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U.S. PLAN FOR THE RETURN OF PUBLIC LAND TO THE DISTRICTS OF THE TUPI

INTRODUCTION

The U.S. Government, as administering authority in the Trust Territory of the Pacific Islands, has always considered public land in Micronesia to be property held in trust for the people of Micronesia.

For years it was thought that the ultimate disposition of these lands would be decided by the people of Micronesia themselves as one of the important features of the post-Trusteeship system of government they established under their own constitution. But recently the elected representatives of the people of Micronesia have declared that they wish to see this question settled earlier.

The Joint Committee on Future Status of the Congress of Micronesia stated officially that public land in Palau should be transferred as soon as possible to the traditional leaders of that district in trust for its people. The United States in turn agreed to study the early transfer of public land to the districts as a matter of priority, indicating that it could not in a matter as important as this act for one district alone but must consider the problem in all districts. The Joint Committee replied that each district should determine for itself what it wishes done with its public land.

The United States has now completed an extensive study of the problem in all districts. This has included consultation with leaders and experts at all levels within the Trust Territory and has taken into consideration the further views expressed by the Chairman of the Joint Committee in response to a series of questions posed last May. The results of that

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study follow.

MAJOR ELEMENTS OF THE U.S. PLAN

1. The United States has concluded that if it is the desire of the people of Micronesia that public lands in each district be turned over to that district now before the termination of the Trusteeship the United States is willing to do so. This transfer, however, must be subject to certain limitations and safeguards set forth below designed to protect those individuals who have acquired property interests in public lands under the trusteeship and to meet the continuing needs of the Trust Territory Government. These will apply until the trusteeship ends, at which time the new government will be free to modify them as it chooses. The cooperation of the Congress of Micronesia in making possible the smooth implementation of this program is earnestly solicited.

2. The United States proposes that the district legislatures in each district be asked to formally indicate the wishes of the people in that district with respect to public land in that district. This will include specifically whether the people of the district wish the Trust Administration to turn over public land in the district and if so to whom in that district. The proposed recipients must be legally qualified to receive and accept title to property, and if a legal entity is not available or is not qualified legally to receive real property under the law it must be created or become so qualified for this purpose. Recipients must agree to hold the public land in trust for the people of that district to be disposed of under terms determined by the district legislature and subject to the limitations set forth below.

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3. The Congress of Micronesia is invited to establish procedures under which the district legislatures may act in this regard and to pass such legislation as is necessary to effect the actual transfer of title to public lands as indicated herein.

LIMITATIONS AND SAFEGUARDS

1. In the case of public lands now being actively used by the Trust Administration and subordinate units thereof, title to these lands will not be transferred but will be retained by the Trust Administration so long as it is needed and will revert thereafter to the districts, as above.

2. In order to meet immediate future needs under the trusteeship, the Trust Administration will also retain title to those public lands which are specifically identified as needed for capital improvement projects contained in previously approved economic development plans covering the next five years. For other needs the Trust Territory Government will negotiate directly with property title holders but will retain an ultimate authority of eminent domain as presently provided under the Trust Territory Code. This authority may be shared, however, with any district if its legislature so decides.

3. Where former public land has been turned over to individuals as part of the homestead program title shall remain in the homesteader or his assignees. Where applications for homesteads have been approved before a date to be determined by the Congress of Micronesia but full title has not yet been issued by reason of inability to fulfill the requirements for a certificate of compliance, title shall be retained by the Trust Administration to be turned over to the homesteader as prescribed

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by present law. If, however, any such applications are not finally perfected within the time period prescribed by the Trust Territory Code the land involved will revert to the appropriate district to be disposed of as the legislature of that district may prescribe. District legislatures will be free to institute their own homesteading programs as they may desire.

4. In the case of other interests in public land, including leases and other land uses acquired by individuals or business or private concerns from the Trust Administration prior to the effective date of transfer of title to public lands to the district, title to such land shall not be turned over to the new titleholder in the district until that titleholder has formally agreed to respect the terms of the arrangements previously entered into by the Trust Administration. In the case of tenants at will or tenants by sufferance now occupying public land with the concurrence of the Trust Administration, title would not pass until the new titleholder has formally agreed to respect such arrangement for a reasonable period of years, whose number is to be determined. In both cases the new titleholder would receive rents previously paid to the Trust Administration.

5. In the case of public land included in the requirements set forth in Annex B of the Draft Compact of Free Association title shall pass simultaneously upon the prospective titleholder having agreed with the United States that the land may be used for the purposes indicated on mutually agreed terms.

6. In the case of public land to which there are unresolved claims transfer of title to each district shall be subject to such claims, which

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may then be settled under procedures and means prescribed by the individual district legislatures, which may include traditional means; providing, however, that in the event such claims still remain unsettled the claimant will have access to regular courts of the Trust Territory. The title-holders to public land must agree before title is finally passed to hold the United States harmless from claims other than those resulting directly for the action of the United States or its duly authorized agents.

7. Title to tidelands, filled lands, submerged lands and lagoons shall be turned over to the districts; provided, however, that the central government of the Trust Territory shall retain the right to control activities within these areas affecting the public interest.

THE CADASTRAL PROGRAM

The U.S. Government is seeking funds immediately to make it possible to initiate a special effort under direction of the Trust Administration to complete within three years the cadastral program on all present public lands. This will be accomplished by special contracts which will leave regular facilities free to concentrate on completion of the private land cadaster program as the districts may desire.

THE LAND MANAGEMENT FUNCTION

Land management functions will be turned over to the districts to be handled as the district legislatures may determine. The Trust Administration will maintain a small land management office of its own to administer land used by the Central Government and to provide such advisory services as may be requested by the districts.

TIMING

Transfer of title can take place just as soon as necessary implementing action has been taken by the elected representatives of the people of

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Micronesia, the individual district legislatures and the prospective title-holders. Transfer need not take place simultaneously for all districts.

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