

PAUL M. CALVO
P.O BOX CI
AGANA, GUAM 96910

April 10, 1992

HAND DELIVER

Senator Frank R. Santos
Chairman
Committee on Housing, Community
Development, Federal and Foreign Affairs
TWENTY FIRST GUAM LEGISLATURE
155 Hessler Street
Agana, Guam 96910

RE: **LETTER OF SUPPORT OF BILL NO. 824**

Dear Senator Santos:

My wife and I are owners of the property that lies within 500 feet to the bull cart trail subject to Bill No. 824. I have prepared written testimony at the public hearing level during the Territorial Land Use Commission process relative to this particular bull cart trail. I maintain my position that by providing two separate right of ways in exchanged for the bull cart trail is beneficial to the people of the Territory of Guam.

As the landlord of an apartment complex across the street of this particular bull cart trail, I have concerns for the safety of my tenants. This bull cart trail is not your typical bull cart trail. It is similar to an empty swimming pool or an empty ditch which is variable in width and substantially long. It creates dangerous conditions to neighboring residents. This bull cart trail exposes the Government of Guam to liability since it is currently owned by the Government.

Lastly, in light of the millions of dollars First Living Service USA, Inc. will spend to resolve an environmental and health hazard that has existed for twenty (20) years, and the fact the public will be given two public accesses to Dungca Beach, I support Bill No. 824. This would save the people of our Territory millions of dollars and give the people an opportunity to enjoy a clean beach, specifically Dungca Beach, which is always listed as an environmental health hazard by the Guam Environmental Protection Agency.

Very truly yours,

THE FORMER GOVERNOR OF GUAM


Paul M. Calvo

LAW OFFICES

MOORE, CHING & BOERTZEL

A PROFESSIONAL CORPORATION

SUITE 400 GCIC BUILDING

414 WEST SOLEDAD AVENUE

AGANA, GUAM 96910

TELEPHONES: (671) 477-9708 / 472-8868

FAX: (671) 477-2511 / 477-0783

JOHN E. MOORE
EDWIN K. W. CHING
HARRY MASON BOERTZEL
FREDERICK J. KERLEY
DR. PATRICK CIVILLE
THOMAS L. ROBERTS
PETER R. SGRO, JR.

STEVEN A. ZAMSKY
H. THOMAS EVANS
TRAYLOR T. MERCER
JOSEPH A. CALVO

April 10, 1992

HAND DELIVER

Senator Frank R. Santos
Chairman
Committee on Housing, Community
Development, Federal and Foreign Affairs
TWENTY FIRST GUAM LEGISLATURE
155 Hessler Street
Agana, Guam 96910

RE: **LETTER OF SUPPORT OF BILL NO. 824**

Dear Senator Santos:

On behalf of First Living Service USA, Inc., we are in favor of Bill No. 824 with concerns of the following:

1. Existing bull cart trail is variable in width and not usable as access. The smallest point is 1.4 meters in width, therefore it cannot accommodate any public use.
2. In reality, this bull cart trail is a natural storm drainage channel taking runoff from nearby roads and surrounding areas to the beach. As a result, it contributes to sedimentation pollution of the Dungca Beach/lagoon area. If the stormwater carried naturally through this channel is not handled in a more effective way, it will continue to contribute to sedimentation pollution of this area.
3. In general, the Government has questionable title to bull cart trails. Under the existing exchange, the Government of Guam will receive good title to two (2) new public accesses, yet these new accesses will also be maintained by First Living Service USA, Inc.
4. In reality, this "bull cart trail" is a ditch and is unsightly.
5. This "bull cart trail" prevents the highest and best use of the land.
6. This "bull cart trail" prevents the highest and best use of the land.

HAND DELIVER

Senator Frank R. Santos
Chairman
Committee on Housing, Community
Development, Federal and Foreign Affairs
April 10, 1992
Page Two

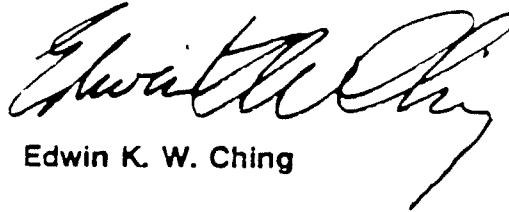
7. This "bull cart trail" or "ditch" is a hazardous and dangerous condition creating tremendous liability for the Government of Guam. Imagine if a child were injured in this "ditch".

In consideration of the above, we kindly request that Bill No. 824 be acted into law.

Thank you.

Sincerely,

MOORE, CHING & BOERTZEL

A handwritten signature in black ink, appearing to read "Edwin K. W. Ching". The signature is written in a cursive, flowing style with a long, sweeping tail.

Edwin K. W. Ching

COMMITTEE REPORT
ON BILL NO. 509

*"AN ACT AUTHORIZING THE GOVERNOR TO
CONVEY ALL TITLE , RIGHTS AND INTERESTS IN
A PORTION OF BASIC LOT NO. 1361-1-C NEW,
AGANA TO THE GUAM POWER AUTHORITY"*

PREPARED BY

THE COMMITTEE ON HOUSING, COMMUNITY
DEVELOPMENT, FEDERAL AND FOREIGN AFFAIRS
21ST GUAM LEGISLATURE

MAY 11, 1992

I. INTRODUCTION

THE COMMITTEE CONDUCTED A PUBLIC HEARING ON BILL NO. 509 - AN ACT AUTHORIZING THE GOVERNOR TO CONVEY ALL TITLE, RIGHTS AND INTEREST IN A PORTION OF BASIC LOT NO. 1361-1-C NEW AGANA, TO THE GUAM POWER AUTHORITY; AT 9:00 A.M. WEDNESDAY, APRIL 29, 1992 AT THE LEGISLATURE'S PUBLIC HEARING ROOM, 155 HESLER ST., AGANA, TO RECEIVE PUBLIC TESTIMONY ON THE SAID ACT.

COMMITTEE MEMBERS IN ATTENDANCE WERE:

SENATOR F. R. SANTOS	CHAIRMAN
SENATOR E. P. ARRIOLA	MEMBER
SENATOR J. P. AGUON	MEMBER
SENATOR J. GEORGE BAMBA	MEMBER
SENATOR A. C. BLAZ	MEMBER
SENATOR E. R. DUENAS	MEMBER

SENATOR DORIS BROOKS ALSO PARTICIPATED IN THE HEARING AT THE BEHEST OF THE CHAIRMAN.

TESTIFYING BEFORE THE COMMITTEE WERE:

JOHN M. BENEVENTE	GENERAL MANAGER
MR. FRANK L. G. CASTRO	GUAM POWER AUTHORITY
	DIRECTOR OF LAND
	MANAGEMENT

II. SUMMARY OF TESTIMONY

THE COMMITTEE RECEIVED ORAL AND WRITTEN TESTIMONY IN FAVOR OF BILL NO. 509 FROM THE DIRECTOR OF LAND MANAGEMENT. IN BRIEF, THE DIRECTOR OF DLM SECURED REVIEWS AND CLEARANCES FROM OTHER GOVGUAM DEPARTMENTS AND AGENCIES REFLECTING THAT THERE WAS NO OBJECTION TO GPA'S AQUISITION OF LOT NO. 1361-1-C NEW. FURTHERMORE, THE PROPERTY PRESENTLY HOUSES THE OLD FARMERS COOP BUILDING WHICH HAS BEEN ABANDONED FOR YEARS AND IS CONSIDERED ONE OF THE MORE DISTURBING EYESORES IN THE ANIGUA AND AGANA AREAS.

WRITTEN TESTIMONY SUBMITTED BY DLM IS INCORPORATED AS PART OF THIS REPORT AND CAN BE FOUND IN THE APPENDIX. THIS TESTMONY REFLECTS GPA AND LAND MANAGEMENT'S EFFORT IN IDENTIFYING THE SITE AS THE MOST FEASIBLE FOR THE GPA SUBSTATION.

MR. JOHN M. BENEVENTE ALSO PROVIDED THE COMMITTEE WITH INFORMATION TO SUPPORT GPA'S REQUEST TO AQUIRE THE SAID PROPERTY. PART OF THIS PACKAGE DEALS WITH THE PRESENT DILEMMA CONCERNING THE FARMERS COOP'S RIGHT OR TITLE TO THE PROPERTY. OTHER INFORMATION INCLUDED (IN THIS REPORT) CITES THE WRITTEN POSITION OF GOVGUAM DEPARTMENTS AND AGENCIES WHO SCREENED THE LAND AQUISITION REQUEST.

ALL INFORMATION OBTAINED BY THE COMMITTEE INDICATE BOTH THE NEED AND FEASIBILITY OF THE INTENT OF BILL NO. 509.

III. COMMITTEE RECOMMENDATIONS

BASED ON THE INFORMATION AND TESTIMONY RECEIVED ON BILL NO. 509, THE COMMITTEE RECOMMENDS THAT THE MEASURE AS INTRODUCED BE PASSED BY THE 21ST GUAM LEGISLATURE



DEPARTMENT OF LAND MANAGEMENT
(DIPATTAMENTON MANMANEHAN TANO')
GOVERNMENT OF GUAM
P.O. BOX 2950
AGANA, GUAM 96910



TEL: (671) 475-LAND/FAX: (671) 477-0883

JOSEPH F. ADA
Governor

F. L.G. CASTRO
Director

FRANK F. BLAS
Lieutenant Governor

JOAQUIN A. ACFALLE
Deputy Director

Memorandum

To: General Manager, Guam Power Authority
From: Director, Department of Land Management
Subject: Administrative Transfer of Government
Land, Portion of Lot No. 1361-1-C NEW,
Anigua, Municipality of Agana, Request of

In reference to your request relative to the subject matter, I am please to inform you that all Government Agencies responded favorably to transferring portion of Lot 1361-1-C NEW, to Guam Power Authority.

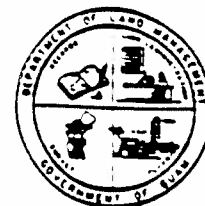
Moreover, the Department of Land Management has no vested interest in said lot and hereby approves the proposed transfer.


F. L.G. CASTRO





DEPARTMENT OF LAND MANAGEMENT
(DIPATTAMENTON MANMANEHAN TANO')
GOVERNMENT OF GUAM
P.O. BOX 2950
AGANA, GUAM 96910



TEL: (671) 475-LAND/FAX: (671) 477-0883

JOSEPH F. ADA
Governor

F. L.G. CASTRO
Director

FRANK F. BLAS
Lieutenant Governor

JOAQUIN A. ACFALLE
Deputy Director

Memorandum

To: The Governor

From: Director, Department of Land Management

Subject: Administrative Transfer of Government of
Guam Land, Lot No. 1361-1-C NEW, Agana,
and Lot No. 10122-13-1, Dededo

The Guam Power Authority is in urgent need for constructing a new Substation in Agana and Dededo. In that connection, we have been working together for meeting the said needs.

We are soliciting for your approval of the "Administrative Transfer" to the Guam Power Authority the following described properties:

Lot No. 1361-1-C NEW, Agana, containing an area of 4,214.9 square meters more or less, as shown on Land Management Map No. 103-FY81, Drawing No. I4-81T134, recorded under Document No. 319946.

Lot No. 10122-13-1, Dededo, containing an area of 8,249.82± square meters, as shown on Land Management No. 206-FY88, Drawing No. DS1-S-88-11, recorded under Document No. 398768.

Water and power are immediately available or within a distance of 100 feet of the properties.

The above described properties has been determined by Guam Power Authority to be the best sites in the area for the intended purpose and this Department supports that contention.




Memo - The Governor

Subject: Administrative Transfer
Lot Nos. 1361-1-C NEW, Agana
and 10122-13-1, Dededo

Page 2 of 2

In view of the urgent needs, I am soliciting for your prompt approval of the "Administrative Transfer" so that the Guam Power Authority can proceed with the multiple remaining requirements. If agreeable, a space is provided below to affix your signature.


F. L.G. CASTRO

APPROVED:

JOSEPH F. ADA
Governor of Guam

Date: _____

Attachment



GUAM POWER AUTHORITY
P. O. BOX 2977, AGANA, GUAM, USA 96910-2

January 14, 1992

MEMORANDUM

To: Attorney General
From: General Manager, Guam Power Authority
Subject: Advisement to Nullify Public Law 16-110

Guam Power Authority is preparing to go before the Territorial Land Use Commission (TLUC) within a month or two to defend our intention to build a transformer substation within the subject property. This new substation will alleviate electrical overloading problem at the Agana Substation and increase the power reliability within the Agana area. However, research reveals the existence of Public Law 16-110. As the property has been abandoned, the Authority appreciates your advice to nullify or supersede said Public Law. Attached for your reference are copies of Public Law 16-110, a letter to GPA's legal counsel and response therefrom. Your expeditious response to this matter is greatly appreciated.


JOHN M. BENAVENTE

ECPA:ekg



TELEX 6131

GUAM POWER AUTHORITY
P. O. BOX 2977, AGANA, GUAM, USA 96910-297

November 7, 1991

Mr. Donald C. Williams
Carlsmith-Ball-Wichman-Murray
Case Mukai & Ichiki
Attorneys at Law
Post Office Box BF
Agana, Guam 96910

Subject: **Legal Opinion for Lot No. 1361-1-C New Anigua
Municipality of Agana**

Dear Mr. Williams,

Guam Power Authority is diligently trying to secure a portion of Government Land - Lot No. 1361-1-C New, Anigua, for a power substation. Current capacities for both Agana/Mongmong and Piti substations are reaching peak ratings. The proposed Anigua substation will relieve some of the loads plus provide reliable service to areas of Agana, Anigua, part of Sinajana and Mongmong. Attached for your information are copies of the property map and the substation layout plans.

Our research reveals an existing lease between the Government of Guam and Guam Farmer's Cooperative Association, a copy also attached. The Authority would like Legal advise from both you and the Attorney General's Office regarding the listed below:

1. Because Guam Farmer's Cooperative Association has ceased to exist with the possibility of re-organizing, is the lease still legal and binding? The lease is for 50 years, executed on December 16, 1982 to December 16, 2032.
2. According to the Department of Commerce's research, there are at least seven small organizations of which Commerce is unsure if they are independent or chapters of the Guam Farmer's Cooperative Association (GFCA).
3. Is the Guam Public Market also a chapter of the GFCA?

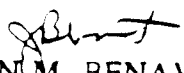
Page -2-

Legal Opinion Lot No 1361-1-C

4. If answer to number 3 is yes, how or through what documented transactions did the Guam Public Market move to the Agana Boat Basin?
5. If answers to concerns number 1 through 4 is favorable to the Authority, how can GPA nullify this lease and what are the procedures?

GPA will be informed by the Planning Division of the Department of Land Management of a scheduled time and date to appear before the Territorial Land Use Commission (TLUC) for this project. Your soonest and expeditious response is urged as it will affect implementation plans to install critically needed transformer capacity for Anigua and the general areas.

Sincerely,


JOHN M. BENAVENTE

CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING LAW CORPORATIONS

134 WEST SOLEDAD AVENUE

BANK OF HAWAII BUILDING, SUITE 401

POST OFFICE BOX 87

AGANA, GUAM 96910

TELEPHONE (671) 472-6613

FAX (671) 477-4375

KONA OFFICE

TELEPHONE (808) 329-6464

FAX (808) 329-6460

HAWAII OFFICE

TELEPHONE (808) 242-4444

FAX (808) 244-4874

SAIPAN OFFICE

TELEPHONE (670) 322-3444

FAX (670) 322-3368

WASHINGTON, D.C. OFFICE

TELEPHONE (202) 628-4545

FAX (202) 628-6646

HONOLULU OFFICE
TELEPHONE (808) 523-2500
FAX (808) 523-0848

LOS ANGELES OFFICE
TELEPHONE (213) 935-4600
FAX (213) 823-0038

LONG BEACH OFFICE
TELEPHONE (213) 438-8631
FAX (213) 437-3760

PHILADELPHIA OFFICE
TELEPHONE (800) 935-6644
FAX (800) 935-7675

December 12, 1991

VIA TELECOPIER
472-1987

Mr. John Benavente
General Manager
Guam Power Authority
Post Office Box 2977
Agana, Guam 96910-2977

Re: GPA/Gen: Lot No. 1361-1-C, New
Aniqua, Municipality of Agana

Dear John:

By letter dated November 7, 1991, you requested our advice regarding the continuing viability of a 1982, 50 year, lease of the subject property by the Guam Farmer's Cooperative Association (GFCA) from the Government of Guam.

Based on the minimal facts provided, we are unable to give a well informed opinion. All that we know at the moment is that GFCA at some point in time since formation of the property apparently stopped using the property.

Rather than duplicate efforts, we understand Erlinda Anderson has been pursuing the factual investigation. She indicates that Land Management has been unable to locate any records indicating whether or not GFCA has made lease payments.

In the final analysis, it would be up to the lessor, in this case the Government of Guam, to determine in the first instance whether or not an act of termination has occurred.

Mr. John Benavente
December 12, 1991
Page 2

Since the Attorney General is the lawyer for the Government, and better positioned to elicit the facts, your inquiry of her is well made.

Generally speaking, if GFCA has ceased to exist as a legal entity, the lease would terminate, and the interest revert to the lessor, in the absence of a successor in interest by way of assignment. There does not appear to have been any formal assignment. Such would have required the consent of the lessor.

It would seem that if the annual rent has not been paid, and if GFCA is not using the property, and particularly if GFCA is defunct, the Government may consider the lease abandoned and make it available.

In the final analysis, I suggest an effort to persuade cognizant Government of Guam officials that the property has been abandoned and that it be made available to GPA. It's their call.

Very truly yours,



Philip D. Isaac

PDI/csm
012149-35
G9112613

Handwritten notes:
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...
...
...
12



GUAM POWER AUTHORITY
P. O. BOX 2977, AGANA, GUAM, USA 96910-2977

May 1, 1991

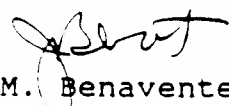
MEMORANDUM

TO: Joseph F. Ada, Governor
FROM: General Manager
SUBJECT: BASIC LOT NO. 1361-1-C-NEW, ANIGUA
MUNICIPALITY OF AGANA

The Guam Power Authority has identified a portion of Basic Lot No. 1361-1-C-NEW in Anigua for a proposed power substation. This substation is similar to GPA's newly-constructed 28 MVA Macheche Substation in Dededo. This lot is located next to the abandoned "Farmers Cooperative and Feed Store" in Anigua, along West O'Brien Drive. Our proposed substation will occupy an area of 16,382 square feet and is highlighted on the attached sketch.

We request your support in acquiring this basic lot which will enable GPA to utilize the existing 34.5 KV transmission lines, and enhance the Authority's capability to provide customer service reliability for both the existing and anticipated load demand. We urgently need your help in securing either by an administrative use agreement or through a legislative transfer, whichever is quickest, this subject property because we are already near capacity at our Agana Substation.

Attached is correspondence relevant to our proposed Anigua substation as well as a proposed "bill" which can be introduced to the Twenty-First Legislature.


John M. Benavente

attachments

/yac

Bill Andy Padajada

Super Manager MAY 11 1991

in office

TWENTY FIRST GUAM LEGISLATURE

Bill No. _____

Introduced by _____

**AN ACT AUTHORIZING THE GOVERNOR OF GUAM INTO
CONVEYING ALL TITLE, RIGHTS, AND INTEREST TO PORTION OF
BASIC LOT NO. 1361-1-C NEW, AGANA, TO GUAM POWER
AUTHORITY.**

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Notwithstanding any other provisions of Law, the Governor of Guam is hereby authorized to transfer and to convey all title, rights and interests unto the Guam Power Authority, an autonomous agency of the Government of Guam, the real property designated as portion of basic Lot Number 1361-1-C-NEW, containing an area of 1,522 square meters, or 16,382 square feet, situated in the City of Agana, as shown and delineated on the attached sketch (shaded in pink).

Section 2. Should in the future the said Authority determine that it no longer need the property for its operation or that said Agency is dissolved, title to this property shall revert back to the Executive Branch of the Government of Guam, inclusive of any and all improvements made thereon.

CHAULEY STREET

BLOCK NO. 19

EXISTING PAVEMENT

POB
N 50.286 23
E 48.334 70

6' OF WEST O'BRIEN DRIVE 60' R/W
CC # 448 DOC # 23927

LOT 1360-2
CT # 58751

LOT 1361-1-B-R1
AREA = 2,221.2 SQ M

EXISTING PUBLIC MARKET
AREA = 3,029.99 SQ M (REC)
3,036 ± SQ M (COMB.)

CLIFF AREA
UNSURVEYED LAND

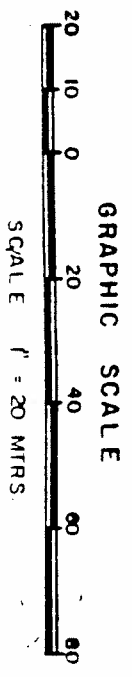
U S NAVAL
MEDICAL CENTER LOT 1361-1-C
CC # 650 DOC # 27570 AREA = 813.8 SQ M

LOT 1361-1-C NEW
AREA = 4,214.9 SQ M

S 46° 33' 08" W 233.02
COMPLETE LINE
LN # 14-B-1130

BLOCK NO. 19

6' OF ANIG



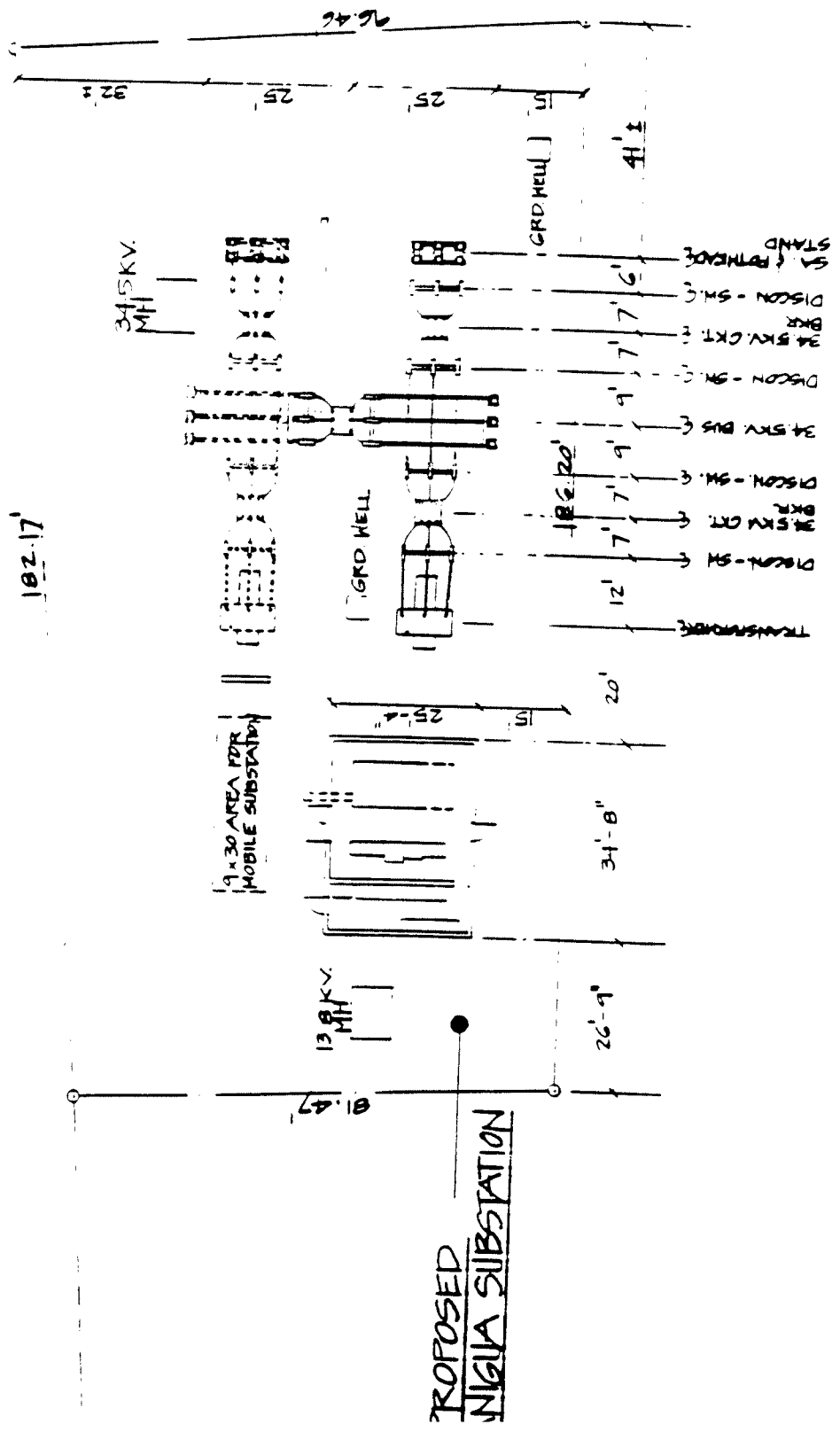
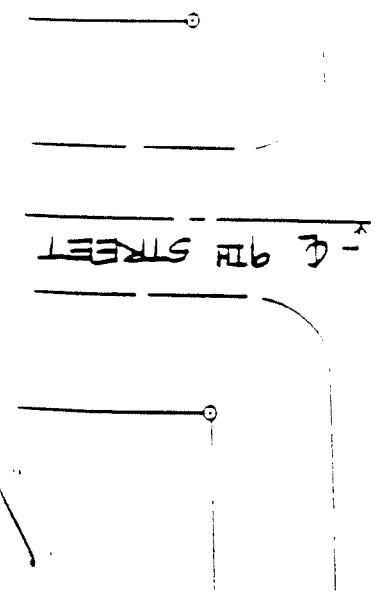
GRAPHIC SCALE
SCALE 1" = 20 METERS

16,382 Square Feet
1,522 Square Meters

SYMBOLS

- INACCESSIBLE CORNER
- # 4 REBAR FOUND, SET BY R.S.#
- CONC. MON. FOUND, SET BY RLS#
- △ GOIN TRIANGULATION STATION
- MD# 60 (MARINE DRIVE MONI)
- CORNER NOT RETRACED
- NAIL SET, TRAVERSE STATION
- CC# 22 (CURB CONTROL STATION)
- # 4 REBAR SET, W/ PLASTIC
- EXISTING POWER POLE (WOOD)
- EXISTING POWER POLE (CONC)

WEST O'BRIEN DRIVE 60' R/W



PLAN



TELEX 6131

GUAM POWER AUTHORITY
P. O. BOX 2977, AGANA, GUAM, USA 96910-2977

January 2, 1991

Territorial Land Use Commission
c/o Department of Land Management
Post Office Box 2950
Agana, Guam 96910

ATTENTION: Frank L.G. Castro
Executive Secretary

SUBJECT: Compatibility of Anigua Power Substation
with Existing Developments

Dear Mr. Castro:

The Guam Power Authority believes its proposed Anigua Power Substation (Project) is compatible with the present surrounding developments. The project is located next to the abandoned "Farmers Cooperative and Feed Store" in Anigua, along West O'Brien Drive. Specifically, the area of interest is identified as a portion of Basic Lot No. 1361-1-C NEW, Anigua, Municipality of Agana, Territory of Guam. The Project will occupy an area of 16,382 square feet as delineated in the attached sketch marked as "Exhibit A".

The purpose of the Project is to avoid jeopardizing customer service reliability and overloading existing primary distribution lines serving portions of areas in Agana, Sinajana, Agana Heights and Maina. Currently, there is a critical loading condition at the Agana Substation transformer (located in Mongmong) that is taxing available capacity to serve existing or new loads such as the proposed Agana Boat Basin Development and the Farmer's Market project. Additionally, the existing primary distribution circuits serving the aforementioned areas have reached a level such that emergency back up is difficult and may not be possible with further customer additions.

The Project site was selected as ideal for the following reasons:

- a. The parcel is geographically and electrically centralized with existing and proposed customers.
- b. Lot No. 1361-1-C NEW is available public land adequate in size for the project.
- c. Major modification to expand the existing Agana Substation facilities is very costly due to limited area and Navy's ownership of the land.

- d. Readily available transmission lines fronting the Project site can be modified without the addition of new concrete poles.

The following concerns have been addressed:

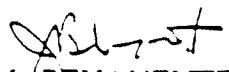
- a. STATIC DEVICE: The noise level will be minimized; although there is no Noise Ordinance established on Guam, we will record noise levels and meet accepted industry guidelines.
- b. AESTHETIC EFFECTS: The Project facility will be boarded by a concrete fence with Spanish-style fascia. The buildings and equipments will not be visible to the public.
- c. PROPERTY VALUE: The Project will enhance the surrounding property value with reliable and available power for both current and future developments.
- d. TRAFFIC FLOW: There will be minimum traffic flow within the substation because the Project is an unmanned facility. Only during routine maintenance or operations will GPA vehicles be required to enter the site.
- e. ENVIRONMENTAL: The transformer to be used is a non-poly-chlorinated biphenyl (PCB) unit.

The Project is bounded on the South (Cliff area) and West sides by Government Land, North by West O'Brien Drive and East by private property, Lot No. 1393-1, owned by Marciano V. Pangelinan and Singer Sewing Machine. Government-owned lands, Lot No. 1361-1-B-R1 and the remaining portion of Lot No. 1361-1-C NEW, are potential Leased or Executive Transferred property to Nieves M. Flores Library for a proposed Guam Museum Conservation Laboratory/Storage Facility.

GPA believes the Project will have neither an adverse impact to said Leased or Executive Transferred property, nor does it view the Project as in conflict or detracting to other existing and future developments in this area. Only positive impacts can be expected by this Project with increased customer service reliability.

We trust the commission will find our request to be in the interest of the Territory and approve the Conditional Use Application for this project.

Sincerely,


JOHN M. BENAVENTE
General Manager