



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

APR 4 1975

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Memorandum

To: Assistant Secretary--Management

Through: Assistant Secretary--Program Development and Budget

From: Acting Director, Office of Territorial Affairs

Subject: Secretarial Order and Proclamation for a Plebiscite in the Northern Mariana Islands District of the Trust Territory of the Pacific Islands

Transmitted herewith are two documents for secretarial signature. One is a Secretarial Order establishing the mechanism to conduct a plebiscite in the Northern Mariana Islands District of the Trust Territory of the Pacific Islands. The other is a "Proclamation" calling for a referendum and establishing the language to be placed on a ballot in which the people of the Northern Mariana Islands District will freely express their wishes as to whether or not they want to join in political union with the United States Government as a Commonwealth. These documents have been painstakingly worked out between the Department of State, the Department of Justice, the Department of Defense, the Office of Micronesian Status Negotiations, this Department, and the White House.

The formats are somewhat unusual. The Secretarial Order contains in its preambles a series of "whereas" clauses. These "whereas" clauses are determined by all the agencies involved in formulating the Order to be of extreme importance. Our Office has been advised by the Directives Management Staff of the Office of Management Consulting in the Office of the Assistant Secretary--Management, that this Order, because of its whereas clauses is not acceptable.

In connection with the proposed "Proclamation," we are advised by the same Directives Management Staff that since it is not an Order they will not process it or take the responsibility for having it placed in the Administrative Manual. Admittedly, the "Proclamation" could be processed as an Order. However, I have been advised by the Office of Micronesian Status Negotiations that the use of the word "Proclamation" was a conscious and considered decision made by all the participating departments' offices including more particularly the White House. I am also advised that Francis Franklyn Dayon Williams feels the use of the word "Proclamation" is highly desirable.

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A question has been raised as to the legality of the "Proclamation," it being asserted that only the President may issue proclamations. While I agree that only the President issues Presidential Proclamations; nevertheless, in the peculiar circumstances of this unique case, I see no reason why the Secretary cannot issue an Order which he calls a "Proclamation" pursuant to the authority vested in him by Executive Order 11021. By that Order he is charged by the President of the United States with the duty of taking "such actions as may be necessary and appropriate to carry out the obligations assumed by the United States as the administering authority of the Trust Territory under the terms of the Trusteeship Agreement..."

Under Article 6 of the Trusteeship Agreement, the United States is required to foster the development of political institutions in the Trust Territory and to allow its peoples to freely express their wishes in regard to their future political status. The people of the Northern Mariana Islands District are now prepared and ready to express their wishes on a future political status in a plebiscite. It certainly seems to me that the Secretary can call this referendum by "Proclamation." I have checked with the Assistant Solicitor for Territories who concurs with me in this position.

If you agree with us in connection with these documents, I would appreciate it if you would direct the aforesaid Directives Management Staff to process them as promptly as possible. The timing for the execution of these documents by the Secretary is of the essence. The Plebiscite Commissioner, who has just been nominated by the President of the United States, must go out to the Northern Mariana Islands District immediately so that he can establish the machinery for the plebiscite and commence the political education phase of the program called for by the Order and "Proclamation."

~~Emmett H. Rice~~

Emmett H. Rice

Enclosures

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