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To: J.M. Wilson

From: A. deGraffenried *adg*

Subj: Applicable Laws, MPSC Request for Special Treatment

Section 503(a). The following laws of the United States [presently inapplicable to the Trust Territory of the Pacific Islands] will not apply to the Northern Mariana Islands except in the manner and to the extent made applicable by the United States Congress by law after termination of the Trusteeship Agreement:

(3). The coastwise and shipping laws of the United States *and prohibition in the laws of the United States against foreign vessels landing fish or fish products in the United States; and*

The General Counsel's Office and the Office of Economic Affairs in the Department of Commerce have reviewed the MPSC request as for special treatment regarding U.S. regulation of fisheries in the Marianas. The Department notes that there is a general prohibition in U.S. statutes and regulations against foreign vessels landing fish in the U.S. The general policy is to protect and promote U.S. commercial fisheries industry. A special exception to the prohibition is made for both Guam and American Samoa.

In these territories, the U.S. felt: (1) there is a need to provide an additional source for local subsistence foods; and (2) there is a need to stimulate the isolated territorial economies. At the same time the special exception provides an opportunity for U.S. commercial fisheries industry to invest in canneries and other fish processing in these territories. The U.S. canneries take raw fish from foreign vessels and convert it into a U.S. finished product to enable its free entry into U.S. ports. Foreign fish is converted into a U.S. product by virtue of U.S. control and ownership of the plants. Department of Commerce notes that the exception could not be used to create a "legal fiction" to evade the intent of the

law, e.g., raw fish from foreign vessels would be processed in a plant not controlled, financed or owned by U.S. interests, but the finished product would technically be considered a U.S. product entitled to free entry into the U.S. by virtue of the plants location in a U.S. territory.

I imagine Commerce especially would want to avoid a loophole situation from arising during the trusteeship period and before the U.S. Congress addresses the issue. Department of Commerce stated very frankly that the U.S. commercial fishing industry would strongly oppose any opportunity for a legal fiction situation to arise in the Marianas.

I reached an understanding with Department of Commerce that it was our intent to follow the existing situation with Guam and American Samoa and was our intent to encourage U.S. vice foreign commercial fishing investment in the Marianas. We agreed that some specific mention of this might be incorporated into the legislative history document. It would also seem appropriate that the MPSC proposal be amended as a technical matter as follows:

"(3) The coastwise and shipping laws of the United States and prohibition in the laws of the United States against foreign vessels landing fish or *unfinished* fish products in the United States; and..."

This technical change would preclude foreign commercial fishing interests from using high, sophisticated processing techniques to circumvent the law, e.g., foreign fisheries vessels actually processing raw fish on the boats and landing the finished product in U.S. ports or in the Marianas. The change would also prevent TTPI (Marianas) ships from carrying or trans-hopping foreign fish products to the U.S.

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NOV 17 1974

Mr. Stanley S. Carpenter
Director
Office of Territorial Affairs
Department of the Interior
Washington, D.C. 20240

Dear Mr. Carpenter:

Reference is made to Mr. Radewagen's letter of October 2, 1974, and to our interim dispatch reply, of October 15, with respect to Tinian homesteading problems.

People concerned with Tinian homesteading have been assured there is no restriction on homesteading outside the areas covered by the U.S.-MPSC Joint Communique of last May, and as affected by our policy statement of December 14, 1973. We have now obtained a copy of the survey map prepared recently for the United States to show the southern boundary of the area desired by the U.S. As soon as it is confirmed by the U.S. and MPSC, the District Administrator and his staff can proceed with development of homesteads in the area outside the military retention land.

There are 141 applications for Tinian agricultural homesteads, 39 of which were received after May 8, 1973. No permits have been issued due to lack of boundary surveys. The Mariana Islands District has not budgeted for surveying Tinian homesteads. However, funds are available to Headquarters Lands and Surveys Division for identifying and mapping public lands. Our plans for surveying and mapping the public lands of the Territory call for aerial photography of Tinian to be conducted during the second half of 1975. At that time we can assist the District Administrator in surveying the homestead lands. To attempt to do it earlier would disrupt the present mobilization of the contractor who will conduct the survey in the Marianas, Truk, Ponape, and the Marshalls. A major change in the work schedules would be prohibitive in cost and waste of time.

There have been 75 agricultural homestead deeds granted on Tinian since the program started, 35 of which are within the proposed military retention areas. Three deeds are being processed in Headquarters and will be issued in the near future.

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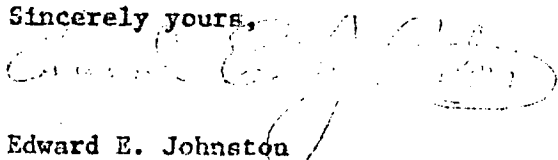
One hundred thirty village lot homesteads have been conveyed and 61 permits have been issued. Deeds will be issued for the pending homesteads when they mature. There are 11 village lots available for homesteads. Applications received before May 8, 1973, are being reviewed in order to issue entry permits in accordance with District policy with respect to homesteading. There are 16 applications dated prior to May 8, 1973, and 34 applications have been received since that date.

The Ad Hoc Land Policy Review Commission which was established by the District Administrator has had two meetings and has organized for the study of homestead problems. The recent election campaign has occupied the time of nearly all members of the Commission. As soon as possible the Commission will meet for further study of the homesteading program. We certainly concur with your comments on what the Commission should undertake at the earliest possible date.

The District Administrator and his staff are making every practicable effort to carry out your request with respect to informing all concerned that homesteading is a local matter, and that there is no moratorium on homesteading. However, we need confirmation of the area of Tinian that is outside the land desired by the United States. Enclosed is a copy of the survey map prepared by Lyon Associates Inc., showing the land desired by the United States. Please show this to Ambassador Williams and obtain his confirmation that the line shown on the map reflects his desires with respect to Tinian land. When the map is returned we can then obtain confirmation of the Marianas Political Status Commission and proceed further with Tinian homesteading.

Enclosed are copies of communications pertaining to Tinian homesteading as requested by your telex received this date.

Sincerely yours,


Edward E. Johnston
High Commissioner

- Enclosures: (1) Marianas Land Survey, Tinian,
NAVFAC Drawing 7,304,754, September 13, 1974
- (2) Communications between District Administrator,
Marianas and High Commissioner re Tinian homesteads

H.C. r.f.

H.C. s.f.

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