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October 24, 1973

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Honorable James Wilson  
Office of Micronesian Status Negotiations  
Department of the Interior  
Washington, D.C. 20240

Dear Jim:

During Ambassador Williams' October 19 meeting with members of the US Delegation to the forthcoming Micronesian status talks we learned for the first time (as apparently did the Defense and Justice representatives) that Ambassador Williams some weeks ago sent to the Secretary of the Interior specific recommendations for the handling of the TTPI public lands question, and that the Secretary has since approved Ambassador Williams' recommendations. After the delegation meeting, a copy (undated) of Ambassador Williams' memorandum and attachments was provided to the State and DOD representatives.

I am surprised that decisions on a matter of such importance were requested and taken without any opportunity being provided to Defense or State to comment or provide alternative suggestions. You will know there were a number of requests to OMSN in recent months by State representatives that we have an opportunity to review in advance the submission to the Secretary of the Interior.

The issue at hand is not one which concerns primarily OMSN and Interior, but impacts directly on the defense land requirements in Micronesia and the overall status negotiations -- it therefore concerns all those on the Interagency Group. Further, we cannot concur in some of the specific limitations offered and recommendations made to the Secretary of the Interior who should have had access to differing points of view and alternate solutions to a most complex question. I am highlighting below some of our concerns.

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REVIEWED BY: B4A5

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-- Ambassador Williams' memorandum states that a transfer of public lands in Palau will be conditioned upon negotiations being held which will assure US military needs are met as set forth in the present draft compact. This position is directly contrary to the public position of the Palauans to the effect that they will negotiate our land requirements after the public lands are transferred. We consider that this limitation may result in a further and major setback to both the land and status negotiations. The memorandum does not note the fact that our interests are protected, even after a land transfer, by an existing and continuing condition; the public US position that the trusteeship agreement will not be terminated until US land requirements are fulfilled provides more than adequate protection to our interests and, together with existing eminent domain authority, assures the continuing availability of the "Palau options" in the absence of any specific land agreements.

-- We are opposed to the linking of our land requirements on Kwajalein to a return of the Marshallese public lands. Only about three percent of Marshallese land is public and to our knowledge, all of the Kwajalein land is private. The linkage in the Ambassador's memorandum is quite likely to be politically dangerous with no offsetting practical advantages.

-- The memorandum also provides that the use of submerged lands remain under the control of the TTPI Administration. Although this may be desirable, we are not convinced that this limitation is essential to US interests. This issue may well become another highly contentious political problem.

-- Regarding eminent domain authority, we believe that we should be prepared, if the Micronesians so insist, to limit exercise of that authority in the remaining years of the trusteeship to actions necessary to US defense and foreign affairs responsibilities. This is not a desirable concession, but it is one that could be made if that becomes the price for a settlement of the public lands question. Alternatively, means could be explored for the exercise of eminent domain authority, in those instances where only TTPI interests are involved, in consultation with the Congress of Micronesia.

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-- We also do not believe that it is necessary to hold back those public lands now in use by the TTPI administration, or projected for TTPI use in the next five years. In most instances possession of title, not TTPI use, is the issue at hand. It is at least conceivable that arrangements can be worked out under which these public lands would be returned at the same time as all others, but with standardized leases to the TTPI and nominal rents, e.g. one dollar per year per acre. We are inclined to believe that the Ambassador's memorandum has frozen us into an unnecessarily difficult position.

-- Finally, there are differing views within the Interagency Group on the merits of handling the land transfer via Congress of Micronesia legislation, as against a Secretarial Order developed in consultation with the leadership of the Congress of Micronesia. For our part, we remain inclined toward the latter course given the unpredictability of the Congress and the strong possibility that body will deliberately take legislative action unacceptable to the US.

Developments during the forthcoming status negotiations may well require urgent reconsideration by the Secretary of the Interior of some of the decisions taken by him on the basis of Ambassador Williams' letter. I am therefore forwarding a copy of this letter to Stan Carpenter with the request that he informally advise the Secretary's office of the problems discussed above. Copies are also being sent to the Departments of Defense and Justice.

Sincerely,

Arthur W. Hummel, Jr.  
Acting Assistant Secretary  
East Asian and Pacific Affairs

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