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January 23, 1974

James E. White, Esq.
P. O. Box 47
Capitol Hill
Saipan, Mariana Islands 96950

Dear Jim:

Several persons from this firm met on Monday the 21st with Jim Berg, Adrian de Graffenried, and Stephen Sander of the Department of the Interior to discuss the Public Land Transfer Act of 1974. Enclosed is a copy of a draft of that bill which reflects our thinking and the comments we received at that meeting. There is no assurance, of course, that the Department will accept any or all of the changes reflected in this draft. They have promised, however, to provide us with a copy of the version they will send at the end of this week or the beginning of next to the Trust Territory. As soon as we have a chance to review that version of the bill, we will be back in touch.

Many of the changes you will see in the enclosed draft are primarily technical. The more important changes and problems can be summarized as follows:

Page 1, line 9: The term "people" of a district instead of "peoples" is used here and elsewhere to make the point that while the peoples of the Trust Territory may have differing views about future political status, the people of a district are bound together as a political unit.

Page 3, line 9: The phrase "pursuant to the laws of the Trust Territory of the Pacific Islands and of the district" in § 4(1)(b) of the original draft is eliminated; it was either unnecessary because the legal entity would be subject to such laws anyway or it was undesirable because it granted the central government additional powers over the legal entity.

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Page 3, lines 10-13: The legal entity should have these general powers.

Page 3, lines 14 and 15: The wording hopefully will prevent the district legislatures from interfering with the day-to-day internal operations and decisions of the legal entity.

Page 3, lines 16 and 17: The enclosed draft is identical to the original draft. We are going to raise with Interior the need to permit a district legislature to designate a Land Commission to resolve disputes, though arguably, the Land Commission will retain this power anyway under the enclosed draft.

Page 4, lines 12-16: The changes here are primarily technical; we plan to discuss with Interior the desirability of a more general grant of eminent domain power to the districts.

Page 4, lines 22-25, and page 5, lines 1-9: This section now directs the High Commissioner to issue quitclaim deeds; and it requires the accrual of royalties in favor of the legal entity from the effective date of the legislation to provide an incentive for prompt transfer and to assure equal treatment of all districts.

Page 5, line 14: The word "interests" is used here and elsewhere in this section to take into account the possibility that the High Commissioner may wish to, and should, transfer land while reserving for the central government an interest in that land -- like an easement -- which the Trust Territory is actively using.

Page 5, lines 24 and 25, and page 6, lines 1-3: This section is revised to describe more exactly the category of land which the High Commissioner can withhold for capital improvement projects.

Page 6, lines 4-8: This sentence is added to assure that lands not needed will be transferred promptly.

Page 6, lines 9-17: Lands to which there are imperfect homestead claims had been dealt with in the limitation section of the original draft but are treated in the reservation section of this one. The section is now worded to minimize the period until such lands are transferred.

Page 6, lines 18-25, and page 7, lines 1-8: The first alternative is the one we proposed because it seems most accurately to describe what we expect will happen in the Marianas; the second alternative reflects Adrian de Graffenried's comment that his office will insist on a section which tracks the language of the policy statement. Either should protect the Marianas' interest.

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Page 7, line 21: The word "regulate" is substituted for "control" to reduce the scope of the central government's activity.

Page 8, lines 19-25, and page 9, lines 1-11: This section is revised to require prompt action by the High Commissioner and to recognize the fact that not all land will be transferred at the same time.

Page 9, line 21: Note that other amendments to the eminent domain provisions of the Trust Territory Code are eliminated on the ground that under section 4(4) the district will regulate the power of eminent domain of the legal entity.

Page 11, lines 8 and 9: This conforming amendment assures that the non-profit membership corporation we expect will be established is qualified to hold title in the Trust Territory.

Page 12, lines 2-19: This section assures that the many provisions in the Trust Territory Code relating to public land and alien property will not apply to lands the legal entity holds. The proviso is intended to assure that the legal entity, if it has insufficient resources to administer the land during the first two years after transfer, may call upon the District Land Office for assistance.

Page 12, lines 20-25: This section is added to assure that the rights and powers granted under the act will not be interfered with by the central government.

By the time you receive this letter we may already have communicated to you by cable our comments on the final U. S. version of this bill. Hopefully it will contain most of the changes we have suggested, but if not, the enclosed draft may be useful.

A copy of a letter sent yesterday to Stephen Sander transmitting the current draft of the bill is also enclosed.

Sincerely,

Michael S. Helfer

cc: Senator Edward DLG Pangelinan
(w/enclosures)

bxc: H. Willens
P. J. Mode
E. O'Hara

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