



Testimony of Lamonte J. (Jim) Beighley  
Vice Chairman  
Guam Visitors Bureau (GVB)  
House Committee on Natural Resources  
Subcommittee on Insular Affairs, Oceans & Wildlife  
1324 Longworth House Office Building  
Tuesday, May 18, 2010

Chairwoman Bordallo, Ranking Member Henry Brown and other distinguished members of the Committee, it is a pleasure to appear before you today on behalf of the Guam Visitors Bureau and provide testimony on implementation of the Consolidated Natural Resources Act (CNRA).

As you recall, I appeared before this committee last year and provided testimony on behalf of the Marianas Integrated Immigration Task Force. At that time, the Department of Homeland Security (DHS) had recently issued the Interim Final Rule<sup>1</sup> on the CNRA, which dealt a major blow to our hopes of expanding tourism in the Commonwealth of the Northern Mariana Islands (CNMI) and Guam. As Vice Chairman of the GVB, I remain deeply concerned about Guam's current, and future, ability to expand our tourism base, which as you know Madame Chairman, provides over 40 percent of Guam's Gross Island Product.

#### The Future of Tourism in Guam

Tourism has long been the bedrock of Guam's economy, providing much-needed jobs and revenue to our island's native, non-military community. My concerns are founded on three main facts that, when taken together, conclude that Guam is in a worse position today than it was prior to enactment of the CNRA.

As I stated last year, the Interim Final Rule contravenes the explicit intent of Congress to grow and expand tourism. As you recall, the CNRA's Statement of Congressional Intent is clear, and it provides that the statute "should be implemented wherever possible to expand tourism and economic development."<sup>2</sup> However, the Interim Final Rule, as implemented, is worse for Guam than the previous Guam-only Visa Waiver Program because of the increased visa refusal threshold requirement, and inclusion of humanitarian and repatriation requirements not found in the mainland Visa Waiver Program.<sup>3</sup> The current system is a monumental departure

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<sup>1</sup> Establishing U.S. Ports of Entry in the Commonwealth of the Northern Marianas Islands (CNMI) and Implementing the Guam-CNMI Visa Waiver Program, 74 Fed. Reg. 2,824 (Jan. 16, 2009).

<sup>2</sup> CNRA § 702(b), P.L. 110-229, 122 Stat. 861; see also H.R. Rep. No. 110-324 at 1 (2008) (Comm. on Energy and Natural Res. Rep.) (purpose of legislation is to "facilitate travel to the CNMI by tourists")

<sup>3</sup> The Interim Final Rule includes humanitarian concerns and other criteria that do not apply to countries seeking entry to the mainland Visa Waiver Program.



from over 24 years of settled federal policy. At the time when the Guam Visa Waiver Program was enacted in 1986, Congress recognized the “unique conditions prevailing on Guam and its isolated location”, which “justify a broad application of the visa waiver system.”<sup>4</sup> Until November of last year, the Guam Visa Waiver Program allowed for more countries to be admitted due to the heightened visa refusal rate threshold of 16.9 percent, which was higher than the allowable refusal rate for the mainland Visa Waiver Program of 3 percent. In fact, under the Guam Visa Program, we would have been able to apply to have Russia and China admitted, as the visa refusal rate for Russia in fiscal year 2009 was 4.9 percent and China's visa refusal rate for fiscal year 2009 was 15.6 percent – both under the threshold of the previous Guam Visa Waiver program requirements, a successful program in it's 24 years of implementation.

The visa refusal rate issue is an important one for this Committee to consider and I want to set the record straight. There is much misinformation about China and Russia and their eligibility (or lack thereof) under the Guam-CNMI VWP due to visa refusal rates. Last year, DHS incorrectly testified before this Committee that these countries had high refusal rates, and relied upon this misstatement as one of the reasons that China and Russia were not admitted under the Interim Final Rule. Just this month, GAO, in its May 2010 report on page 45 stated "DHS considered designating Russia and China as eligible for participation, because visitors from those countries provide significant economic benefits to the CNMI. *However, because of political, security, and law enforcement concerns, including high nonimmigrant visa refusal rates*, DHS deemed China and Russia as not eligible to participate in the program." This statement is incorrect. Of those criteria, the visa refusal rate is the only one that is objective and quantifiable. Again, it's important that we get this fact straight. Under the prior Guam Visa Waiver Program, which existed for over two decades, these countries DO NOT in fact have high visa refusal rates and fell under the allowable threshold of 16.9 percent. According to the most recent data provided by the Customs and Border Protection, the visa refusal rate for Russia is 4.9 percent and the visa refusal rate for China is 15.6 percent (for fiscal year 2009). Clearly, these rates are not high when compared to the Guam Visa Waiver Program. As compared to the mainland Visa Waiver Program, only China has a high nonimmigrant refusal rate.

Madame Chairwoman, if GAO didn't get this objective criteria in their report right, how can we be know that the other subjective barriers GAO cited of "political, security and law enforcement concerns" are also accurate? This Committee should request that GAO clarify this misstatement of the facts in their report.

There are additional problems with the Interim Final Rule. Not only does the current Guam-CNMI VWP turn over two decades of tourism access for the islands on its head, but we are now held to a higher standard than the mainland Visa Waiver Program under the Interim Final Rule. That's right, two tiny islands on the other side of the globe, nearly solely dependant on tourism, now have a more rigid Visa Waiver Program than does the mainland. Unlike the Guam-CNMI Visa Waiver Program, the mainland VWP does not have a religious freedom requirement associated with it. I am fully supportive of religious freedom, but contend that the application of the International Religious Freedom Act (IRFA) does not belong in Visa Waiver Law, and in

<sup>4</sup> 132 Cong. Rec. S4844 (Apr. 24, 1986).



fact, it has never been part of Visa Waiver law since the system was first established in 1986. Furthermore, the Guam-CNMI Visa Waiver Program contains a requirement that any country admitted should have a repatriation agreement with the United States, and such a repatriation requirement is not part of the mainland program.

Madame Chairwoman, we must be clear in the understanding that the Guam-CNMI VWP is now more rigid than the mainland waiver program. This is a complete reversal of over two decades of established policy that these small islands should have greater access to source markets than the mainland. Today, we have considerably less access to tourists than we have had in the past, and will have a more difficult time than the mainland in adding additional markets. Quite simply, this policy does not make sense.

I also want to mention two other data points of concern about the future of Guam's tourism economy. GVB was hopeful that the opening of additional slots into Japan's Haneda airport would provide additional capacity from Japan to Guam. Despite the best efforts of the Chairwoman, her staff and the private sector, we understand that Guam was not awarded any of the four designated slots provided to U.S. carriers when the decision was announced by the Department of Transportation. This means that we will not be able to remain competitive in this important move within Japan to allow flights to the US from Haneda airport. Finally, further adding insult to injury, we found out that our tourism base is shrinking even more. Just recently, Japan Airlines (JAL) announced that as part of their restructuring, they will be eliminating 188,000 annual airline seats to Guam – this represents a full 14% of the current total airline seat capacity from Japan. Add to this the fact that the Japanese population continues to decline and the outlook for our main tourist market remains of great concern. We expect that the population of key travelers – aged 20 to 40 years old – in Japan is projected to decline -14% by the year 2015. Madame Chairwoman, the bottom line is that as long as the tourist market in Guam is dependent on Japan, we can expect this segment of our economy to decline.

### Recommendations and Conclusion

We worked with this Committee and other Members of Congress and the U.S. Senate in crafting the CNRA to create a unified, regional Visa Waiver Program. Indeed, as the statute states, the Guam-CNMI VWP is a strong indication that the region should be given equal treatment in having access to vital source markets. However, under the current bifurcated system that exists with parole in the CNMI and Guam now under the new Guam-CNMI VWP, Guam has moved backwards while the CNMI has remained status quo at best. Madame Chairwoman, on behalf of the Guam Visitors Community, I respectfully recommend the following:

1. DHS testified last year that before Guam would have access to Chinese and Russian tourists, that additional security measures would need to be put in place. To date, I am not aware of any progress by DHS, or its component agencies, to implement these additional security measures.
2. This Committee should work with DHS and the Administration to ensure that parole authority is extended to Guam at the earliest possible time. Congress enacted the CNRA with the Guam-CNMI Visa Waiver Program for a reason-- not one program for Guam and another for the CNMI, but one unified program. The current system is neither unified nor consistent with the law. However, we must realize





that while Parole Authority would be an important step forward in establishing a track record of success, similar to what has happened in the CNMI, it still falls well short of Congressional intent to expand tourism in the islands. Indeed, the CNMI has not been able to expand tourism due to the temporary and uncertain nature of parole authority. In fact, in our discussions with Air Carriers and other parties interested in investing in these new tourism markets, until the Interim Final Rule is revised, consistent with Congressional intent under the law to expand tourism, we can expect the status quo at best.

3. This Committee should continue working with DHS to ensure that the Interim Final Rule is revised and made final to include China and Russia. I understand that the Final Rule is due out November of this year.
4. Finally, if the enhanced security measures are not in place, or if this Administration is not going to allow our islands access to vital tourism markets, then this Committee should enact legislation at the earliest possible time to clarify the CNRA and provide additional guidance to the Agencies that Congress intended the CNRA to expand tourism in the islands, not make access to tourist markets more restrictive than to the U.S. mainland.

Thank you again for the opportunity to appear before you today, and I look forward to any questions you may have.

