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REPLY VIA AIR MAIL TO Marianas Office

January 22, 1974

The Honorable Edward E. Johnston
High Commissioner
Trust Territory of the Pacific Islands
Saipan, Mariana Islands 96950

Dear Mr. Johnston:

I thank you for your letter of January 10, 1974, wherein you enclosed your "Policy Statement on Marianas Land." I can assure you that this Statement was appreciated by those individuals on Tinian seeking clarification of the effects of the moratorium.

Although this clarification is appreciated, it does not relieve what is becoming a critical land shortage on the island of Tinian. This land shortage, in fact, has nothing to do with the moratorium. Rather the shortage of available land on Tinian arises from the policy of the government that potential agricultural homestead land must be surveyed before an individual is permitted to homestead it. This would be, I am sure, a commendable policy but for the fact that the government has failed to survey additional agricultural homestead land on Tinian for many years. Thus, if my information is correct, no new agricultural homestead permits have been issued on Tinian since the late 1960's. In other words, the agricultural homestead program on Tinian has failed to accomplish its objectives.

The predictable results of this failure are now becoming painfully apparent. For example, one of my clients on Tinian raises pigs to help support his family. Since his long-standing application for an agricultural homestead has not been granted, he is forced to keep these pigs on his village lot in San Jose. This, of course, results in an unhealthy situation not only for his family, but to some extent for the entire village of San Jose. In addition, other

EXHIBIT B

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individuals on Tinian have informed me that they wish to raise produce to help feed their families and for sale in the Guam and Saipan markets, and are precluded from so doing solely because their applications for homestead have not been granted. Thus these people are now suffering an immediate economic loss which, unfortunately, must be attributed to the government. Since there are, at latest count, 106 outstanding applications for agricultural homestead on Tinian, I believe it would be safe to say that the total economic loss is quite substantial.

I assume that you would agree it is most unfortunate that government delay has caused the abundant land of Tinian to lay fallow, and has seriously impeded the economic growth of the island. I therefore further assume that you would be interested in hearing of any reasonable solutions to this problem.

The obvious solution, of course, is simply to survey and make available a sufficient number of agricultural homesteads to satisfy the land requirements of the people of Tinian. This solution would have its advantages. First, the current land shortage on Tinian could be solved. Next, this solution would prevent any prejudice to those applicants who have yet to be granted their homesteads, in the event that a land exchange or compensation program becomes necessary in the future due to military land requirements on Tinian. If the military compensates only those people who presently own land on Tinian, this would be most unfair to those applicants who would now own land but for the failure of the Tinian homestead program. Thus this solution would have the salutary effect of equalizing the land holdings of the people of Tinian, which is especially important considering the fact that they are now unequal due primarily to government action or inaction.

For these reasons, I consider the above solution to be the most fair and equitable one available. I cannot but conclude, however, that you have rejected this solution as evidenced by your imposition of the moratorium on Tinian.

I can see no point in debating the legality or wisdom of the moratorium itself at this time, except to note, as I must as a lawyer, my clients' strenuous objections to this additional impediment to their receipt of the homestead due them as citizens of the Trust Territory. Rather I will propose the only alternative I can think of to alleviate the current land shortage on Tinian.

As an alternative, I propose that the Trust Territory government make available to the people of Tinian short-term agricultural leases

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of public land. As you noted in your letter to me of January 10, 1974, "We cannot give you a definite date on which the restrictions on Tinian homesteading will be rescinded. This depends on how rapidly the current negotiations between the United States and the Marianas Political Status Commission proceed to a conclusion." I hope you would agree that those people on Tinian who are immediately in need of agricultural land should not be penalized by having to await the outcome of negotiations indefinite in length and result. Short-term agricultural leases would at least help to alleviate the immediate land shortage.

These leases could be drawn in such a way to terminate automatically when the government or military has need of the land in question. The leases could provide that the land could be used for agricultural purposes only, and permanent improvements could be prohibited. Further, the leases could be made non-assignable and provide that the government would have no liability whatsoever upon the termination of the lease. I would be happy to draft such a lease for your consideration.

One problem to the implementation of this idea, however, is Public Regulation 72-9 which regulates the leasing of public lands to citizens of the Trust Territory. For example, part 5 of that regulation requires that any leased land first be surveyed. This, of course, has been the problem all along with the homestead program. Fortunately, since the proposed leases would only be temporary and would create no real substantive rights, there would be no particular need to survey the land. A given lessee could be allowed to clear and use as much land as he reasonably needs (which would probably be less than 5 hectares in most instances, and in some instances might be 1 hectare or less). Since the land will eventually revert to the government, a survey would be completely unnecessary.

Another problem would be presented by part 8 of Regulation 72-9, which requires the government to obtain at least 5% of the unimproved capital value the leased land as rental. Since the leases proposed here are mainly to alleviate the problems caused by the failure of the homestead program, and since under the homestead program the land is granted for \$10.00, I do not believe anything more than a nominal rental would be appropriate.

In addition, parts 9 and 15 of the Regulation could present problems. I believe that actually the Regulation just does not fit the

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extraordinary situation at hand. It is for this reason that I am writing directly to you, for I assume that only you would have the authority to either waive this Regulation or order the Chief of Lands and Surveys to draft a new regulation covering the Tinian situation. In any event, I am hopeful that if you agree in principal that short-term agricultural leases of public land should be made available to the people of Tinian, a means can be found to accomplish this end.

If the economic viability of a short-term lease should be questioned, I will point out that my information as to the growing period of the produce now grown on Tinian is as follows:

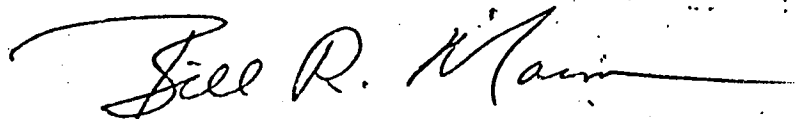
Cucumbers	-	60 days
Watermelons	-	80-90 days
Radishes	-	25 days
Chinese Cabbage	-	45 days
Tomatoes	-	75-80 days
Cantalope	-	80 days

In fact, I am informed that no type of produce takes longer than 120 days to grow on Tinian. Of course, I assume that the current status negotiations will last much longer than 120 days, and the above information is intended only to demonstrate that the leases would not have to last for an extended period of time in order to be economically valid.

I am not positive as to how many people on Tinian would apply for such a lease; certainly Francisco Aldan, my client who suggested the idea, would apply and I personally know of several other people who would. I can, however, rapidly gather information as to the number of probable applicants if you so desire.

I respectfully hope that you will give this proposal your serious consideration. I would be most happy to discuss this matter with you on your delegate further, and to provide any assistance that I can. If you should have any questions, please do not hesitate to contact me.

Sincerely,



Bill R. Mann
Attorney at Law

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