directness in answering these questions. And I know that we will continue to work together in what is best for our island.

Thank you.

Mr. DE LUGO. I thank the gentleman from Guam.

The Chair wants to associate himself with the statements just made by my friend from Guam. I agree that this hearing this morning has been very helpful and certainly, I believe, does point out the wisdom of addressing the acquisition of this land separately.

Let's go forward with this, and let's also move on the land conference or land summit that has been suggested by Congressman Underwood.

That is a wise course, and I commend you all for your participation here.

The committee stands adjourned.

[Whereupon, at 2: p.m., the subcommittee was adjourned.]



# APPENDIX

JULY 29, 1993

## ADDITIONAL MATERIAL SUBMITTED FOR THE HEARING RECORD

UNDERWOOD  
TUMAS  
17758K  
DEFENSE SERVICES  
MILITARY INSTALLATIONS SUBCOMMITTEE  
MILITARY PERSONNEL SUBCOMMITTEE  
RESOURCES SUBCOMMITTEE  
NATURAL RESOURCES  
INSULAR AFFAIRS SUBCOMMITTEE  
NATIONAL POLICY SUBCOMMITTEE



Congress of the United States  
House of Representatives  
Washington, DC 20515-5301  
August 10, 1993

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The Honorable Roger W. Johnson  
Administrator  
General Services Administration  
Washington, D.C. 20405

Dear Mr. Johnson:

This is in reference to your letter to Chairman George Miller regarding H.R. 2144, the Guam Excess Lands Act. As you know, the House Committee on Natural Resources held a hearing on this legislation on July 29 and received testimony from individuals representing Guam, the Navy and the Air Force.

The Assistant Secretary for Insular and International Affairs (OTIA) at the U.S. Department of the Interior submitted a written statement during the July 29 hearing advocating that (1) the excess lands identified in H.R. 2144 be transferred to the Department of the Interior, and (2) that the land use plan must be approved by the Secretary of the Interior.

The people of Guam, the Guam delegation which testified at the hearing, and I are unanimous in our opposition to the OTIA position. We do not believe OTIA's proposal will expedite the land transfers, not do we believe that the Interior Department can represent the best interests of the Territory of Guam.

We take exception to your point that the Office of Territorial and International Affairs (OTIA) has administrative jurisdiction over the Territory of Guam. Under current law, the Government of Guam answers to the Congress, not to OTIA. Our understanding of the role of OTIA is to assist in certain projects as identified by the Congress.

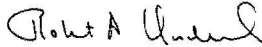
I introduced H.R. 2144 to provide a short cut around the long and restrictive Federal Property Act process of disposing excess lands. The intent of this legislation is not to transfer the lands from one federal agency to another, but instead to expedite returning the excess lands back to the people of Guam.

The Honorable Roger W. Johnston  
August 10, 1993  
Page 2

H.R. 2144 is the first step in resolving long-standing land issues on Guam. It is important that we bring to a closure the transfer of federal excess lands begun about 16 years ago. In addition, I will be convening a land conference on Guam this coming November to address the complex issues surrounding land ownership, the historical injustices of land takings, and future land use plans on the island.

We welcome your support for H.R. 2144, the Guam Excess Lands Act.

Sincerely,



Robert A. Underwood  
Member of Congress

RAU:ts

ROBERT A. UNDERWOOD

GUAM

## COMMITTEES

## ARMED SERVICES

MILITARY INSTALLATIONS SUBCOMMITTEE  
MILITARY PERSONNEL SUBCOMMITTEE  
NATURAL RESOURCESNATURAL RESOURCES  
NATURAL AFFAIRS SUBCOMMITTEE  
NATIONAL PARKS SUBCOMMITTEE

## Congress of the United States

## House of Representatives

Washington, DC 20515-5301

August 6, 1993

Honorable Les Aspin  
Secretary of Defense  
The Pentagon  
Washington, D.C. 20301-1155

Dear Mr. Secretary,

A hearing was held on July 29, 1993 on H.R. 2144, The Guam Excess Lands Act, which provides for the return of over 3200 acres of excess military lands to the people of Guam. The return of our ancestral lands is as critical to the Chamorro people of Guam as our struggle for self-determination.

Mr. Secretary, other than the people of Guam, no one else has a stronger interest in resolving Guam land issues than the Department of Defense (DOD). We are writing this joint letter to convey our most serious concern that certain proposals advocated at the Guam land hearing would be extremely harmful to the relationship that Guam and the military have enjoyed for the past fifty years. While we do not excuse historical injustices that occurred in the land condemnation proceedings after World War II, we have always been cognizant of the important role of our island to the national defense.

It is important that you know our positions regarding certain proposals that we vigorously oppose. The land hearing has served to galvanize our community in a way that no other singular event has done in recent history. Your representatives on Guam, Rear Admiral Kristensen and Major General Burr, have found themselves caught in a vortex of public opinion and controversy. However, as the major landowner on Guam, DOD must be willing to be a part of the solution to our land problems.

H.R. 2144 is the first step in resolving these issues. This bill transfers excess lands first identified in 1977. We support the immediate passage of this bill as a first step. We also support the convening of a land conference on Guam this November to resolve, in a thoughtful and comprehensive way, the broader land issues. It is critical that DOD be a participant in this land

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Letter to Secretary Aspin  
August 6, 1993  
Page 2

conference, and that the military review of its land needs on Guam, which Admiral Kristensen has already initiated as the revised Guam Land Use Plan, be realistic given the end of the Cold War.

We support the following positions:

The lands identified in H.R. 2144 should be transferred to the Government of Guam without delay. These lands were first identified in a process dating back to 1977 and in the DOD Army Report of 1986. Since the military does not need the land, it must be returned immediately to the people of Guam.

The lands must be conveyed to the Government of Guam without cost. Historical injustices occurred in the takings of this land. Guam has paid a price in the adverse economic impact of losing one-third of its land to the military and in the military security clearance procedures imposed on the island from 1945 to 1963. We view the costs of conveyance, environmental cleanup costs, and other such provisions with suspicion as ways to bill Guam indirectly for these lands, which we believe are rightfully ours to begin with. At the hearing on H.R. 2144, Admiral Kristensen estimated the value of the 3200 acres at \$900 million. This statement, taken in context with other suggestions in his testimony to pass on conveyance costs or recoup other costs, has caused alarm on Guam. Our strong opposition to any conveyance or indirect costs, or any implication that the land should be sold back, is rooted in the injustices of the land condemnations.

The military must bear the environmental cleanup costs associated with the transfer. The military is statutorily obligated to clean up these lands, and must not be allowed to pass on to the people of Guam costs associated with their custody of our land.

The wildlife refuge issue should be dealt with in the land conference. This is a separate issue, and should not be used to delay the transfer of the parcels in H.R. 2144.

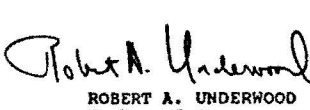


The lands must be transferred to the people of Guam, not to another federal agency. We vigorously oppose the proposal of the Office of Territorial and International Affairs (Department of the Interior) to transfer the lands to the Department of the Interior. We do not find this process to be helpful in any way. We do not believe that this will expedite the land transfers, and we do not believe that DOI can represent the best interests of the people of Guam.

Letter to Secretary Aspin  
 August 6, 1993  
 Page 3

Mr. Secretary, we hope that you give careful consideration to the issues we have raised. Above all, we urge you to oppose any attempt to transfer these excess lands to the Department of the Interior, to delay these transfers, or to sell back to the people of Guam their ancestral homeland.

Si Yu'os Ma'ase.

Sincerely,

|   |   |   |
|---|---|---|
|  |  |  |
| ROBERT A. UNDERWOOD<br>Member of Congress   | JOSEPH P. ADA<br>Governor of Guam   | JOE T. SAN AGUSTIN<br>Speaker, 22nd Guam<br>Legislature                           |

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515-6201**

August 5, 1993

The Honorable Roger W. Johnson  
Administrator  
General Services Administration  
Washington, D.C. 20405

Dear Mr. Johnson:

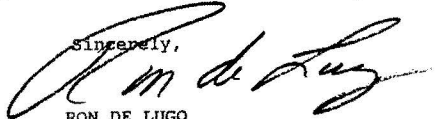
I have received a copy of your letter of July 30th to Chairman Miller regarding H.R. 2144, a bill introduced by Delegate Underwood of Guam to provide for the transfer of some 3,200 acres of Air Force, Navy, and Federal Aviation Administration land on Guam from federal to territorial ownership, and will include it in the record of the Subcommittee on Insular and International Affairs hearing on the bill.

The letter said that GSA defers to the Department of the Interior on Guam land issues because DoI "exercises administrative jurisdiction over the Territory of Guam" through its Office of Territorial and International Affairs.

In fact, OTIA's authority regarding Guam is limited to a few matters specifically provided for by statute (principally relating to special assistance) and other "matters not the program responsibility of another Federal department or agency (48 U.S.C. 1421a - DoI's Office of Inspector General does have auditing authority, though.)

I assume that the suggestion of much broader authority was not meant intentionally.

Sincerely,



RON DE LUGO  
Chairman  
Subcommittee on Insular  
and International Affairs

cc: The Honorable George Miller  
The Honorable Robert Underwood  
The Honorable Bruce Babbitt

ROBERT A. UNDERWOOD  
GUAM

COMMITTEE  
ARMED SERVICES  
MILITARY AND INTERNATIONAL SUBCOMMITTEE  
MILITARY PERSONNEL, SUBCOMMITTEE  
REPUBLIC OF GUAM

NATURAL RESOURCES  
NATURAL AREA SUBCOMMITTEE  
NATURAL PARKS SUBCOMMITTEE



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-5301**

August 2, 1993

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Honorable Bruce Babbitt  
Office of the Secretary  
Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240

Dear Mr. Secretary,

At the hearing on July 29 on H.R. 2144, the Guam Excess Lands Act, Assistant Secretary Leslie M. Turner, Office of Territorial and International Affairs (OTIA), submitted written testimony for the record that we find objectionable. In response to questions from the Members of the House Subcommittee on Insular and International Affairs, the Guam delegation responded to Ms. Turner's proposals in several areas. We are in agreement with the Guam delegation's responses. We are writing this joint letter to voice our vigorous opposition to several proposals in Ms. Turner's testimony, and to unequivocally state our support for the following positions:

We oppose transferring the excess lands listed in H.R. 2144 to the Department of the Interior. We do not find this procedure to be helpful in any way. We do not believe this will expedite the land transfers, and we do not believe that DOI can represent the best interests of the Territory of Guam.

We oppose any attempt to sell these lands back to Guam in any form. You cannot separate the "cost" issue from the historical injustices that occurred in the takings of this land. Guam has paid a price in the adverse economic impact of losing one-third of its land to the military and in the military security-clearance procedures imposed on the island from 1945 to 1963. If the military does not need the land, then it must be returned to the people of Guam. We view the costs of conveyance, environmental cleanup costs, and other such provisions with suspicion as ways to indirectly bill Guam for these lands, which are rightfully ours to begin with.

We oppose Department of the Interior approval of the land use plan. Congress, not DOI, has oversight responsibility over the territories. The Government of Guam will formulate a plan that

Letter to Secretary Babbitt  
August 2, 1993  
Page 2

uses the land for the best public benefit to the people of Guam. DOI cannot even begin to define for us the best uses of this land for the people of Guam. Especially onerous is the stipulation that if Guam deviates from DOI's interpretation of a land use plan, then Guam must pay fair market value for the land. We refuse to turn the clock back fifty years and become wards of DOI. The Government of Guam shall be responsible to the people of Guam, not DOI, in fulfilling its mandates.

We oppose delaying the transfer of the 3200 acres of excess lands in order to accommodate the environmental issues raised about the critical habitat and the wildlife refuge. These issues should be discussed and dealt with in the comprehensive context of the land conference. The 3200 acres must not be held hostage to the broader issues, and must be returned as a separate issue from the land conference. These lands were declared excess in a process dating back to 1977, and listed in the Army report of 1986. Furthermore, in the discussions between the Government of Guam and the U.S. Fish and Wildlife Service over the past two years, the parcels in H.R. 2144 were not identified as being necessary for the establishment of a wildlife refuge overlay.

We oppose delaying the transfer of the 3200 acres of excess lands in order to accommodate the exchange of land with inholdings at the War in the Pacific National Historical Park. This problem should also be addressed in the land conference on Guam, however, we emphasize again that the return of the 3200 acres must not be held up in anticipation of the land conference. We also raise the point that any such exchanges be accommodated from other federal excess lands, and that the War in the Pacific Park must review its land requirements. We find that a downsizing of the Park from its intended 1978 borders may be necessary and desirable, given the land issues facing Guam.

There is a strong parallel in our history between the land issues and Guam's quest for self-determination. As we fight for the return of our land, we also fight for our rights to self-determination and self-governance. The injustices that accompanied the military land condemnations might not have occurred had the political rights of the people of Guam been recognized and full civil government instituted as a prelude first to any land condemnations.

Mr. Secretary, you have been most supportive of Guam's quest for self-determination. We hope that you will recognize that OTIA's proposals are a step backward--they represent a bureaucratic mentality that says the federal government knows what's best for Guam and must protect the people of Guam from their own decisions. It is a regression to outdated colonialist attitudes and flies in



Letter to Secretary Babbitt  
August 2, 1993  
Page 3

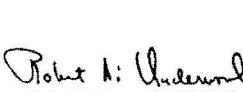
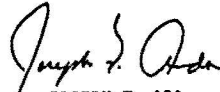
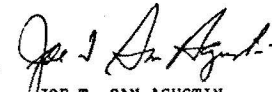
the face of decades of progress in securing the rights of our people within the American system. The resolution of land issues is an integral part of the Guam Commonwealth Act in order that our people may be empowered to truly shape the destiny of their own community. The recognition of the rights of the people of Guam must include the recognition of our ancient culture and our ancient homeland.

We hope that Assistant Secretary Turner's written testimony on H.R. 2144 does not suggest a fundamental shift in the administration's policy concerning self-governance and self-determination in the territories. While we question and vigorously oppose the OTIA proposals, we remain confident that the commitment of the Clinton administration on the issue of Guam's quest for self-determination, as expressed in meetings with you, will be honored.

Your continuing support for the process of the land conference to address a comprehensive solution to these land issues is now more critical than ever. We hope that you will prevail on OTIA to recognize this process and to amend their positions regarding H.R. 2144.

Si Yu'os Ma'ase.

Sincerely,

|   |   |   |
|---|---|---|
|  |  |  |
| ROBERT A. UNDERWOOD<br>Member of Congress   | JOSEPH F. ADA<br>Governor of Guam   | JOE T. SAN AGUSTIN<br>Speaker, 22nd Guam<br>Legislature                           |

ROBERT A. UNDERWOOD  
GUAM

COMMITTEE:  
ARMED SERVICES  
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MILITARY PERSONNEL SUBCOMMITTEE  
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REGULAR AFFAIRS SUBCOMMITTEE  
NATIONAL PARKS SUBCOMMITTEE



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-5301**

July 30, 1993

Honorable Leslie M. Turner  
Assistant Secretary, Office of Territorial and  
International Affairs  
Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240

Dear Ms. Turner,

Your testimony on H.R. 2144, the Guam Excess Lands Act, was submitted by Chairman De Lugo for the record at the hearing yesterday held by the Subcommittee on Insular and International Affairs. I am writing to convey my response to the positions articulated in your testimony.

I would also like you to know that my response is in complete harmony with the Guam delegation that attended the hearing: Lieutenant Governor Frank F. Blas (representing the Ada administration), Speaker Joe T. San Agustin, Senator Thomas C. Ada, Senator Marilyn Manibusan, and Senator Edward D. Reyes. The subcommittee asked the Guam delegation to respond to your proposals, and their unanimous opposition is a matter of record. For us, this is not a matter of "politics" or "federal bashing"--rather, it is a matter of how we view interference by the Office of Territorial and International Affairs (OTIA) and your eleventh hour policy shift on the most volatile issue on Guam, land.

I will summarize the positions articulated by the Guam delegation, which I fully and unequivocally support. I will also work relentlessly to advocate these positions in the Congress:

We oppose transferring the excess lands listed in H.R. 2144 to the Department of the Interior. We do not find this procedure to be helpful in any way. We do not believe this will expedite the land transfers, and we do not believe that DOI can represent the best interests of the Territory of Guam.

We oppose any attempt on sell these lands back to Guam in any form. You cannot separate the "cost" issue from the historical injustices that occurred in the takings of this land. Guam has paid a price in the adverse economic impact of losing one-third of its land to the military and in the military security-clearance

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Letter to Assistant Secretary Turner  
 July 30, 1993  
 Page 2

procedures imposed on the island from 1945 to 1963. If the military does not need the land, it must be returned to the people of Guam. We view the costs of conveyance, environmental cleanup costs, and other such provisions with suspicion as ways to indirectly bill Guam for these lands, which are rightfully ours to begin with.

We oppose Department of Interior approval on the land use plan. Congress, not DOI, has oversight responsibility over the Territories. The Government of Guam will formulate a plan that uses the land for the best public benefit to the people of Guam. DOI cannot even begin to define for us the best uses of this land for the people of Guam. Especially onerous is the stipulation that if Guam deviates from DOI's interpretation of a land use plan, then Guam must pay fair market value for the land. We refuse to turn the clock back fifty years and become wards of DOI. The Government of Guam shall be responsible to the people of Guam, not DOI, in fulfilling its mandates.

We oppose delaying the transfer of the 3200 acres of excess lands in order to accommodate the environmental issues raised about the critical habitat and the wildlife refuge. These issues should be discussed and dealt with in the comprehensive context of the land conference. The 3200 acres must not be held hostage to the broader issues. These lands were declared excess in a process dating back to 1977, and listed in the Army report of 1986. Let's get on with it.

We oppose delaying the transfer of the 3200 acres of excess lands in order to accommodate the exchange of land with private inholdings at the War in the Pacific National Historical Park. This problem should also be addressed in the land conference on Guam. We also raise the point that any such exchanges be accommodated from other federal excess lands, and that the War in the Pacific Park must review its land requirements. We find that a downsizing of the Park from its intended 1976 borders may be necessary and desirable, given the land issues facing Guam.

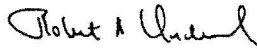
I want you to know that the positions put forth by OTIA are troubling because, once again, OTIA just does not seem to get it. H.R. 2144 is a vehicle to get these lands transferred as a first step in a comprehensive process to solve the long-standing land issues. This last minute attempt by OTIA to change the process is outrageous.

Letter to Assistant Secretary Turner  
July 30, 1993  
Page 3

Enough is enough! Let's simply get the land transferred. Let's agree to meet on Guam, with the Government of Guam, the former landowners, the National Park Service, the Fish and Wildlife Service, the Air Force, the Navy, and anyone else who has an interest in solving these land problems.

This is not just about land, it is about people. It is about a people who have been told what to do for a hundred years. It is about a people who were exploited and taken advantage of. And it is now time for the people of Guam to be listened to, to govern themselves, and to determine their own destiny.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert A. Underwood". The signature is fluid and cursive, with the first name "Robert" being more legible than the last name "Underwood".

ROBERT A. UNDERWOOD  
Member of Congress



Administrator  
General Services Administration  
Washington, DC 20405

July 30, 1993

The Honorable George Miller  
Chairman, Committee on Natural Resources  
House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Your committee requested the views of the General Services Administration (GSA) on H.R. 2144, a bill "To provide for the transfer of excess land to the Government of Guam, and for other purposes."

If enacted, H.R. 2144 would direct the Administrator of General Services to transfer all right, title, and interest of the United States in and to certain lands on Guam to the Government of Guam for the benefit of its people after the head of the Federal agency which controls the lands determines that they are excess to its needs.

The Federal Property and Administrative Services Act of 1949 (Property Act), as amended, the law from which GSA's chief authorities and functions are derived, governs the disposition of most Federal real property. On January 2, 1975, the Property Act was amended to enable Guam, as well as American Samoa and the Trust Territory of the Pacific Islands, to acquire Federal real property in the same manner as the 50 States under these provisions.

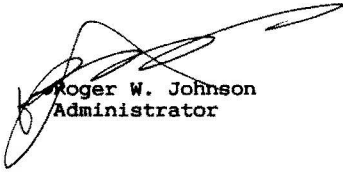
Through its Office of the Assistant Secretary for Territorial and International Affairs, the Department of the Interior (DOI) exercises administrative jurisdiction over the Territory of Guam. In this regard, by letter dated June 1, 1987, DOI requested that GSA continue to defer disposal of unneeded Federal real property on Guam until Congress could take action on legislation regarding that land. In light of this request and DOI's responsibility for administering territorial affairs, we have deferred to DOI regarding enactment of legislative solutions to the Guam land issues, including H.R. 2144.



-2-

The Office of Management and Budget has advised that from the standpoint of the Administration's program there is no objection to the submission of this report to your committee.

Sincerely,



Roger W. Johnson  
Administrator

# OPINION

## Plan for returned land a good idea

The word "land" has certainly been well-used in 1993. The use of land, the return of land, excess land, the land trusts have all been prominently in the news and in the minds of the people of Guam.

The current flap over just how 3,200 acres of currently unused federal property will be returned to Guam has turned into a politically incorrect embarrassment for the Navy and Department of Interior. The people of Guam are justifiably outraged by the condescending attitudes in Washington. It is clear that we citizens have few friends in D.C. who really understand why land has been the big word of the year on Guam.

The one suggestion the federal government did make that made any sense in all of this was that it wanted the government of Guam to have a plan ready for the dispersal of the excess land. Sen. Eddie Reyes has also echoed this sentiment.

Right now, for the federal government to transfer land, it cannot return the land directly to the original landowners. It must give it to the local government. The local government must then decide what to do with the land.

Local officials are constrained by federal law when it comes to returning land to original owners. This is one area where our politicians have been conspicuously absent. Only a few have made appearances at the places where families and clans have set up camps in hopes of regaining land from the feds. Officials have vaguely spoken of assessing community needs and using the land for the benefit of all.

In the past, some families took advantage of Guam's booming real estate market. They are now wealthier monetarily but without prime land. That is their prerogative in a free enterprise system and some have prospered greatly using their nest egg to make wise business investments.

But the sentiment of the common man nowadays seems to run in favor of lands being returned to families. And the sentiment among the families seems to point toward settlement rather than sale. People seem to have realized the value of family property and want to hold on to it. Before they get their hopes up too high, they should be aware of what their elected and appointed leaders plan to do with land coming back to the local government.

Current government land programs are struggling. The Land for the Landless is short of funds needed to develop infrastructure on the plots it has assigned. The Chamorro Land Trust Commission has just appointed a director and needs to develop a plan itself. What is the government going to do with more land? It doesn't know.

The military is in the process of assessing its land needs on Guam. The Guam government should be doing the same. There is talk of a major land summit to be held here later this year. There are only four months left to hold this much vaunted affair. This leaves little time to draft a proposed land use plan that can stand the scrutiny of the community.

A local land use plan is not only a good idea, it is a necessity. The government must formulate it smartly and quickly. A great number of its citizens are keenly interested in it.





P D N

August 5, 1993

PACIFIC DAILY NEWS, Thursday, August 6, 1993

## Guam delegation still fuming in D.C.

By DAVID JUDSON

Garnett News Service

WASHINGTON — Anger over an Interior Department move to take ownership of excess land on Guam continued to echo Tuesday at a hearing on the status of U.S. territories.

Officially, the hearing was to discuss efforts of Guam and other territories to gain full self-determination. But the surprise move last week by Interior's Office of Territorial and International Affairs to assume ownership of 3,200 acres of land being vacated on Guam by the military continued to animate discussion.

"This is not self-determination," said Sen. Pilar Lujan, D-Ordoz/Chalan Pago, who testified at the hearing. "This is the continuation of colonialism."

OTIA chief Leslie Turner has defended her proposal to take over the land being vacated by the military as an effort to help Guam and ease the transition. But Guam's delegate and other

island officials Tuesday were not buying that.

"I thought I was back in the 1950s ... when we were run by that little office down in Interior, when our governors were handed to us from God knows where," said Del. Ren DeLugo, D-V.I., speaking of his reaction to the OTIA proposal that surfaced last week.

Del. Robert Underwood, D-Guam, noted that OTIA had not been invited to last week's land hearing where Turner submitted her controversial proposal. This week, he said, OTIA turned down a request to appear and discuss Guam's political status, saying that the topic is outside the agency's jurisdiction.

"They have all the answers to our problems, but they are mute on our most fundamental problems," Underwood said. "They are experts on all the issues, but they have no opinion on the most basic issue."

# Turner defends her stance on land return

By DAVID JUDSON

Gannett News Service

WASHINGTON — Assistant Interior Secretary Leslie Turner just wants to help out.

Guam's governor, delegate and legislative speaker just want Turner to get out.

So, a decision on who will be in on the terms by which Guam regains 3,200 acres of excess lands now appears headed to Interior Secretary Bruce Babbitt or even to President Clinton.

Turner, the new OTIA chief who promised in her April confirmation hearing that "it is not for the department to impose ideas or values," was sticking to the view Monday that the road to Guam's land return should run through her office.

Del. Robert Underwood, D-Guam, who countered that "once again, OTIA just does not seem to get it" was leading a charge to go around Turner — up the ladder to her boss.

The standoff between the varied officials started last Thursday, at a hearing of a House territorial subcommittee called to weigh Guam's decade-old effort to secure return of 3,200 acres declared excess by the federal government.

The issue has importance beyond the immediate acreage, as whatever formula is used for the first step transfer is likely to set the guidelines when Guam goes after as much as 30,000 additional acres the military now holds but doesn't use.



LESLIE TURNER  
...the wrench in the works

So when Turner, in Thursday's surprise move, suggested Congress not return the land directly, but rather have her office assume ownership to assure proper development, tempers flared. OTIA, not even invited to last week's hearing, appeared to be creating new work for itself, just when Guamanians thought they were close to a shot at self-determination.

After a meeting on Friday

□ See TURNER, Page 4

## INSIDE

- Underwood upset with Turner. **Page 4**
- Senator advocates land plan. **Page 4**

## Turner: Interior as 'mediator'

□ Continued from Page 1  
between Turner and Underwood, and a series of conversations through the weekend between Underwood and officials on Guam, neither side had moved.

"We are steadfastly opposed to what OTIA is trying to do," Underwood said. "And we want to make sure that this does not signal a shift in the federal government's policy toward our self-determina-

nation and our self governance."

Late Monday, Underwood, Gov. Joseph Ada and Speaker Joe T. San Agustin, sent a letter to Babbitt asking him to help persuade Turner to change her mind.

"We hope that you will recognize that OTIA's proposals are a step backward. They represent a bureaucratic mentality that says the federal government knows

what's best for Guam and must protect the people of Guam from their own decisions," the trio wrote in their letter to Babbitt. "It is a regression to outdated colonialist attitudes and flies in the face of decades of progress."

Turner said she does not envision OTIA holding onto the land but believes the quickest way for the land to be returned will be if her office acts as a mediator.

PDN, 6/1/93, P. 4

# Underwood: 'Enough is enough!'

By DONOVAN BROOKS  
*Daily News Staff*

The Department of Interior cannot represent the best interests of Guam, Del. Robert Underwood wrote yesterday. Giving Interior temporary oversight of 3,200 acres of unused federal lands will only worsen the problem, he added.

In a letter to Leslie Turner, assistant secretary of the Interior, Underwood made clear that he was angry with the department's last-minute policy shift and didn't agree with the written testimony Turner presented to the Subcommittee on Insular and International Affairs July 29.

"Once again, OTIA (Office of Territorial and International Affairs) just does not seem to get it," Underwood wrote in his letter.

Turner said excess land should be transferred to

the Interior Department until Guam submits -- and the department approves -- a land-use plan that meets public-benefit guidelines.

She said that if the land wasn't used as outlined in the approved plan, Guam would have to pay market value for the land. Underwood opposed this proposal.

The Interior Department cannot even begin to define the best uses for the land for the people of Guam, Underwood wrote. For this reason, the department has no business asking that it be given authority to approve how the land will be used, he added.

"We refuse to turn the clock back fifty years and become wards of DOI. This last minute attempt by OTIA to change the process is outrageous. Enough is enough!" Underwood stated.

I can't add anything to what our island leaders have already said. Their objectives, their invective seem sufficient. Guam is making an effort to secure the return of up to 30,000 acres of surplus military land, land taken from the people of Guam under the most questionable circumstances.

**JOE MURPHY**  
Pipe Dreams

Most Guamanians have always felt that the U.S. military should retain its bases here, the exception being

At the last resort we can offer to buy back all the larvae taken by the military—for the price they paid for it, roughly \$1 million.

NAVNAV

24  
PACIFIC DAILY NEWS, Tuesday, August 3, 1993

# OPINION

## Land-issue needs focus on future, too

It is clear the federal government had no right to publicly humiliate island leaders on Friday with the condescending statements of Rear Adm. Edward K. Kristensen and Interior Assistant Secretary Leslie Turner.

The federal government has no moral authority to dictate how Guam residents should use Guam land. But within their inflammatory comments, there was a kernel of truth.

**W**hat GovGuam should do is come up with a plan so solid that there will be no question of federal oversight.

If the government of Guam receives title to the 3,200 acres, a few land-use suggestions to avoid incidents:

■ Building a corruption-ridden municipal golf course that is as expensive

as tourist-targeted resort greens and threatens to contaminate the aquifer.

■ Offering it to a private telecommunications company without a valid lease and for ridiculously low rent.

■ Allowing corrupt officials, some of whom later will be convicted of bribery and money laundering, to administer it.

What GovGuam should do is come up with a plan so solid that there will be no question of the need for federal oversight. This could be done through public hearings, using results of the governor's land-use survey, following the guidelines of I Tano'ta, the islandwide land plan, and re-examining government agency land needs.

The Office of Territorial and International Affairs has an equally abysmal record on land management. So the residents of Guam should take action to keep the acreage out of their hands as well.

The only solution is to come up with a popularly supported land plan that makes sense and focuses on the community's long-term good.

We should start working on it now, not when the land transfer bill is approved by Congress.

# Pacific Daily News

AUG 03 1993

## Air Force supports land transfer

By DONOVAN BROOKS

*Daily News Staff*

Guam's senior Air Force officer told Congress July 29 the Air Force supports an equitable transfer of land owned by them to the Guam government.

Thirteenth Air Force commander Major General H. Hale Burr, Jr. presented testimony on behalf of the Air Force during a

hearing on Del. Robert Underwood's bill, H.R. 2144.

Underwood's bill was blasted at the hearing by Guam's top Navy official, Rear Adm. Edward Kristensen, and Interior assistant secretary Leslie Turner.

Kristensen said Guam should pay to clean up toxic waste sites the Navy leaves behind on excess land, or agree to pay

\$281,000 an acre.

Turner said Guam should submit for Interior approval a public-benefit land-use plan before any of the excess land is transferred.

Burr said the Air Force's position that it had properly obtained title to land it owned on Guam has been upheld in Guam court as recently as June 10.

# Pacific Daily News

—AUG 6 2 1953

## Back to the future with Ed, Leslie & Co.

Her answers seemed to have a familiar ring when Assistant Secretary of the Interior Leslie Turner talked about why she said what she said.

Once again, we have a federal standard bearer who came to Guam, smiling amid our island hospitality and promising to be our advocate in Washington, D.C.

We've seen it before. We've certainly heard it before. And each time, it's raised our hopes that someone in the nation's capital would really advance our cause and protect our interests.

But noooo.

Sarcasm aside, Guam leaders and residents were surprised to see Turner and Rear Adm. Edward H. Kristensen double-team to pigeonhole the island in terms that Gov. Joseph F. Ada described as "most blatantly paternalistic, imperialistic, condescending, arrogant, colonialist and insulting."

**She said she was not in a position to reveal her position because she didn't get the clearance.**

We agree with the governor. In fact, it's good to see that someone is finally calling something for what it is. We hope Ada and other government leaders will push hard to get this nonsense about Guam's land — and future — back on its feet. Based on Turner's and Kristensen's performance Friday at the congressional subcommittee hearing, Guam obviously is facing the same old cliché.

We hope the admiral seriously thinks about Ada's advice that he refrain himself by supporting the declaration of thousands of acres on Guam now held by the military as excess.

And we're disappointed at Turner's poor showing her first time up to bat for Guam in her new role. Here's Speaker Joe T. San Agustin's summary:

■ "Her rationale was that she was doing it as a favor to the people of Guam."

■ "She said she was sorry, but it was her duty to see that the public benefit was achieved."

■ "She said she was not in a position to reveal her position because she didn't get the clearance."

Sounds like a new singer is singing the same old song. Sounds like the federal choir is still out of tune.

Sounds like bureaucracy to us.

# New Interior official's 'shocking suggestions'

By PAM RUNQUIST

Daily News Staff

When newly appointed Assistant Secretary of the Interior Leslie Turner visited Guam in July, she promised a new era of relations between the federal and local government.

"Just watch us," Turner challenged the Guam community. "Judge us by what we do."

Yesterday, Turner took her first action with respect to Guam's land issues since making that statement — and Guam officials definitely didn't like what they heard.

Although she did not appear in person, Turner submitted written testimony for yesterday's congressional hearing in Washington, D.C., on a bill to return 3,200 acres of federal ex-

cess land to Guam.

In that testimony, Turner said the Department of Interior is in support of the land return.

However, she also recommended that the land temporarily be transferred to the Interior Department until Guam comes up with a use plan for the properties.

In addition, she recommended that that plan be approved by the Secretary of the Interior before lands are returned to insure that it meets public benefit guidelines.

"It was shocking that she would come up with such a suggestion," said Speaker Joe T. San Agustin, who testified at the hearing.

"It's like going back to the pre-Organic days when we were

subject to the scrutiny of a bureaucratic chief."

"So much for the honeymoon," commented Lt. Gov. Frank P. Blas, comparing Turner's earlier pledges on Guam to her written statements, which he described as an insult to the people of Guam. "It was definitely short-lived."

Turner also recommended that GovGuam be required to pay fair market value for any properties not used according to the approved plan. She explained such a clause would "insure that the transfer is for public benefit use and to guard against turn-around sales to foreign interests."

Finally, Turner suggested that some of the excess lands be used to acquire, through land

exchanges, privately owned lands within the War in the Pacific National Historical Park.

"It would be imprudent of the Federal government, in these times of severely tightened budgets, to release valuable lands without compensation, only to turn around and appropriate new funds to pay for the purchase of all private holdings in the park," Turner wrote.

Guam Del. Robert Underwood said he wasn't exactly sure what message Turner intended to convey with her testimony since she wasn't at the hearing to explain herself.

However, regardless of intent, Underwood said Turner's ideas were unacceptable. "There obviously has to be a lot of education," said Underwood.

## Land plan frustrates officials

By PAM RUNQUIST

Daily News Staff

Guam officials yesterday said they were extremely frustrated with testimony on the excess lands bill that federal officials delivered at a congressional hearing in Washington, D.C.

Island officials also said they were worried that the testimony — which recommended that the federal government have more control but less financial responsibility for the return of the lands to Guam — would delay the bill's approval.

"It's the same old thing. Just as we are getting close to getting something, they throw in a some wrench and we get screwed."

— GOV. JOSEPH F. ADA  
on land return

However, Guam Del. Robert Underwood, the bill's author, said he was still confident that the U.S. Congress would ultimately give the bill a positive vote — especially since the federal government declared the property to be excess more than 15 years ago.

"I don't think it (the testimony) will hurt our case," said Underwood, who was one of several Guam officials who testified on the bill before the Subcommittee on Insular and International Affairs. The committee members "expressed strong support for the legislation as it is."

Among the testimony at the hearing, according to Guam officials, was Navy Rear Adm. Edward K. Kristensen's suggestion that the government of Guam either pay for the cost of transferring the property or buy the land.

According to Kristensen, fair market value of the 3,200 acres is \$900 million, or about \$280,000 per acre.

"That's ridiculous," said Gov. Joseph F. Ada, who did not attend the hearing but received

copies of the testimony. "We won the MAB base closure at no cost, and that's an active military facility. Now they want us to pay \$900 million for land that has been underutilized for years."

Although she did not appear in person at the hearing, Assistant Interior Secretary Leslie Turner's written testimony added fuel to Guam's fire. Turner recommended that the lands be transferred to the Department of the Interior until a land use plan for the property is approved by the secretary of the Interior.

"It's bothersome that some people in Washington, D.C. still consider Guam too immature to decide themselves what to do with the land," said Lt. Gov. Frank Blas, who testified at the hearing. "It's also a delay tactic."

Other officials — in particular the governor — said the government was placing obstacles in the path of the land return. "It's the same old thing," said Ada. "Just as we are getting close to getting something, they throw in a some wrench and we get screwed."

PACIFIC DAILY NEWS, Saturday, July 21, 1983





FEDERAL EXCESS LAND RETURN: BIDS RAISED

# Admiral's tenor irks delegates

**Navy sets transfer terms for surplus land on Guam**

By DAVID JUDSON

WASHINGTON — Rear Adm. Edward K. Kristensen, commander, U.S. Naval Forces, Pacific, will set the transfer terms for surplus land on Guam to ensure return of up to 10,000 acres of surplus military land.

Guam should pay the cost of clearing up land wastes the military leaves behind, he said, and the federal government should monitor the transfer to make sure Guamanians don't hurt themselves with the responsibility of owning now vacant.

If that transfer terms don't appeal, a straight sale is an option — at

\$281,000 an acre.

Sent on Guam might take offense at those terms. Puerto Rico's delegate to Congress, Democrat Carlos Romero-Bucelo did, and told the admiral to get a "first step" hearing on the return of military-held lands on the island.

What word authority is there in the part of the federal government to all Puerto Rico to do that? asked Romero-Bucelo, questioning the laws but police terms that marked opening changes at the lands hearing of the House Subcommittee on Territorial and International Affairs.

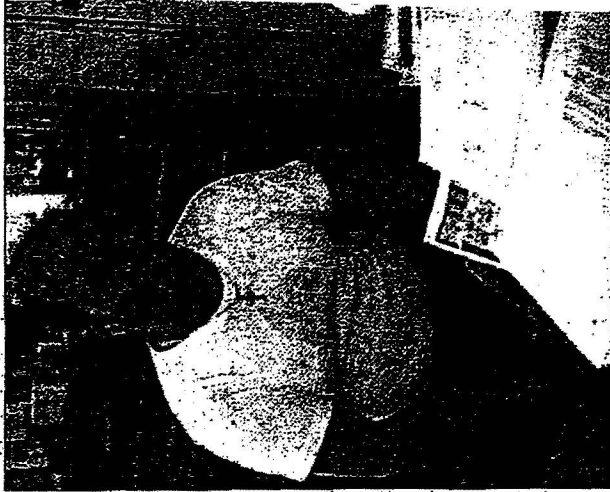
The hearing, officially to talk about 3,200 acres declared surplus more than a decade ago, quickly suggested the outline of the broader issue. Guam will lose a few hundred acres, but the consequences for the island are the agenda will be 10 times the number.

In his testimony, Kristensen told panel members, including Sen. Robert Un-derwood, D-Guam, that he would "very much like to see" Guam take the initial 3,200 acres. But it was the admiral's written remarks, submitted for the record, that ignited Romero-Bucelo.

The best approach, wrote Kristensen, "is to request the government of Guam to identify up front its intended use for the land, so that the federal government can determine that the proposed use actually inures to the public benefit."

"The assumption is as if Guam could not determine for itself what is best for itself," Romero-Bucelo said, nothing so ideal. "Romero-Bucelo said, nothing so ideal is required to have the land-use decisions supervised by the federal government. Are you saying they will use it to waste money? Is that what you could read in that way, I guess?"

The tenor of exchanges grew so warmer when Kristensen "told the



Antonio Edarrea shows the 40-year-old documents that uphold his claim his family's land, which is included in the 3,200 acres declared surplus in 1949. He has had 10 years ago. Family says military "seized" the area.

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# Land: One idea 'like robbing Peter, and robbing Paul'

□ Continued from Page 1

reasoning for federal oversight in a land transfer being accomplished by legislation.

A legislative transfer means the land is "free" to Guam, suggesting a federal right to supervise, and a right to impose "transfer costs" like environmental cleanup, according to the admiral. The alternative — with no strings attached — would be an administrative transfer, he explained, and that would require the government of Guam to pay fair market value.

Based on assessments of Guam land value that Kleitzman said were prepared by his staff, the initial 3,200 acres are worth \$800 million (about \$281,000 an acre), the admiral said.

"I want to know who your buyer is and where I can get in on some of that action," snapped Underwood, noting the military tribunal that took a third of the land after World War II put the world of all its holdings at slightly more than \$1 million.

But more eye wps in store when the Interior Department's Office of Territorial and Inter-

national Affairs offered its ideas — written and sent to the committee, not delivered in person.

The office offered to step in to a stewardship role should the military step out. The office's idea is to hold the land, and work with Guam's government to ensure plans "meet public benefit use guidelines."

The office envisions another federal agency, the General Services Administration, becoming "the transferring agency" with the sale of its new titles paid for by Guam.

The office also asked for a

clause that would require that if any returned land is sold to private interest by Guam in the future, the island government would be required to pay the federal government the market value of the land at that time.

A final thought from the office was that perhaps none of the initial 3,200 acres be returned to Guam at all, but rather be sold or swapped by the federal government to private interests.

The goal would be to sell or swap the acres and to acquire any private land that may be needed to complete the planned year.

War in the Pacific National Historic Park.

That idea, said Guam Don cattle Son, Tom Ada, who attended the hearing, "is like robbing Peter, and robbing Paul."

The initial hurdle measures faces several hurdles. It is likely to have a subcommittee vote before September.

Underwood said he is hopeful a vote by the Full House Natural Resources Committee and ultimately the full House and Senate will occur before the end of the year.

PDN  
7/31/93

## Navy's land price stings GovGuam's pocket book

By JONNIE SCANDALIA  
Daily News Staff

Rear Adm. Edward K. Kristensen told the House Subcommittee on Territorial and International Affairs that the government of Guam should pay fair market value to regain control of 3,200 acres of excess lands.

But what is the fair market value of the 3,200 acres in question?

The admiral proposes the land

is worth \$300 million, or \$70 per square meter, 900 percent more than the Navy's estimates when it claimed the land after World War II. The largest parcel of land is 445 acres along Route 3A in South Finagayan, Dededo.

Wallace Roberto, president of Promero Properties, noted that any responsible estimate of land values takes numerous factors into account. This includes loca-

tion, improvements and actual

utility of utility services. To compare the land in question with acreage recently sold, Roberto said Yigo property recently sells for between \$20 and \$36 per square meter. The Navy's asking price of \$70 per square meter is two- to two-and-a-half times above the selling price of the Yigo land. Roberto said he didn't think there would be much interest in the land at that price on the open market.



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