



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

January 18, 2002

The Honorable Gale Norton
Secretary
U.S. Department of Interior
1849 C Street
Washington, D.C.

Dear Ms. Norton,

We are writing to seek the assistance and cooperation of the Department of Interior in resolving a longstanding issue involving access to privately held property in northern Guam that is landlocked by U.S. government property. The privately held property in question, and access to it, is the subject of U.S. District Court Orders requiring access be provided by the U.S. Government (CI 29-62 (1962) and as further refined in *Aguero, Castro, et.al. v. United States* CIV 94-00102).

Over the past decades, the private landowners and the US. Government agencies involved, (the U.S. Department of Interior's Fish and Wildlife Service and the Department of Defense's Air Force), have been unable to come to agreement over the location of the permanent easement across U.S. government property for route of access to the private property and the preparatory environmental requirements for such. (See *Stipulation*, U.S. Court of Federal Claims, June 30, 2000). The absence of a final determination, however, has been mitigated by the U.S. Department of the Air Force's permit of access for families, guest and commercial client through an informal easement that has passed through Andersen Air Force Base.

As a consequence of September 11, 2001, access through Andersen Air Force Base Guam for families has been restricted. Access for friends of the landlocked families and commercial clients of one of Guam's premier alternative visitor destinations (Star Sand Beach, annual service to approximately 100,000 visitors) has unfortunately but necessarily been terminated. Informal access for guests of family members through Andersen Air Force Base in the future is unlikely and permanent access for commercial operators is beyond the scope of future security requirements.

The alternative permanent easements that have been examined over the past several years were: (1) across a formerly abandoned air field and down a cliff face of first growth native habitat (U.S. Air Force property), and (2) along the route of a pre-existing "bull cart trail" that skirts the cliff (U.S. Fish and Wildlife Service, Ritidian). An easement through the Air Force property would impact important habitat along the cliffline, cliff face and cliff base for species listed as endangered in Guam. Moreover, the development of a U.S. Special Operations Command (SOC) training area at the formerly abandoned air field (pre-September 11) has resulted in new security requirements which make this alternative permanent easement through Air Force property unworkable.

These developments leave but one realistic option for a permanent easement to the landlocked private properties in northern Guam for which access has been ordered through U.S. government property by the courts of the United States. This option, which has been resisted by the U.S. Fish and Wildlife Service, is through the former Navy property at Ritidian that the Service acquired in the federal surplus process in 1993.

The government of Guam (and the Air Force) both have legal standing in the disposition of this case and seek your Department's assistance in reaching an amiable settlement that provides a permanent easement to private property holders in accordance with the previous directives of the Courts of the United States.

For further information, please feel free to have the appropriate officials in your office reach Mr. Leland Bettis, Office of the Governor (671/472-2829 or lbettis@mail.gov.gu).

Sincerely Yours,



CARL T.C. GUTIERREZ
Governor

Attachments: Air Force letters (3)



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

36 ABW/CC
Unit 14003
APO AP 96543-4003

Sen. Mark C. Charfauros
588 W. Marine Drive, Suite 103
Hagatna, Guam 96910

Dear Senator Charfauros

I apologize for this late response to your letter of October 18, 2001. I, too, am pleased with the dialogue we have established, and I hope to continue our good relations.

I sincerely regret the effect our security restrictions have had on Star Sands' business operations at Jinapsan Beach. Please rest assured that I am fully aware of the local economic impact of the September 11 situation, and I will pay very close and immediate attention to any changes in our security posture that would allow for an easing of our base access restrictions. Unfortunately, force protection conditions since September 11 dictate the restrictions, and currently there is no definable end to the period of time in which the restrictions will remain.

Given the current national security situation facing Guam and Andersen AFB, I am not in a position at this time to make any exceptions to our current base access policies for commercial activities seeking to transit active operational areas of the base. Because of the indefinite time period into which the national security concerns will extend, your idea of pursuing access through other routes is laudable. I'm sure your constituents will appreciate your attention to their concerns.

Again, I appreciate the dialogue we have established, and I look forward to speaking with you in the future.

Sincerely,

BERNIE FULLENKAMP, Colonel, USAF
Commander



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

36 ABW/CC
Unit 14003
APO AP 96543-4003

James E. Eddington
President, Ababang Corporation
P.O. Box 326206
Agana, Guam 96932

Dear Mr. Eddington

I apologize for this late response to your letters of November 3rd and 26th. I was hoping the national security situation might have eased to such an extent that I could convey to you hopeful news regarding access to Jinapsan Beach via Andersen AFB. Unfortunately, so far, that is not the case.

I sincerely regret the effect our security restrictions have had on your business operations at Jinapsan Beach. Please rest assured that I appreciate the economic impact the September 11 situation has had, and I will pay very close and immediate attention to any changes in our security posture that would allow for an easing of our base access restrictions. Unfortunately, force protection conditions since September 11 dictate the restrictions, and currently there is no definable end to the period of time in which the restrictions will remain.

I appreciate your offer to abide within any additional conditions that could be placed on access through the base, and your offer to provide lists of personnel, passenger manifests and passenger identification documentation is laudable. However, given the current national security situation facing Guam and Andersen AFB, I am not in a position at this time to make any exceptions to our current base access policies for commercial activities seeking to transit active operational areas of the base. I will certainly keep you informed should national security concerns lessen to such an extent that access across the installation is again possible.

Sincerely,

BERNIE FULLENKAMP, Colonel, USAF
Commander



DEPARTMENT OF THE AIR FORCE
PACIFIC AIR FORCES

36 ABW/CC
Unit 14003
APO AP 96543-4003

Jesse F. Pangelinan
President, Jinapsan Private Beach Tour
P.O. Box 1014
Hagatna, Guam 96932

Dear Mr. Pangelinan

I apologize for this late response to your letters of November 6th. I was hoping the national security situation might have eased to such an extent that I could convey to you hopeful news regarding access to Jinapsan Beach via Andersen AFB. Unfortunately, so far, that is not the case.

I sincerely regret the effect our security restrictions have had on your business operations at Jinapsan Beach. Please rest assured that I appreciate the economic impact the September 11 situation has had, and I will pay very close and immediate attention to any changes in our security posture that would allow for an easing of our base access restrictions. Unfortunately, force protection conditions since September 11 dictate the restrictions, and currently there is no definable end to the period of time in which the restrictions will remain.

You wrote in your letter about the possibility of opening an alternate access route in the Ritidian area. That decision is not within the purview of my command and should be raised through appropriate federal government channels. Given the current national security situation facing Guam and Andersen AFB, I am not in a position at this time to make any exceptions to our current base access policies for commercial activities seeking to transit active operational areas of the base. I will certainly keep you informed should national security concerns lessen to such an extent that access across the installation is again possible.

Sincerely,

BERNIE FULLENKAMP, Colonel, USAF
Commander