

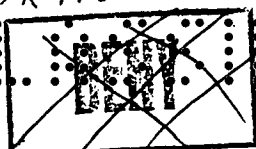
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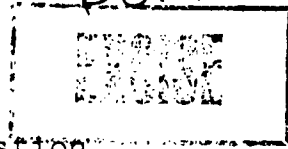
TO: Ambassador Williams



THRU: INTERIOR/OMSN - Mr. Wilson

DORRANCE X20660

FROM: State/EA - John C. Dorrance



By man

SUBJECT: Micronesia-- Public Lands Question

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B1, A5

The following State comment is offered on the OMSN draft US position paper (dated 10/24/73) on public lands. I understand ~~this~~ this paper is intended for deliver to the Distad Conference,

the JCFS, and other appropriate ~~and other~~ bodies as a public document.

TTPI

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY B.A. RAAS DATE 3/25/87

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RDS or XDS EXT DATE OADR

TS AUTH. 208 REASON(S) E.O. 12356

ENDORSE EXISTING MARKINGS SEC. 1.3 (3)(5)

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RELEASE DENIED B1, A5 PART cc

~~General~~
General

State's position on ~~the~~ NS issues' ~~as~~ described

in Mr. Hummel's ~~letter~~ October 24 letter to Mr. Wilson. The following comments ~~are~~ are primarily supplemental.

~~Definition~~
Definition of Public Lands

We should
~~It will be most important~~ at the beginning of the paper to

~~define~~ precisely what is meant by "public lands" ~~especially~~ since there is considerable ~~in~~ confusion on that question throughout the territory. ~~By~~ Many Micronesians include among public lands those private lands presently under lease to ~~the~~ the TTPI administration.

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I would assume that you do not intend to transfer these lands

or terminate leases, ~~where such lands are not in use.~~ Additionally

~~There is ~~the~~ ^{are also} ~~mainly~~ ^{is to} technical question of "alien properties."~~

These are ~~not~~ ^{are} ~~public~~ lands, but

rather former Japanese ^{private} properties now in the custody of the TTPI

administration. ^{However,} They are generally treated as public lands, and

and normally ~~are~~ ^{are} loosely described as being ~~public lands.~~ ^{such} These

lands should be included in the transfer.

Transferee Procedures

~~Generally~~ ^{We} find no problems with the section entitled

"Major Elements of the US Plan," with ~~one~~ ^{two} exceptions. Our goal

should ~~in effect~~ be ~~as~~ speedy but also practical resolution of

~~the~~ the land issue. The ~~suggestion~~ ^{proposal} (page 2, -numbered para 2)

^{is unclear as to whether} ~~that~~ the transfer issue be placed before the people of each district ^{would}

in a referendum, ~~which~~ ^{such a procedure} probably would cause endless delays. Submission

to and action by the district legislatures should be sufficient

to protect our interests, and the interests of the Micronesians people.

~~What are these legislatures if they do not exist to represent~~

~~the "people" on issues such as this?~~

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~~is~~ based on the assumption (supported by ample ~~xxx~~ precedent) that the

Congress is almost ~~certain~~ ~~to~~ ~~write~~ ~~legislation~~ ~~which~~ will provoke

a veto, and thus force the US ~~xxx~~ to take the Secretarial order route

in any event. ~~That~~ We will then have suffered the ^{double} disability

of not only following the Secretarial Order route, but ~~also~~ also

of having thwarted the will of the Micronesian people as expressed

by their elected representatives. This risk is ~~made~~ probably made

a certainty by the fact that the Congress of Micronesia will be fully

aware of the fact that we ^{will} ~~would~~ in any event transfer the lands

on our own terms with ~~or~~ or without their legislation. Knowing this,

~~and~~ (and given their penchant for ~~xxx~~ confrontation politics and political point-scoring) they will see every reason to write legislation

designed to put on record their point of view, and specifically

directed at forcing a veto. ~~The~~

~~xxx~~ The Secretarial Order route, if it is taken as the initial step rather than as a follow-on to unacceptable Congressional action,

need not be ^{or} a unilateral action. The order can be developed in

consultation with Congressional leaders, and can establish

the legal framework within ~~xxx~~ which the Congress could legislate

much of the ~~in~~ implementing ~~legislation~~ legislation.

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Mr. Hummel's letter addresses most of the issues in this section.

However, the ~~add. 11~~ following additional comment is warranted.

Para 1: An alternate solution is offered in Mr. Hummel's letter.

A further refinement could be to insist that any "leaseback"

rentals^{issues} would have to be paid out of Micronesian internal revenues,

and not out of the US grant.

if rent is nominal, by distribution of decisions

Para 2: Transition to self-government requires that the Micronesians

learn to live with their decisions -- and that they have ~~real~~ true

responsibility. In the circumstances, the alternative compromises

offered in Mr. Hummel's letter deserve serious attention.

this is a great idea!

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BIAS

Para 6: The reference to the United States being held harmless in the last several lines of this ~~paragraph~~ paragraph should be changed to the United States and the TTPI Administration.

Para 7: The reference to ~~the~~ continuing ~~is~~ TTPI control of submerged lands, etc. is too broad and should be defined through illustrative examples. This might be done by adding the following words at the end of the paragraph, ~~the~~ "e.g. public health requirements, ~~and~~ environmental protection, ~~and~~ standards enforcement, and marine resources protection."

Other: Although not presently listed as a limitation, consideration ~~should~~ should be given to excluding from transfer those public lands acquired by the TTPI administration under the trusteeship agreement by purchase and without condemnation or the threat of condemnation

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proceedings. Alternatively, ~~if they are included in the~~
transfer can be optional (assuming the lands are not in use and
therefore not needed by the TTPI), ~~but under the conditions~~ ^{and} conditioned
on a pro-rated rebate ~~to the TTPI administration of~~
the original purchase price.

~~Conclusion~~

Conclusion

~~Clearly~~ Judgements as to what US positions on the land question
will or will not be acceptable to the Micronesians are subject
to debate, and can at best be only educated guesses based on past
Micronesian statements and performance. ~~But~~ Accepting this major
qualifier, we are concerned that the ~~tax~~ positions taken in the
present draft position paper, commented ^{on} above and ⁱⁿ Mr. Hummel's paper,
will not be acceptable to the Micronesians and will exacerbate
and protract resolution of ~~this complex question~~ and this complex
question -- and for reasons that do not provide adequately ~~any~~
compensatory ~~tax~~ advantages to the US, ~~positions, or other with respect~~

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~~to ~~xxxxxx~~ US land requirements, or the ~~statusxxxx~~ broader political
status question.~~

In short, we suggest that the positions proposed by OMSN
are likely to create more problems than will be ~~xxxxxx~~ resolved.

EA/ANP:JCDorrance

L/EA - Mr. Johnson
IO/UNP - Mr. Sylvester

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