



DEPARTMENT OF DEFENSE  
OFFICE OF GENERAL COUNSEL  
WASHINGTON, D. C. 20301

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In reply refer to:  
I-4343/70

15 April 1970

MEMORANDUM FOR COMMANDER EDWIN A. KUHN  
USN, OSD/ISA/EA&PR

SUBJECT: Provision for the Right of Appeal to the  
United States Court of Appeals - Item (v),  
Page 22 - Proposed Micronesian Territorial  
Act

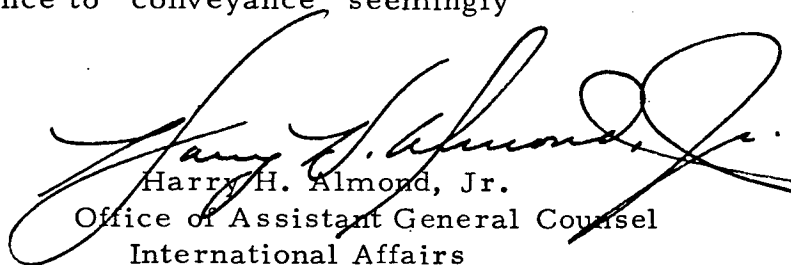
We refer further to the letter dated 13 April 1970 on the  
above subject.

There has now been time to review in greater detail the  
matter relating to a review of Micronesian action (whether  
by the Court of Micronesia or the Congress of Micronesia)  
in connection with the condemnation of land for public  
purposes of the United States (and particularly for the  
Department of Defense). It would not be proper to use  
the language now in this section calling for an appeal from  
the Congress of Micronesia and beyond the technical  
considerations there are other issues that might even  
require delays unnecessary under the circumstances.

It will therefore be necessary to revise this section and  
provide for the United States to secure conveyance of the  
property for public purposes in accordance with established  
federal procedures (in the event that a reference to  
"condemnation" is inappropriate for purported political  
reasons) but we would prefer a direct reference to the fact  
that the United States either will be taking property or con-  
demning property for its own use. The language must  
therefore be changed so that the United States can proceed  
through the Federal District Court in eminent domain,  
however this is worded, and for appeal to run the Circuit  
Court of Appeals (Ninth Circuit) from the findings and  
record of the Federal District Court.

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Regardless of the delays and other arguments proposed against proceeding in this way, it will be necessary to make these amended changes. In the event that the Department of Interior has language to secure these objectives bearing in view the objections which that Agency has made in making a direct reference to the procedures under the Judiciary Code, we would be pleased to review it. If they want our language, we would prefer to refer to the Code, and to federal procedures for "securing conveyance" of lands to the United States. Since the terms "condemnation" and "taking" appear to convey a taboo to Micronesians, we are curious how this arises - and how a reference to "conveyance" seemingly resolves their concern.

  
Harry H. Almond, Jr.  
Office of Assistant General Counsel  
International Affairs

cc: Captain W. O. Miller/JCS

bcc: Mr. Herman Marcuse

Mr. Niederlehner  
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