



Hickel

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

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Dear Mr. Secretary:

Enclosed under cover are the position and briefing documents on the Micronesian status situation which have been prepared by the Interagency Working Group for your meeting on Micronesia scheduled for November 26. These briefing documents, prepared in cooperation with the respective Department staffs, set out the issues which should be considered at the meeting and also provide background material on the October political status discussions with the Micronesians.

As these are interagency documents, your staff may wish to further brief you on matters discussed within the briefing papers.

Sincerely yours,

(Cat.) Harrison Loesch

Harrison Loesch
Assistant Secretary

Honorable Walter J. Hickel
Secretary of the Interior
Washington, D. C. 20240

Enclosures

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PROCEDURAL AGENDA FOR INTERDEPARTMENTAL MEETING
ON MICRONESIAN POLITICAL STATUS

I. Introduction. The purpose of the interdepartmental meeting is to undertake, in the light of the recent discussions with the Micronesians, a review of the United States alternatives and further negotiating strategy.

II. Review of October Political Status Discussions. The recent discussions with the Micronesian delegation (see Interagency Group Report -- Tab A) closed on the issue of US land acquisition in Micronesia. The talks ended with an offer by the Interior Department to seek acceptance of the Micronesian position (See Micronesian Land Position -- Tab B) -- in essence that the United States would forego the right of eminent domain -- if the Micronesian delegation would commit itself to an undefined "permanent association" with the United States and would seek Micronesian support for this course. The Micronesian delegation has returned to the islands and is awaiting the result of Interior's efforts.

Assistant Secretary Harrison Loesch plans to visit the Trust Territory as soon as a decision is made in order to report results to the Micronesian delegation. If the US decision on the Interior land proposal is negative, the question then arises of an alternative proposal which he can offer.

III. Department of Interior Land Proposal. The first decision is, therefore, whether the Interior land proposal should be adopted as the US position. This essentially involves a decision as to whether the US is willing to forego the right of eminent domain in Micronesia. (Interior's views are set forth in detail at Tab C).

Pros. The Interior proposal is based upon the belief that this concession on land is imperative to early settlement with the land-conscious Micronesians, and that if an amicable settlement is reached there will be little problem in making necessary acquisitions. The Interior proposal envisages specific revisions in the Micronesian proposal, short of reinstating the right of condemnation, which should facilitate such acquisitions. It would deny military use of the area to all others and at the same time down-play internationally our own military interest in the area. Finally, it would not foreclose acquisition of land under the emergency powers of the President which would be subject to subsequent Congressional approval and/or judicial review.

Cons. The major argument against the proposal is that it does not ensure the acquisition of land by the US in Micronesia under all circumstances. The use of Presidential emergency powers could correctly be viewed by the Micronesians

only as a form of eminent domain and hence probably unacceptable. Unless and until modified, the Micronesian proposal would envisage the dissolution of our current facilities in the Marshall Islands within five years. Finally, since the term "permanent association" has not been defined with Micronesians, even foregoing the right of eminent domain may not result in a mutually acceptable status.

Decision. If the Interior proposal is adopted, Assistant Secretary Loesch should so inform the Micronesian delegation and provide them with an appropriate draft of the proposal. He would make no additional concessions, but would try to clarify with them the meaning of "permanent association."

If the Interior proposal is rejected, he should so inform the Micronesians, and reoffer the last US land proposal which was presented during the discussion and which made major concessions toward the Micronesian views short of foregoing eminent domain (see Chapter 8, pages 27-32 of Tab D). Since it is not new, however, and was not accepted by the Micronesian delegation, Assistant Secretary Loesch should be in a position to make a new and positive offer as well.

IV. Constitutional Convention. The Interagency Working Group recommends that Assistant Secretary Loesch be authorized in this eventuality to offer the draft legislation prepared by the group last August as a fallback position and since revised (see Tab D).

This draft would permit the Micronesians, within specific parameters, to draft their own constitution. The parameters would maintain all essential substantive elements of the draft Political Status Act approved by the Under Secretaries Committee on August 28.

Included in the draft, at the recommendation of the Interagency Working Group, are two alternative sections relating to the selection of the executive of the Government of Micronesia (see Tab D, pp. 12-18; 24-26). One provides for an appointed executive until 1981, with an elected executive after that date. The other provides for an elected executive from the outset, with a Federal Presidential Representative as the US watchdog on foreign affairs and national defense matters and a Federal Government comptroller as the fiscal watchdog. The alternative proposals will allow us to learn the Micronesian position on an elected executive and, most important in light of our international commitments, will put us on record as having at some point offered an elected executive to the Micronesians.

Pros. This proposal meets a Micronesian request for a Constitutional Convention which they apparently consider second in importance only to the land question. It thus puts our last offer on the land issue in the best possible context, hopefully inducing some give in the Micronesian position. Since this proposal contains all elements of a future status, it should elicit from the Micronesians some indication if they are actually thinking of the type of association we have in mind -- or if they are really after some form of independence. If it does lead to an agreement, the appearance of self-determination will be obviously enhanced.

Cons. We are switching from an issue-by-issue approach and are instead putting most if not all of our cards on the table while we are still unclear as to Micronesian intentions. Any US disagreement with Constitutional Convention results would be public and subject to UN and other exploitation. Finally, the similarity of this proposal to the Puerto Rican pattern would probably raise Congressional opposition which could endanger the entire objective.

Decision. If the recommendation of the Interagency Group is accepted the Constitutional Convention draft would be provided to the Micronesians concurrently with an explanation of the land and executive power questions.

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REVIEW OF OCTOBER POLITICAL STATUS DISCUSSIONS

General: The Micronesians arrived on September 30 and began negotiations the following day. After a week of discussions it appeared to the US group that the issue of US military use of lands in Micronesia was important in obtaining agreement. During the second week, the Micronesians held a caucus to determine their position on various issues, and presented a number of issue papers to the US group. During the final week, discussions resumed with further exchanges centered mainly on the land question.

Land Question: The land issue appears to have become central to an agreement by the Micronesian delegation. It involves primarily the question of whether the United States should have the right of eminent domain in Micronesia. The Micronesian position is that the United States should not have that right, but that the Government of Micronesia or a body acting by its authority should have the power to permit or reject military acquisition of land in Micronesia. The US position has been that whatever the procedure used, the United States would have the power to condemn land for military or other use. The two positions, as expressed, are irreconcilable; however, it is not yet clear that the position expounded by the Micronesian delegation is immutable.

On October 16 Assistant Secretary Loesch (the Chairman of the US negotiating team) announced to the US team that he had been directed by Secretary Hickel to make a proposal to the Micronesians without consulting with or informing other team members. He complied with these instructions, notifying the Micronesian delegation that, if it would commit itself to "permanent association" with the United States, Secretary Hickel would "agree to their land position" and attempt to obtain the approval of Secretaries Laird and Rogers. The Micronesians agreed to this proposition, and also that if either side failed to obtain "favorable response" to the proposition (the Micronesians on "permanent association"), then both sides would renew negotiations from the positions held prior to the Department proposal. The Interior proposal was clarified so as to exclude agreement on the totally unacceptable Micronesian position regarding territorial seas. Before departing the Micronesians indicated that they hoped to hear further from Secretary Hickel during his proposed trip to Micronesia planned for November.

Results: The concrete results of the October meetings were limited to the Micronesian concurrence to the tentative Interior proposal and the mutual agreement to continue

meeting. However, for the first time there has been an opportunity for an exchange of views. A channel of communication has been opened for future discussions on both a formal and informal basis, in both the United States and the Trust Territory. The United States has learned of the prime importance of the land issue, at least at this time.

Obviously a settlement of some kind must be reached on this issue if an overall agreement is to be achieved. The question remains whether the United States can put its land proposal in an overall package of sufficient attractiveness to secure Micronesian acceptance, or whether only our foregoing of the right of eminent domain will suffice.