

OFFICE FOR MICRONESIAN STATUS NEGOTIATIONS

WASHINGTON, D.C. 20240

UNCLASSIFIED
CONFIDENTIAL

14 March 1974

MEMORANDUM FOR THE RECORD

Subj: Tinian Moratorium

03
5/6
Tinian

DECLASSIFIED/RELEASED
ON JUL 10 1985 UNDER PRO-
VISIONS OF E.O. 12355 BY
YMCS D.R. DOLAN, USN
SPECIAL ASSISTANT, OMSW

1. Background. Just prior to Marianas II, on 8 May 1973, the U.S. Delegation made known its military land requirements on Tinian, i.e., purchase all of Tinian and lease back the southern 1/3. (Under this arrangement, had it come to pass, there could have been no further homesteading on Tinian). This announcement to the MPSC resulted in several actions related to leases and homesteads on Tinian. In sequence:

a. In May 1973, the MPSC expressed considerable concern on the subject of preventing or controlling land alienation. The U.S. response was that the best solution to this problem rests within the powers of the Marianas itself and suggested that Marianas legislation be enacted as the first step.

b. On 11 June 1973, Deputy HICOM, responding to a 14 May 1973 memo from DISTAD Ada regarding the lease of public lands on Tinian stated, "Due to recently revealed plans of the United States Government for Tinian Island, further efforts toward finalization of this lease and any other lease of public lands on Tinian should be discontinued indefinitely".

c. By memo to Ambassador Williams dated 3 July 1973, HICOM stated, inter alia, that the Tinian Municipal Council had been informed that "due to Marianas separate talks and in view of imminent military requirements on Tinian, progress in developing a master plan for Tinian, would be suspended". It was also reported that DISTAD Ada gave assurances to the HICOM that the District had not only suspended the preliminary efforts toward a master plan, but fully understood that no land leases or homesteads (other than deeds on homesteads already approved) where government land is involved will be issued.

d. DOTA sent a memo to Mr. James M. Wilson dated 13 July 1973 on the subject of Tinian Master Planning. This memo reported that pressure had been building up for new homesteads on Tinian apparently for the purposes of land speculation. It also requested Mr. Wilson's position on construction of a Head Start building on Tinian. The memo closed by stating that the speculative activities on Tinian shows the probable need for direct action to prevent wholesale dealings in land resulting in highly inflated costs.

e. Mr. Wilson's response to the above memo indicated no objections to the Head Start project. With regard to land leases and homesteads on Tinian, Mr. Wilson wrote "...there is no objection to honoring those land leases or homestead applications that were approved prior to 8 May, 1973... ..All applications for use of public land or military retention land made subsequently should be held in abeyance until negotiations are completed". Mr. Wilson's memo was forwarded to the HICOM by DOTA, apparently as a policy statement.

OMSW-90 34911657E D
CONFIDENTIAL

CONFIDENTIALS I F I E D

f. On 28 July 1973, PDN carried a slanted story on the moratorium. This was the first public disclosure of the "Tinian Moratorium".

g. During Mr. Wilson's trip through the Western Districts early August, he met with the Marianas District Legislature, and during the session he explained the necessity for the moratorium, i.e., to prevent speculation, and stressed the short term, temporary nature of the moratorium.

2. Discussion

A. Reasons for the "Moratorium"

The "moratorium" issue is still very active as evidenced by the passage of HJR 88 in the Congress of Micronesia on the subject. Mary Vance Trent called 20 February 1974 asking for guidance on the subject as a result of a question asked during hearings on land legislation in the COM. The question was, "Did Ambassador Williams tell the MPSC that the moratorium was only a matter of weeks or months?"

The answer was based on the record of the Ambassador's meeting with the Marianas District Legislature and MPSC on 31 August 1973. The main subjects at this meeting were permits for homesteading and foreign business establishments in the interim period pending completion of status negotiations. During the meeting he stressed that the reasons for the suspension of permits was in order to prevent land speculation and preemption of business opportunities, neither of which would be in the interests of the people of Tinian nor of the United States, pointing out that the suspension of land acquisition in areas under consideration for public use is our normal procedure. The Ambassador stressed that such suspension is customarily temporary until final decisions are made and stated that in the case of land on Tinian such suspension should be thought of in terms of weeks and months rather than years as has been mistakenly assumed in other cases.

Most of the discussion following Ambassador Williams' opening statement to the assemblage focused on the so-called Tinian moratorium, including presentation of statements by Atalig, Borja and others. These statements and follow-on comments carried the central theme that the suspension or so-called moratorium may last over a period of years and is certainly not temporary in nature. Ambassador Williams countered this argument by an explanation of his position. He referred to his 29 August meeting on Guam with Senator Pangelinan and President Santos where tentative agreement had been reached on holding the next session of Marianas Status Talks in early November. At that time the subject of military land requirements would again be discussed and hopefully some agreement reached. In the meantime, over the next few weeks, it would be to the long-term benefit of the Marianas and Tinianese to prevent undue land speculation on Tinian by maintaining a moratorium while active negotiations are being conducted.

During the December session, Marianas III, Ambassador Williams was able to obtain a policy statement on Marianas land from the HICOM. This

411638

U N C L A S S I F I E D
CONFIDENTIAL

memo, dated 14 December 1973, addressed two subjects: (1) During the active period of negotiations there will be no leases of public lands without consultation with the MPSC, and (2) with regard to the homesteading program, it has been determined that it would not be in the best interests of the future of the Marianas to grant any new homestead permits on Tinian after 8 May 1973; however, transactions which were in process prior to 8 May would continue to be processed but this was purely a temporary situation during active negotiations.

B. Legal Basis of "Moratorium"

The 14 December memorandum and press release on the same subject was the first official announcement by the HICOM that there was a temporary standdown on the disposition of public lands for homesteading on Tinian with regard to post-8 May 1973 homestead applications and that this situation would remain in effect while negotiations were actively underway. According to the Assistant Solicitor, Territories, Department of Interior, the designation of public land for homesteading purposes by the High Commissioner is permissive. Applications for permits to homestead may be approved or disapproved by the District Administrator and there is no requirement that he must approve them nor are there any criteria for disapproval. Furthermore, there is nothing in the Trust Territory Code that prescribes the manner in which the High Commissioner must issue or promulgate an order restricting or limiting homesteading applications.

In summary, the so-called moratorium on post-8 May 1973 applications for Tinian homesteads is legal under the Trust Territory Code.

C. Tinian Homestead Status

As of 8 May 1973, 1270 acres on Tinian were in private hands. At that time, 83 agricultural homestead applications and 15 village homestead applications had been received by the District Administrator. These applications were to be processed by the homestead review board for establishment of priorities and determination of personnel qualifications of applicants. However, as of 2 February 1974, in response to a query from Ambassador Williams, the High Commissioner reported that nothing had been done to process any of the 83 agricultural homestead applications. Ambassador Williams' question must have triggered some action since the Director, Resources and Development stated on 11 February 1974 that 15 village homestead applications had been forwarded to the homestead review board for establishment of priorities and determination of personnel qualifications. Further information received 8 March reveals that the processing of paperwork on pre-8 May Tinian homesteads has been accelerated by the Tinian Branch Office and the names, dates, ages and priorities are complete (Pre-8 May applications now number 16 village and 99 agricultural which indicate that 1 village and 16 agricultural applications may have been altered after the fact to pre-date them).

U N C L A S S I F I E D
CONFIDENTIAL

The bar to issuance of entry permits is the requirement to survey the land before it is homesteaded. It is quite obvious that this requirement is the main obstacle to complete the processing of pre-8 May homestead applications. In fact, even without the restriction on post-8 May applications, it appears doubtful that the homesteading program on Tinian would have progressed much further unless applicants were willing to pay for their own surveys which they are always free to do. No District Survey Crews have been assigned to Tinian. The Marianas District Land Office is currently authorized 16 survey personnel and has 13 employed, consisting of 1 District Surveyor (registered), 1 survey supervisor (registered), and 11 unregistered field personnel. Two crews are assigned to Saipan and one to Rota. There are no indications that the District is planning any increase in the survey effort for Tinian.

The three survey crews are not always available for surveying. The combination of absenteeism among the unregistered field workers and normal leave by the registered surveyors severely reduces the capability of the survey effort. Best information is that at a given time no more than one team is operationally effective. This deficiency is recognized throughout the Marianas as the major impediment to the issuance of homestead permits. In fact, there is a large backlog of homestead applications on Saipan due to the lack of surveying.

The issuance of entry permits for village homestead sites is not dependent on new surveys, and as of 6 March it was learned that permits were being typed for those pre-8 May 1973 village homestead applicants who are otherwise qualified and should be issued shortly.

The "moratorium" has not stopped the submission of homestead applications. Land Office records reveal that 23 agricultural homestead applications and 24 village homestead applications have been made since 8 May 1973. These are being processed to the point of listing names, dates and ages and establishing a priority.

In summary, there has been no final action on issuing agricultural homestead permits on Tinian since 1968 due primarily to the inadequacies of the Marianas District land survey effort. The "moratorium" on post-8 May 1973 homestead applications did not stop the homesteading effort on Tinian. It was already stopped. Instead, actions taken as a result of prodding by Ambassador Williams have resulted in movement in the backlog of pre-8 May applications, some of which have been on file for several years.

D. Impact of "Moratorium"

(1) Real

There has been little if no real impact on the opening of Tinian land to homesteading. As mentioned in the foregoing paragraph there may have been more movement on the pre-8 May 1973 applications as a result of the "moratorium" than if restrictions had not been imposed. The record of the Marianas District Administration with regard to homesteading on Tinian

~~CONFIDENTIAL~~ S I F I E D

has not been good. However, prior to the "moratorium"-announcement there appears to have been very little pressure from the Tinianese to have their applications fully processed and permits issued.

(2) Emotional

Emotions have run high over the so-called moratorium. In spite of all the explanations by TT officials, Ambassador Williams, Mr. Wilson and others as to the need to restrict temporarily homesteading on Tinian, the Tinian moratorium has become a cause celebre in Micronesia. The latest in a series of statements and local resolutions is Congress of Micronesia Joint House Resolution No. 88 which was introduced by Felipe Atalig and adopted at the end of the recent session of the COM. The thrust of the resolution and most public statements, including comments by the Micronesian Legal Services Corporation, is that the United States wants its land acquisition for military purposes on Tinian "to be as cheap and uncomplicated as possible and is willing to use devious and hypocritical means to achieve this goal".

3. Conclusions

a. The United States, acting through the High Commissioner, was legally justified in imposing restrictions on further homesteading on Tinian as of 8 May 1973 until such time as negotiations between the U.S. and MPSC were complete.

b. The restriction on post-8 May homesteading (termed moratorium by the Pacific Daily News and subsequently by others in the Marianas) was considered to be temporary in nature while status negotiations are ongoing based on statements by Mr. Wilson, Ambassador Williams and the High Commissioner.

c. Although no restrictions were placed on pre-8 May 1973 homestead applications, issuance of homestead permits have been held up due to the inadequacies of district survey capabilities. No agricultural homestead permits have been issued.

d. Declaration of the moratorium has had more effect on emotions in Micronesia than it has on impeding development of Tinian.

e. It would be advantageous to the U.S. negotiating position in the Marianas to find a way to begin a modest agricultural homestead program for the southern 1/3 of Tinian outside the safety arc.

f. Removal of all homesteading restrictions for the southern 1/3 of Tinian would appear as a victory for Atalig and HJR 88 unless the U.S. receives some benefit in return.

UNCLASSIFIED
CONFIDENTIAL

Considerations

1. Lifting of Tinian homestead restrictions before reaching agreement on land would be viewed as irresponsible by members of the U.S. Congress.
2. Relocation sites for San Jose Village not determined.
3. In principle, land in the southern 1/3 has been offered in exchange for proven homesteads/private lands in northern 2/3.
4. Limits of ammunition safety arc have not been surveyed. Land subtended by the safety arc will be available to Tinianese for agricultural use on long-term, nominal fee, lease basis.
5. There is evidence that some of the post-8 May 1973 homestead applications are being altered to indicate pre-8 May 1973 submission.
6. The Marianas District Surveying Organization is incapable of an accelerated program unless augmented by private/military sources or it is given other priorities.
7. Ken Jones has leased large portions of the southern 1/3 that is suitable for homesteading.
8. Ken Jones' ranch is major employer on Tinian.

Recommendations

1. Issue pre-8 May 1973 San Jose village homestead permits to qualified applicants since survey requirements are less stringent or plats are already surveyed. However, exclude those sites that fall within the area required by U.S. military in event San Jose not relocated.
2. If feasible and legal, announce a shorter waiting period for fulfilling homestead requirements for pre-8 May applicants, i.e., 3 years minus elapsed time since 8 May 1973.
3. TT expedite the survey effort in Tinian's southern 1/3 by hiring private surveyors or by requesting survey assistance from the military on a reimbursable basis.
4. Offer parcels of land in southern 1/3 in exchange for those private lands in the northern 2/3 without regard to a land agreement. However, avoid exchanges for land that lies within possible village relocation site.
5. U.S. military identify the safety arc and then TT offer long-term agricultural leases for land subtended by the arc (subject to approval of MPSC).
6. After consultation with Ken Jones, make public statement of U.S. intent to minimize short-term impact on Ken Jones' ranch operation, particularly until base development and employment opportunities are well advanced.

411662

UNCLASSIFIED
CONFIDENTIAL

7. Announce that agricultural homestead applications for the southern 1/3 will be accepted for processing as of a certain date, e.g., 15 June 1974, if there are public assurances from MPSC that the U.S. minimums on Tinian will be met.

R. J. Scott

UNCLASSIFIED
CONFIDENTIAL 411663