



TRUST TERRITORY OF THE PACIFIC ISLANDS  
OFFICE OF THE HIGH COMMISSIONER  
IN SAIPAN, MARIANA ISLANDS 96950

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ASSISTANT  
SECRETARY  
P.L.M.

August 3, 1972

Mr. Stanley S. Carpenter  
Deputy Assistant Secretary for  
Territorial Affairs  
Department of the Interior  
Washington, D. C. 20240

Dear Mr. Carpenter:

After substantial discussions with the District Administrator, Marshall Islands, and other staff members, it has been determined timely and appropriate to present to you a status report and our recommendations regarding the long pending activities directed toward arriving at an agreement involving the use of Roi-Namur, Omelak, Gellinam and Enewetak Islands located in the Kwajalein Atoll, Marshall Islands, by the Department of Defense, United States of America, and specifically the Army Safeguard Missile Program. Roi-Namur, which during the pre-war period consisted of two islands, however joined due to fill activities of the Japanese Imperial Government and the United States Government, is the largest land area (420 acres) and apparently the crux for settlement of the question of use rights in three other islands: Omelak (9.76 acres), Gellinam (5.311 acres) and Enewetak (14.565 acres).

Roi-Namur was occupied by the Japanese prior to World War II and substantial fortifications, including an airstrip, were constructed.

The island was secured in February, 1944, after active combat. Initial indications were the Japanese had paid for the land and the United States Government assumed that ownership passed to the Trust Territory Government as alien property.

However, in 1965, a land title hearing was held and the Land and Claims Administrator ruled to the contrary holding the Japanese Government had never actually paid for Roi-Namur and thus it was still owned by the Roi-Namur people. No appeal was taken and this decision became final.

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Since such decision, various contacts have been made with the owners of Roi-Namur and the Department of Defense by the Trust Territory, in an attempt to arrive at a settlement acceptable to all parties.

On April 4, 1966, an eminent domain action was filed in the High Court of the Trust Territory, at the request of the Army, to condemn indefinite use rights in the islands of Omelak, Gellinam and Enewetak. This case has been periodically on the trial calendar. At the request of the Trust Territory Government and the involved traditional leader, Iroj Lejellon Kabua, by and through his spokesman and son, Mr. Amata Kabua, President of the Senate, Congress of Micronesia, trial of the matter has been continued pending receipt of an appraisal report and settlement offer from the Government.

During April, 1970, Mr. Ray Hambleton, of Hambleton and Associates, Honolulu, Hawaii, an independent real estate appraiser, was retained by the Navy. His assignment was to appraise the property and arrive at a fair rental to be paid, in a lump sum, for periods of past and future use as requested by the United States as follows:

I. Roi-Namur

- (a) 7 Feb. 1944 - 6 Feb. 1969 (25 years past use)
- (b) 7 Feb. 1969 - 6 Feb. 1994 (25 years future use)

II. Omelak, Gellinam, Enewetak

- (a) 1 April 1966 - 31 March 1991 (25 years)

III. \*Gugeegue

- (a) 1 June 1960 - 31 May 1985 (25 years)

His appraisal was submitted to Mr. Samaritano, Director, Real Estate Division, Department of the Navy, Pacific Division Naval Facilities Engineering Command, the contracting agency, on April 2, 1971.

The Trust Territory was asked to review this appraisal after which a meeting was held in Honolulu on September 1 - 3, 1971. The Attorney General of the Trust Territory, and other staff members were instructed by the High Commissioner that in light of the provisions of Article 6(2) of the Trusteeship Agreement they were to represent only the landowners in this matter to assure they were paid full and fair compensation. Mr. Samaritano, the Navy representative, and his staff have on several occasions been so advised.

\*Title to this island has not been determined, however, a claim that it is privately owned has been filed and is pending.

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Certain additional questions posed by the Navy were discussed with the traditional leaders representing the owners and we responded reflecting the owners' position. We have requested that Navy representatives meet with our staff and the landowners to enter into meaningful monetary negotiations; however, we have been informed the Navy must obtain approval of the appraisal, authority to make an offer, and certification of funds available from the Army, for whose use the land is sought, before the Navy, as the negotiating agency for the Army, may proceed.

A petition dated May 4, 1972, was then received from the other members of the land-owning class pointing out the long period of time (28 years) that has elapsed since they were dispossessed and inquiring when they may expect to be paid. In response to this inquiry, a summary of settlement negotiations was prepared and delivered to each person.

The Marshall Islands District Attorney met with Mr. Samaritano and his staff in Honolulu on July 13, 1972, to again discuss the case and determine when the owners may expect an offer to be made, or actual discussions involving monetary compensation will commence, and was again advised this depends entirely upon when, and if the Army approves Mr. Hambleton's figures, certifies availability of funds and authorizes the Navy to proceed to enter into actual negotiations based upon a figure acceptable to the Army. He was unable to give any indication as to when such a decision will be made.

On July 18, 1972, a motion was filed by the Marshall Islands O.E.O. lawyer to set the aforementioned condemnation action, involving Omelak, Gellinam and Enewetak, for trial. The other named defendants, Iroij Lejellon Kabua and Kajile, by and through Senator Kabua, have consistently refused to appear in the case and have previously objected to having the case set for trial as they demand the Roi-Namur matter be settled before any settlement of the other islands, by court action or otherwise.

We are further advised by Senator Kabua that while in the Trust Territory during the present Koror Status Negotiations, Ambassador Franklin Haydn Williams discussed the status of this case with the interested traditional leaders of the landowners and expressed his desire that settlement of this matter be accomplished as soon as possible.

It is our opinion settlement of the question of compensation for the referenced islands for past and future use is a very emotional and important issue currently pending in the Marshall Islands and failure to accomplish such is a serious detriment to maintenance of rapport with these traditional leaders and landowners on other important matters. It appears no question exists as to their right to be paid (with the exception of Gugeegue) as the land is clearly

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owned by the people and has been physically occupied and used by the Army for quite a prolonged period of time with payment of no compensation. It is also our opinion the situation will become progressively more difficult the longer settlement is delayed with further indications a public reproach of the High Commissioner, Secretary of the Interior, and the staff may be expected to appear before the Congress of Micronesia and the United Nations.

Recommendations: With the above in mind, it is my recommendation that all steps be taken, including referral to the Secretary of Defense, to attempt to cause the Department of the Army to respond at the earliest possible time regarding their position as to acceptance or rejection of the appraisal, and to authorize the Navy to enter into meaningful negotiations as to monetary amounts to accomplish settlement of this long pending question of compensation.

Sincerely yours,

  
Peter L. Coleman  
Deputy High Commissioner