

13
72

13 NOVEMBER 1973

U.S. RESPONSE TO MICRONESIAN DELEGATION
VIEWS ON PUBLIC LAND TRANSFER

I. General Observation

A. The Micronesia paper refers to the U.S. policy papers as the "U.S. Delegation's Position Paper". Let me state again what I have previously said to your Chairman on this score: This is a U.S. Government policy determination approved by the Secretary of the Interior, formulated as a response to your request for an early transfer of public lands to the districts.

It is not a "position paper" but an answer. It agrees with your request. It does so subject only to a very few basic limitations which apply during the remainder of the trusteeship.

After that you are free to do as you please, but before that the U.S. Government as administering authority must retain certain minimal safeguards. We are of course ready to do our best to explain these and to answer questions about the basic policy.

We are also flexible about how it is to be implemented but note this is a responsibility of the TT Administration and Interior who should properly be included in any discussion of these problems.

B. Aside from the foregoing the U.S. Delegation has very few real problems with the Micronesian response. We suggest that the points raised by the Micronesian response be considered jointly and will proceed to comment on the specific items raised in the order presented.

Point Number 1. Eminent Domain

Eminent Domain in our view can be shared with the districts but cannot be given up entirely so long as the U.S. Government continues to have its responsibilities under the U.N. Trusteeship.

03-033348

The exercise of eminent domain both in U.S. practice and under the TT Code is strictly limited by the rigid requirements of due process of law. These are designed to protect the rights of the individual property holder and to assure fair compensation for any taking of land.

It is a power rarely used. Indeed in the twenty-five years of the Trusteeship the central Government has used it only a couple of times without the consent of the land owners involved and then only in extreme cases. This ultimate power must however, be maintained in the U.S. Government's view in the interests of effective administration. There is little or nothing that can really be changed in the code on this score.

It will be exercised on the other hand as a matter of policy most sparingly. The central government as a matter of policy will move first to the district and ask the district to acquire any land needed in the future for central government purposes. If the district has its own power of eminent domain this would be relied on first. The Central Government's authority thus would probably never be used. But in our view the ultimate authority must remain.

Point Number 2. Military Land

I think there is general agreement between us on this matter. However, I would like to ask two questions in order to clarify for myself the intent of your remarks:

1. When you state, "We are additionally prepared to make a formal commitment to negotiate these matters in good faith with the United States after title to the lands is returned", are you saying that you are prepared to give the U.S., prior to a transfer of land titles to the districts, a commitment to negotiate on U.S. land needs once the transfer of title has

actually been effected?

2. When you state, "We are additionally prepared to make a formal commitment....." to whom does the "We" refer -- the Joint Committee on Future Status, the prospective recipients of land titles in the districts, or both? I think the U.S. would want to have the receiving entities in the districts associated with making such commitments.

Point Number 3. Military Retention Land

The new U.S. policy does not as a matter of definition address the problem of military retention land one way or the other. It is being handled separately in another negotiation.

(If pressed further) The U.S. is already on record as saying that military retention lands will be returned to the Marianas' district with the exception of those agreed to for U.S. military use or for related civilian programs such as civilian resettlement. This is a matter outside the present policy determination, however, the 14 1/2 acres in Anguar are used by the Coast Guard and will be returned when the Coast Guard no longer needs them (See attached fact sheet).

Point Number 4. Trust Territory Leases

We are unaware of any TT leases of unused private property. Any pieces of land not actually in use now are expected to be used in the very near future.

So far as we are aware the leases entered into by the TT Administration provide that in the event the property is unused it will revert to the private owner.

If, contrary to our information, there are genuinely unused pieces of land leased from private owners, this situation will be corrected immediately.

RETENTION LANDS

Current - - - - 14,078 acres (all in Marianas)

14.45 acres (Coast Guard - Anguar)

In addition to the military retention, the U.S. Government leases:

- - - - 1320.33 acres (Kwajalein)

280 acres (elsewhere in TTPI - Coast Guard &
Weather Service)

LANDS ALREADY RETURNED
TO PUBLIC DOMAIN

Marianas (Retention) - - - - -	19,558
Truk (all lands)(Retention) - - - - -	84
Palau (Retention) - - - - -	45
Yap (all lands)(Retention) - - - - -	70
Marshalls (leased)(Bikini, Ebeye, Eniwetok) - - - - -	<u>3,092</u>
TOTAL - - - - -	22,849

POINTS

The U.S. has already announced closure of Coast Guard Loran A installations at Anguar, Ebeye and Marianas and return of those lands to public domain or private owners.

Point Number 5. Manner of Negotiations

We have no difficulty with the idea of leasing military use land from or through the Congress of Micronesia or the districts so long as that lease is legally sufficient to bind the actual owner and any future government of Micronesia according to its terms. As we have agreed earlier we cannot finally sign off on a compact until there is agreement on all its provisions, including those dealing with U.S. military requirements.