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December 31, 1973

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Mr. Howard P. Willens  
Wilmer, Cutler & Pickering  
Farragut Building  
900 - 17th Street, N. W.  
Washington, D. C. 20006

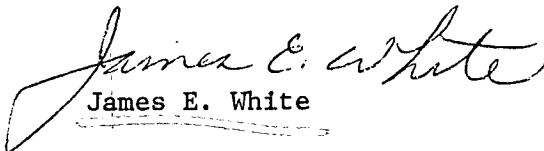
Dear Howard:

Saturday we met at the Attorney General's office and had a three (3) hour discussion on the proposed land legislation. Attending that meeting in addition to the Attorney General were Emmett Rice, Mamoru Nakamura, Kaleb Udui and myself. We intend to meet again on Thursday, January 3rd, and hopefully the final draft developed for submission to Washington will be made available at that time. It is my understanding that Jim Burg will be the initial contact back there as far as I can make out. On Thursday, or when the last draft is completed, I will send it to you. In the meantime enclosed is a copy of our scratched up work papers to this point. They should give you an idea of the present thinking.

Also enclosed is a list of other sections in the Trust Territory Code that may have to be changed or at least will be affected by this new legislation. If I remember correctly, you did not receive copies of the supplement. Therefore, I am enclosing my set and I will get additional copies for myself. I am also working on getting a copy of the proposed corporate legislation.

What does this mean?

Sincerely yours,

  
James E. White

Enclosures

Volume No. 1

1 TTC 13; 2 TTC 53; 10 TTC 2; 10 TTC 3, subsections 1 & 2;  
27 TTC 1, 2, 3, 4 & 5.

Supplement No. 1 to Volume No. 1

Departmental Order No. 2918, part 5, starting at the bottom of  
page 23 through page 26; 2 TTC 57; starting at page 59 through page 62;  
9 TTC 251, 252, 253 & 254 at page 80.

Volume No. 2

Pages 369 through 380; pages 429 through 436; pages 505 through 508;  
pages 547 through 552; possible review of Health, Safety, and Welfare  
starting at page 573 through 592; all of Title 69, pages 597 through  
624

Volume No. 2, Supplement No. 1

Pages 37 through 40, pages 49 through 62; pages 87 through 94;  
pages 113 through 119

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A BILL FOR AN ACT

To allow the transfer and conveyance of certain public lands from the Government of the Trust Territory of the Pacific Islands to legal entities in each of the six districts; to empower the High Commissioner to effectuate such transfers and conveyances; to prescribe certain limitations, reservations, and conditions to such transfers and conveyances; and for other purposes.

BE IT ENACTED BY THE CONGRESS OF MICRONESIA:

1 Section 1. Short Title. This Act shall be known as the "Public Land  
2 Transfer Act of 1974."

3 Section 2. Purpose. The purpose of this Act is to effectuate the  
4 provisions of the Public Land Policy Paper of the United States Government  
5 dated November 2, 1973, authorizing any of the six respective District  
6 Legislatures to create or to designate a legal entity within a respective  
7 district to hold title to public lands within that district in trust for  
8 the people thereof, to manage and to control the same, and to establish  
9 adjudicatory bodies which may utilize traditional means, when desired, for  
10 settlement of title thereto, and further to authorize the High Commissioner  
11 to permanently convey certain public lands within a respective District to  
12 such legal entity.

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13 Section 3. Definitions. As used in this Act unless it is otherwise  
14 provided or the context requires a different construction, application or  
15 meaning:

16 (1) "District" means any of the six administrative districts of the  
17 Trust Territory of the Pacific Islands as described in Section 1, Title 3,  
18 of the Trust Territory Code.

19 (2) "District Legislature" means any of the six chartered District  
20 Legislatures of the Trust Territory of the Pacific Islands.

21 (3) "Public Lands" means:

22 (a) Lands placed under the control of "Alien Property  
23 Title 67, of the Trust Territory Code, and,

24 (b) Those lands placed under the control of "Alien Property  
25 Custodian" as defined by Section 1, Title 27, of the Trust  
26 Territory Code.

~~SECTION 4. AUTHORITY OF DISTRICT LEGISLATURES.~~

2 (4) "Legal Entity" means any chartered government; individual; nonprofit  
 3 association, partnership <sup>or public trust</sup> corporation, (either public or private); or  
 4 any lawful person (whether natural or artificial) legally competent to  
 5 receive, and hold title to real and personal property, <sup>pursuant to the provisions</sup> to sue and to  
 6 ~~be sued in the courts and tribunals of the Trust Territory of the Pacific~~  
 7 ~~Islands, to enter binding contracts and agreements, and to manage and hold~~  
 8 ~~title to public lands within a respective District in trust for the~~  
 9 ~~inhabitants of such respective District.~~

10 (5) "Municipality" means any lawfully chartered municipal corporation  
 11 within the Trust Territory of the Pacific Islands.

12 (6) "Chartered District Government" means any district governmental  
 13 entity chartered pursuant to Title 3, Section 2, of the Trust Territory  
 14 Code or pursuant to amendments thereto.

15 (7) "United States Government Military Retention Land" means any  
 16 land subject to use, agreement, or lease by the United States Government.

17 Section 4. Authority of District Legislatures.

18 (1) Any of the six District Legislatures may, by passage of  
 19 lawful and proper legislation duly approved by the District Administration  
 20 or High Commissioner, as the case may be, create or designate a legal  
 21 entity for the purpose of receiving title to public lands within that  
 22 district.

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23 (2) Such a legal entity shall hold title to public lands received  
 24 in trust for the inhabitants of said district.

*Separate Section as to powers of entity*

25 (3) Said legal entity shall perform the following functions:

1 (a) make determination as to the extent of public lands  
2 within the district, PROVIDED HOWEVER, that provision is made by the  
3 District Legislature for appeal to the High Court for *trid de novo*  
4 from any of such determinations; and,

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5 (b) administer, manage and control such public lands and  
6 income arising therefrom in trust and for the benefit of the inhabitants  
7 of the district, including the homesteading, sale, exchange, use or  
8 disposition of such public lands.

*Subject to the other provisions of this act.*

9 Section 5. Authority of the High Commissioner. The High Commissioner  
10 is authorized to convey all public lands not hereinafter specifically  
11 reserved to any legal entity created or designated pursuant to the  
12 provisions of this Act.

13 Section 6. Reservations. Title to the following categories and types  
14 of land shall not be transferred by the High Commissioner to district  
15 legal entities and must remain the property of the central government  
16 of the Trust Territory of the Pacific Islands:

*notwithstanding the provisions of Section 5.*

17 (a) All public lands and interests therein in active use  
18 by central government of the Trust Territory of the Pacific Islands  
19 or by agencies thereof as of the effective date of this Act. Such lands  
20 may be transferred at a later date by the High Commissioner if he  
21 determines that they are no longer needed for use by the central  
22 government.

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23 (b) Public lands specifically identified as of the effective  
24 date hereof needed for capital improvement projects contained in  
25 previously approved economic development plans extending five years

(4) *any District Legislature ~~may establish~~ established by  
Legislation etc:*

(a) *establish an advisory body to, ~~work~~*

(b) *establish procedures for the operation of such  
advisory body, which may include the right to ~~and in~~  
and in ~~conflict with~~ *policy**

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*provide, however, that ~~provisions of the~~ ~~provisions of the~~  
not include the right to ~~and the~~ *in the Trust Territory**

of the High Court by any party to such an  
extent suggested by the objection of  
the the student's representative body.

1 from the effective date hereof.

2 (c) Public lands to which there are unperfected homestead claims  
3 as of the effective date hereof. Claimants under homestead entry permits  
4 to such lands shall be given ample and proper opportunity to perfect title  
5 to such lands. Parcels to which title is not perfected within the time  
6 prescribed by law and by the High Commissioner may later be conveyed by the  
7 High Commissioner to respective district entities.

8 (d) All United States Government Military <sup>lands</sup> ~~retention~~ <sup>lands</sup> shall  
9 be retained by the central government of the Trust Territory of the Pacific  
10 Islands until such time as formal agreements have been executed between  
11 the United States Government, The central government of the Trust Territory  
12 of the Pacific Islands and the district entity to accommodate United States  
13 Government needs to such lands.

14 Section 7. Limitations. <sup>Notwithstanding Sect 5.</sup> The High Commissioner shall not convey title  
15 to any public land to any district entity until contractual and/or  
16 district legislative provision has been made as is determined to be  
17 necessary by the High Commissioner, as the case may be, for:

18 (a) reservation of the paramount and ultimate power of eminent  
19 domain by the central Government of the Trust Territory of the Pacific  
20 Islands, provided however, that a district entity may also exercise the  
21 right of eminent domain for district purposes.

22 (b) reservation of the right of the central government of the  
23 Trust Territory of the Pacific Islands to control all activities affecting  
24 the public interest in and to tidelands, filled lands, submerged lands  
25 and lagoons, including but not limited to navigation, dredging,

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1 environmental protection, and marine resources management and protection.

2 (c) compliance with all provisions of leases, and land use  
3 agreements acquired by individuals or business or private concerns from  
4 the Trust Territory of the Pacific Islands. Title to such public land  
5 shall not be conveyed to a district entity until that entity has formally  
6 and contractually agreed to respect all provisions of agreements previously  
7 made and entered by the Government of the Trust Territory of the Pacific  
8 Islands.

9 (d) continuation of possession by tenants at will and of  
10 tenants by sufferance occupying public land as of the effective date  
11 hereof for a reasonable period of time to be agreed upon between the  
12 district entity and the High Commissioner.

13 (e) all use right payments, lease payments, and rentals paid  
14 to the Trust Territory of the Pacific Islands for lands being used by  
15 private individuals, corporations, or business concerns shall be paid to,  
16 and become the property of, the district entity once title to such lands  
17 has been conveyed to the district entity, to be used and disposed of  
18 according to law to be passed by respective district legislatures.

19 (f) All conveyances and transfers to be subject to all  
20 unresolved claims relating to such land. Such claims may then be settled  
21 under procedures prescribed by the respective district legislature,  
22 which may include traditional means, provided however, that any claimant  
23 thereto shall have access to the regular courts of the Trust Territory  
24 of the Pacific Islands if aggrieved by such settlement procedures.

25 (g) holding the United States Government and the Government



*Part of the problem?*

1 of the Trust Territory of the Pacific Islands harmless from any and all  
2 claims other than those resulting directly from the action of the United  
3 States Government, The Government of the Trust Territory of the Pacific  
4 Islands or from the duly authorized agents of either.

5 Section 8. Perfected Homestead Interests. Title to all lands acquired  
6 by perfection of homestead interest requirements pursuant to the provisions  
7 therefor existing on the effective date hereof, and title to all lands  
8 acquired by perfection of homestead interests hereafter by those in the  
9 process of perfection of homestead interests on the effective date hereof  
10 shall not be conveyed to district entities and no claim shall ever be  
11 allowed by any district entity to lands on which such perfected homestead  
12 interests exist.

13 Section 9. Time of Transfer and Conveyance. Conveyance of title to  
14 public lands affected hereby and transfer to the land management function  
15 to a respective district entity may occur as soon as a respective district  
16 legislature and the entity so created or designated have complied with  
17 all of the provisions hereof, irrespective of compliance of any of the  
18 other five districts.

19 Section 10. The Land Commission Act. Nothing herein contained shall  
20 in any manner void or repeal any of the provisions of the Land Commission  
21 Act as of the effective date hereof. Land Commissions may proceed to  
22 readjudicate any determination made pursuant to procedures established  
23 by respective district legislatures. Decisions and adjudications of  
24 Land Commissions pursuant to the provisions of the Land Commission Act  
25 shall control over traditional means or procedures established by district  
26 legislatures.

*Give High Com power to reorganize Land Management function to COM or appropriate committee for approval of the appropriate member & High Commissioner*

*Ministerial only*

\_\_\_\_\_ , 1973

*Edward E. Johnston*  
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Edward E. Johnston  
High Commissioner  
Trust Territory of the Pacific Islands