STATEMENT
OF
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DIRECTOR, OFFICE OF INSULAR AFFAIRS, DEPARTMENT OF THE INTERIOR

BEFORE THE

SUBCOMMITTEE ON FISHERIES, WILDLIFE, OCEANS AND INSULAR AFFAIRS
COMMITTEE ON NATURAL RESOURCES
HOUSE OF REPRESENTATIVES

REGARDING

H.R. 44
THE GUAM WORLD WAR II LOYALTY RECOGNITION ACT

July 14, 2011

Mr. Chairman and Members of the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs, thank you for the opportunity to discuss H. R. 44, the Guam World War II Loyalty Recognition Act.

It has been nearly 70 years since Imperial Japanese military forces invaded and occupied the United States territory of Guam, subjecting its residents to 33 months of horrific pain and death. Through it all however, the vast majority of the largely native population, the Chamorro, remained ever-loyal to the United States. In prayer and song, many longed for the return of the Americans.

In a monumental operation, United States ground forces stormed the beaches of Asan and Agat on June 21, 1944. It took nearly two months to dislodge a well-hidden enemy, but Guam was finally secured on August 10, 1944. Although our forces experienced fierce battles throughout the Pacific, what they found and learned of Guam's occupation by the Japanese was shocking. Fellow Americans, innocent civilians, were subjected to summary executions, beheadings, rape, torture, beatings, forced labor, forced march and internment.

Approximately 1,000 had died due to the brutality of Imperial Japanese occupation. No U.S. state or territory suffered as bitter a fate during World War II as did Guam.

Once Guam was secured, its residents were overwhelmingly thankful that their prayers had been answered, and conversely, our grateful nation had immense admiration for them and the pain and suffering they had endured. Cognizant of the dire straits of the people of Guam, the United States Congress passed the Guam Meritorious Claims Act in November 1945, just after the surrender of Japan,.

The U.S. Government later granted relief to certain residents of other areas occupied by Imperial Japanese military forces. Guam was not included in this subsequent legislation under the mistaken belief that Guam residents had already been compensated by Congress. While the Guam relief recipients were appreciative, over the years it became evident that they may not have received treatment equivalent to that later given to Americans in other areas occupied by Japanese forces.

For nearly 30 years beginning in the 1970s, Guam Delegates to Congress introduced legislation regarding war claims. It was not until December 10, 2002 that the Guam War Claims Review Commission Act became Public Law 107-333. Pursuant to the Act, the Secretary of the Interior appointed the Commission's five members, all of whom had experience relevant to the task at hand.

Congress had instructed the Commission to "determine whether there was parity of war claims paid to the residents of Guam under the Guam Meritorious Claims Act as compared with awards made to other similarly affected United States citizens or nationals in territory occupied by the Imperial Japanese military forces during World War II . . . ."

The Commission met on numerous occasions, held lengthy hearings both in Guam and in Washington, and exhaustively analyzed relevant information and materials before committing its collective judgment to paper in its 2004 *Report on the Implementation of the Guam Meritorious Claims Act of 1945*. The Report is indeed comprehensive. The Commission carefully stated 32 findings and developed six recommendations for the Congress.

Included in the recommendations are:

- $25,000 for the eligible survivors of Guam residents who died during the Japanese occupation, which amounts to approximately $25 million for approximately 1,000 deaths;

- $12,000 for personal injury, including rape, malnutrition, forced labor, forced march, and internment (including hiding to avoid capture), to each person who was a resident of Guam during the Japanese occupation and who personally suffered any of these harms, or to the eligible survivor(s) of such individuals, which amounts to approximately $101 million for the entire 1990 census population of Guam; and

- Establishment of a trust fund for scholarship, medical facilities, and other public purposes for the benefit of the people of Guam and for research, education and media to memorialize the events of the occupation and the loyalty of the people of Guam.

Legislation, which drew from the report, has passed the House of Representatives on several occasions beginning with the 109th Congress. However, it has failed to receive the support that would see it through to the enactment that we believe it deserves.

As Congress is aware, Guam is vital to the protection of American interests in Asia and the Western Pacific. The United States since 2000 has been building up its military forces on Guam, and has plans to move about 8,000 Marines and their dependents from Okinawa to Guam as part of a bi-lateral agreement with Japan. Many hoped that passage of the Guam World War II Loyalty Recognition Act would exhibit good will on the part of the Federal government and would act as reciprocity for the good will and loyalty the people of Guam have always exhibited and will exhibit by hosting a large military presence.

The Obama Administration, through the Department of the Interior, strongly supported enactment of the Guam World War II Loyalty Recognition Act in the 111th Congress, and we continue to offer our strong support for these provisions. Enactment of H.R. 44 would restore the dignity lost during occupation and heal wounds bound in the spirits of those who survived. For the thousand who passed by saber or savagery their memory remains in stories of principle, courage, and sacrifice.

The Island of Guam has undergone tremendous change since World War II, and that change will continue as its strategic value is realized in the 21st Century. The opportunity to reach back and provide equity, parity, and justice is manifested in the Guam World War II Loyalty Recognition Act.

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REGARDING

IMPLEMENTATION IN THE NORTHERN MARIANA ISLANDS OF THE IMMIGRATION PROVISIONS OF TITLE VII OF PUBLIC LAW 110-229, AND

H.R. 1466
TO RESOLVE THE STATUS OF CERTAIN PERSONS LEGALLY RESIDING IN THE CNMI UNDER THE IMMIGRATION LAWS OF THE UNITED STATES

July 14, 2011

Mr. Chairman and Members of the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs, thank you for the opportunity to discuss title VII of Public Law 110-229, and H.R. 1466, both dealing with immigration in the Commonwealth of the Northern Mariana Islands (CNMI).

During the past five years, the CNMI has experienced ever-increasing economic distress. Many businesses have ceased or are in the process of ceasing operations. Austerity measures undertaken by the CNMI government due to the ever-growing fiscal crisis (including 16-hours cut per 80-hour pay period, 13 unpaid holidays, 332 FTE reductions from the 2,100 government workforce) exacerbate the anxiety and uncertainty within the community. Many

United States citizens, permanent residents, freely associated state citizens, as well as other aliens, have departed the CNMI in search of improved economic opportunity. It is expected that the population numbers to be reported by United States Bureau of Census in the coming weeks will show a significant reduction in the population of the CNMI, both United States citizens and aliens alike. Mindful of these economic factors and challenges, the Administration has made further strides in its implementation of Public Law 110-229.

IMPLEMENTATION OF TITLE VII IMMIGRATION PROVISIONS IN THE CNMI

Beginning in January 1978, the Commonwealth of the Northern Mariana Islands controlled immigration within its geographic area under agreement with the Federal government contained in the *Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America* (Covenant). On May 8, 2008, title VII of Public Law 110-229 was signed into law, which set in motion a plan for Federal administration and enforcement of immigration in the CNMI with the Department of Homeland Security (DHS) having the lion's share of responsibility, and the Departments of Interior, Labor, State, Commerce and Justice sharing that responsibility.

DHS established operations in the CNMI in advance of the November 28, 2009 start of the transition period, establishing ports of entry and a USCIS Application Support Center and, as of that date has been on the ground in the CNMI administering Federal immigration laws there, including title VII of Public Law 110-229. As discussed in its testimony for this hearing, DHS has issued and has in effect three sets of regulations necessary for the administration of immigration under title VII (E-2 CNMI investors, Guam-CNMI Visa Waiver Program and conforming regulations). On June 15, 2011, DHS submitted a final rule creating a CNMI Transitional Worker Classification to the Office of Management and Budget for review.

Implementation of the Transitional Worker interim final rule was enjoined as a result of litigation. While the issuance of the final rule has been of concern for the CNMI's business community and foreign workers alike who need to plan for their employment needs for the three plus years after November 27, 2011, proper formulation of the regulation is necessary. We are hopeful that the issuance of this final rule will obviate many of the concerns of the CNMI community relating to employment of foreign workers during the next three years.

INTERIOR TECHNICAL ASSISTANCE

Title VII of Public Law 110-229 calls on the Secretary of the Interior to provide technical assistance to the CNMI to help grow and diversify the CNMI economy and assist in recruiting, training and hiring U.S. citizens and nationals, lawful permanent residents and admissible citizens of the freely associated states.

On November 9, 2010, Assistant Secretary Babauta held a day-long Forum on Economic and Labor Development (FELD) in the CNMI pursuant to Public Law 110-229's mandate that the

Secretary of the Interior, in consultation with the Governor of the Commonwealth, the Secretary of Labor, and the Secretary of Commerce provide—

- technical assistance and other support to the Commonwealth to identify opportunities for, and encourage diversification and growth of, the economy of the Commonwealth;
- technical assistance, including assistance in recruiting, training, and hiring of workers, to assist employers in the Commonwealth in securing employees first from among United States citizens and nationals resident in the Commonwealth and if an adequate number of such workers are not available, from among legal permanent residents, including lawfully admissible citizens of the freely associated states; and
- technical assistance, including assistance to identify types of jobs needed, identify skills needed to fulfill such jobs, and assistance to Commonwealth educational entities to develop curricula for such job skills to include training teachers and students for such skills.

The FELD provided an opportunity for Interior and interested stakeholders to begin a robust discussion on the types of technical assistance that would be appropriate and possibly available to the CNMI for its economy and workforce. Public Law 110-229 did not provide funds for this technical assistance. In the absence of dedicated resources, the Assistant Secretary Babauta has committed up to $1 million in financial assistance to fulfill requirements of the law. These funds of the Office of Insular Affairs (OIA) will be devoted to two main programs: assisting the CNMI with developing an economic revitalization program as suggested by the Governor of the CNMI, and enabling the CNMI government to work with local agencies and non-profit organizations to provide on-the-job training for eligible United States workers.

As a result of the FELD, a report was issued this past May outlining the steps for the Federal, CNMI and local private sector stakeholders to forge a plan for growing and diversifying the CNMI economy. In selecting areas or sectors of the economy that would produce the greatest benefit, OIA reviewed recent statements of the CNMI government with regard to economic sectors it considers critical for its economic future. The Governor in his 2010 report to the legislature stated that “tourism remains the CNMI's most important industry.” Future growth in tourism would come, in part, from improving economic and financial conditions in industrial East Asia, which has traditionally been the CNMI’s major tourist market. However, some immediate assistance to improve the sector’s performance could prove helpful as I will explain later in my statement.

Another critical area of the CNMI economy is the labor market. Title VII extends federal immigration laws and regulations, including entry visas for visitors and temporary alien workers. Since the law directly affects the CNMI’s labor market, it is critical to understand how stable and predictable it would be in the near-term as well as the longer-term. CNMI businesses should be able to anticipate their labor needs for both United States citizens and temporary alien workers and the CNMI government needs to be able to project its revenue

stream based on labor market and work force protections. Areas of the labor market identified by the FELD as critical factors include the absence of an unemployment insurance program, the lack of placement agencies, and the lack of adequate training programs, especially for vocational and specialized skills.

Based on FELD discussions, the following areas would benefit from technical assistance:

Tourism: The tourism industry would benefit from hospitality staff that is better trained. Lessons can be learned from Hawaii's hospitality industry. The CNMI can learn from the experiences of other destinations that attract repeat tourists and create new markets.

Labor: The CNMI's labor market is unique in that it is still heavily dependent on foreign labor. Title VII recognizes the CNMI's special case and includes explicit provisions for determining the Commonwealth's labor needs through consultations among Federal agencies, the CNMI government and business community. For Interior's technical assistance program, the labor component must emphasize training and vocational skills.

Renewable Energy: The CNMI will benefit greatly from an expanded use of renewable energy. Expansion of renewable energy sources and resources will reduce dependence on fossil fuels and create jobs. Separately, OIA has entered into a technical assistance agreement with the Department of Energy's National Renewable Energy Laboratory (NREL) to assess renewable energy potentials and uses in the territories. OIA is working closely with NREL and the territories to carry the project forward. FELD participants also believe that it will be important to improve not only the current water and power systems but also provide assistance to create and use infrastructure for alternative energies such as solar, wind, biomass, nuclear, geothermal and possibly others.

Agriculture and aquaculture: Agriculture would produce fruits and vegetables for local markets and household use; aquaculture would produce valuable seafood. Using a technical assistance grant, the CNMI can examine agriculture and aquaculture practices elsewhere and replicate them or enhance existing programs. There would need to be an increase in technically trained personnel to operate farms and aquaculture projects: animal husbandry, entomology, plant cultivation and aquaculture technicians. This can be accomplished at all educational levels, starting in the public schools all the way up to the Northern Marianas College, according to the FELD. Curriculum and training facilities would also need to be developed and established.

Prevailing Wage Rate. Another vital project identified by stakeholders at the FELD was the need for establishing a CNMI prevailing wage rate. A prevailing wage rate is required as part of the procedure for obtaining a foreign labor certification from United States Department of Labor prior to applying for an H nonimmigrant or employment-based permanent immigration status for an alien employee. At present, due to the lack of such a prevailing wage rate in the CNMI, the Department of Labor requires employers to compensate alien employees at the nearest market rate in which the occupational category is utilized. In the CNMI's case, this is usually the Guam prevailing wage rate which is much higher than the wage rate currently paid

by most CNMI employers for any worker, alien or otherwise.

Assistant Secretary Babauta has held several discussions with the CNMI Governor regarding how to best address the need for such a prevailing wage survey. The Assistant Secretary and the Governor agree that the survey is vital for the CNMI economy's recovery and growth. Both also agree that delay in completing the survey is detrimental to the business community as well as to the efficient implementation of Federal administration of immigration in the CNMI. Governor Fitial has submitted a request for funding such a project to the United States Department of Labor and is awaiting its determination. In the meantime, preparations are underway both in the government sector and in the private sector to undertake the survey with a targeted completion date of September of this year.

Visa Waiver Program. The CNRA emphasizes the need to protect the CNMI economy and promote economic development. The CNMI has beautiful beaches and five-star hotel accommodations that are more than half empty. Given that tourism is now the mainstay of the CNMI economy, wherever possible both Federal and local officials must seek not only to avoid actions that may harm various sectors of the tourism market, but also to consider actions that promote increased tourism. Indeed, the CNRA mandates that economic considerations regarding visitors to the CNMI be considered in the development of the regulations for the Guam-CNMI visa waiver program. Chinese and Russian tourists accounted for 22 percent of CNMI tourists in 2008. For fiscal year 2009, Chinese and Russian tourists accounted for 9.2 percent of all arrivals. Since October 2009, the percentage of Chinese and Russian tourists have accounted for 12.4 percent of tourist arrivals. While this number may seem small, their contribution to the economy is significant; contributing approximately 20 percent of the total economic contribution from tourism.

United States visa requirements now apply to foreign tourists to the CNMI. Title VII created a new Guam-CNMI Visa Waiver Program. For this new Guam-CNMI Visa Waiver Program, DHS issued an interim final rule that waives the visa requirements for eligible visitors from 12 countries and geographic areas. At this time, China and Russia are not among the countries and geographic areas participating in the Guam-CNMI Visa Waiver Program.

As DHS notes in its statement for this hearing, on October 21, 2009, Secretary Napolitano announced her decision to exercise her discretionary authority to parole into the CNMI-only, on a case-by-case basis, otherwise admissible (except for the lack of a visa) Chinese and Russian nationals seeking to visit the CNMI. DHS announced this discretionary exercise of parole authority in recognition of the contribution of visitors from China and Russia to the CNMI economy. The Department of the Interior looks forward to working with DHS on these issues, including examining whether to extend the exercise of parole authority to Guam and whether to add additional countries or geographic areas to the Guam-CNMI Visa Waiver Program.

While immigration transition in the CNMI has encountered a number of issues that require resolution, this has not deterred the Federal government from continuing to seek a smooth transition. We realize that change is difficult, but strongly believe that the Federal

administration of immigration in the CNMI will bring about higher security for the Marianas archipelago as well as an improved environment for business and provide economic opportunities to the people of the CNMI.

H.R. 1466 – PATH TO CITIZENSHIP FOR CERTAIN ALIENS IN THE CNMI

For fifty years, the Department of the Interior has been intimately involved with the Northern Mariana Islands, both as a district of the Trust Territory of the Pacific Islands and as a commonwealth of the United States. The Department, therefore, has a historical perspective that may help inform the Congress of effects that H. R. 1466 and other proposals may have on the Northern Mariana Islands and its residents.

LONG-TERM STATUS FOR ALIENS IN THE CNMI

The Congress, Delegate Gregorio Sablan, the Secretary of the Interior, and the Senate of the Seventeenth Northern Marianas Commonwealth Legislature have all expressed concern with regard to long-term alien residents in the CNMI, and the effect of their presence on the CNMI.

H.R. 1466, the subject of this hearing, is one of the proposals. It would provide a form of CNMI-only resident status to four categories of aliens who resided in the CNMI on November 28, 2009 and the date of enactment of H.R. 1466. The four categories of aliens are:

- aliens born between January 1, 1974 and January 9, 1978 in the Northern Mariana Islands District of the Trust Territory of the Pacific Islands (which later became the CNMI),
- aliens who were, on May 9, 2008, permanent residents of the CNMI under CNMI law,
- spouses and children of aliens in categories just noted, and
- immediate relatives (children, spouses and parents) of United States citizens.

For the first five years, the resident status would be in the CNMI-only. Thereafter, if otherwise eligible, those individuals in the first three categories could apply to receive an immigrant visa or to adjust status to that of an alien lawfully admitted for permanent residence, which would allow for travel anywhere in the United States and its territories, and, if eligible, would place qualified individuals on a path to United States citizenship.

As reported in the Saipan Tribune, CNMI Governor Benigno Fitial estimates that potentially 5,000 aliens in the CNMI may be classified as immediate relatives of United States citizens and could avail themselves of the opportunities provided in H. R. 1466, to become permanent residents and later citizens of the United States. Additional aliens would be added by the other categories of eligible aliens in H.R. 1466, and together these persons would represent approximately one-third of the aliens in the CNMI.

CNMI Senate 2011 Recommendation Regarding Long-term CNMI Aliens

In March 2011, the Senate of the Seventeenth Northern Marianas Commonwealth Legislature issued its *Recommendation on Improved Immigration Status of Nonimmigrant Workers in the Commonwealth of the Northern Mariana Islands*. The CNMI Senate includes what it describes "as a compromise (recommendation) between the interests of nonimmigrant workers and indigenous residents of the Commonwealth":

> All aliens residing legally in the Commonwealth of the Northern Mariana Islands for ten years on the date U.S. Public Law 110-229 became law, shall receive similar immigration status as that held by citizens of the freely associated states (FAS).

The CNMI Senate is specific in its recommendation, calling for an FAS type status, whereby aliens who have been resident in the CNMI since May 8, 1998 would work and live in the CNMI or elsewhere in the United States as nonimmigrants, without United States citizenship and without voting rights.

2010 Interior Recommendation Regarding Long-term CNMI Aliens

In April 2010, the Secretary of the Interior issued the *Report on the Alien Worker Population in the Commonwealth of the Northern Mariana Islands*. Included was a recommendation to grant long-term status to alien workers who have resided in the CNMI for a minimum of five years:

> Consistent with the goals of comprehensive immigration reform, we recommend that the Congress consider permitting alien workers who have lawfully resided in the CNMI for a minimum period of five years to apply for long-term status under the immigration and nationality laws of the United States.

The Department through the report suggested five options, among others, that could be considered for long-term status, including:

> (1) alien workers could be conferred United States citizenship by Act of Congress;
>
> (2) alien workers could be conferred permanent resident status leading to U.S. citizenship (per the normal provisions of the INA relating to naturalization), with the five-year minimum residence spent anywhere in the United States or its territories; or
>
> (3) alien workers could be conferred permanent resident status leading to U.S. citizenship, with the five-year minimum residence spent in the CNMI.

Additionally, under U.S. immigration law, special status is provided to aliens who are citizens of the freely associated states. Following this model,

(4) alien workers could be granted a nonimmigrant status like that negotiated for citizens of the freely associated states, whereby such persons may live and work in the United States and its territories; or

(5) alien workers could be granted a nonimmigrant status similar to that negotiated for citizens of the freely associated states, whereby such persons may live and work in the CNMI only.

Department of the Interior Position

The 2010 report of the Secretary of the Interior recommended a long-term status for foreign workers who lawfully resided in the CNMI for a minimum period of five years. At the time of the report, the Department's best estimate was that 20,654 legal aliens resided in the CNMI. H.R. 1466 is consistent with the Secretary's report in that it would give long-term status to more than 5,000 of these persons.

Mr. Chairman, we appreciate your interest is these important immigration issues affecting the Commonwealth of the Northern Mariana Islands.