

March 3, 1992

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TO: PCC Working Group on Law of the Sea & Oceans Policy
FROM: OES/OA/MLP - Kathleen Walz
SUBJECT: PCC Level Clearance Request

Attached is a draft letter to the Special Representative of the President informing him of the decision of the Policy Coordination Committee to support legislation giving the Commonwealth of the Northern Mariana Islands a three mile submerged lands act grant, subject to the general qualifications made in the grants to Guam, American Samoa, and the U.S. Virgin Islands. Also attached are similar letters to the chairmen of the House Committee on Merchant Marine and Fisheries; the House Committee on Interior and Insular Affairs; the Senate Committee on Commerce, Science, and Transportation; and the Senate Committee on Environment and Public Works.

At a meeting of the PCC Working Group on February 27, it was agreed that these letters would be circulated for PCC level clearance. I have enclosed a list of key dates involving CNMI, by way of general background.

I would appreciate receiving any comments and clearance by March 20th (tel. - 202-647-9098; fax - 202-647-1106).

Washington, D.C. 20520

The Honorable Lou Gallegos
Special Representative to the Commonwealth
of the Northern Mariana Islands for the
902 Consultations
.1520 Deborah Road - Suite M
Rio Rancho, New Mexico 87124

DRAFT

Dear Mr. Gallegos:

I would like to inform you in your capacity as Special Representative of the President that the National Security Council Policy Coordination Committee on Ocean Policy and the Law of the Sea (PCC) recently undertook a review of U.S. offshore jurisdiction in connection with H.R. 3842, "The Territorial Sea and Contiguous Zone Act of 1991." The PCC has determined that it would support Congressional legislation granting the Commonwealth of the Northern Mariana Islands (CNMI) rights to submerged lands three geographic miles offshore of each of the islands, as delimited from the baselines used to determine the territorial sea of the United States.

The purpose of this grant would be to place CNMI on a parity with Guam, the United States Virgin Islands, and American Samoa, which received three-mile grants in 1974 pursuant to the Territorial Submerged Lands Act, 48 U.S.C. Section 1705 (TSLA). In order to maintain this parity, the grant to CNMI should also be subject to the general exemptions and reservations made under the 1974 act, to the extent applicable to CNMI. Such exemptions might include submerged lands adjacent to property owned by the U.S.; parcels or blocks containing in whole or part structures or improvements constructed by the U.S.; and submerged lands underlying national parks, national wildlife refuges, or other areas previously determined to be of special scientific, scenic, or historic character warranting preservation and administration under Title 16 of the U.S. Code. Rights reserved under the TSLA include the right to establish naval defense sea areas and airspace reservations and U.S. navigational servitudes and powers of regulation for purposes of commerce, navigation, national defense, and international affairs. The TSLA also prohibits discrimination in rights of access to and benefits from the submerged lands conveyed by the United States.

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In addition to placing CNMI on an equal footing with Guam, the Virgin Islands, and American Samoa, a three-mile grant to CNMI would be similar to Congressional grants to the Commonwealth of Puerto Rico and States of the Union. The Commonwealth of Puerto Rico received rights in offshore submerged lands pursuant to 48 U.S.C. Section 749, as amended in 1980, but seaward to three marine leagues, the maximum Submerged Lands Act grant to Florida along its coast in the Gulf of Mexico and to Texas. All other coastal States and the east coast of Florida have a grant of three geographic miles under the Submerged Lands Act of 1953.

But for such an express three-mile grant to CNMI, United States sovereign rights would remain unaffected within the 12-mile territorial sea, the 12-mile contiguous zone, and the 200-mile exclusive economic zone surrounding CNMI.

Sincerely,

Curtis Bohlen

DRAFT

BCC: Mr. Joseph A. Canedo
Office of the Special Representative to
the Commonwealth of the Northern Mariana Islands for
the 902 Consultations
1849 "C" St., N.W. (Stop 6628)
Wash., D. C. 20240

Mr. Jack Rigg
Department of the Interior/TIA
Washington, D.C. 20240-4323



United States Department of State

*Bureau of Oceans and International
Environmental and Scientific Affairs*

Washington, D.C. 20520

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Dear Mr. Chairman:

After a review of U.S. offshore jurisdiction in connection with H.R. 3842, "The Territorial Sea and Contiguous Zone Act of 1991," the National Security Council Policy Coordination Committee on Ocean Policy and the Law of the Sea has determined that it would support Congressional legislation granting the Commonwealth of the Northern Mariana Islands (CNMI) rights to submerged lands three geographic miles offshore of each of the islands, as delimited from the baselines used to determine the territorial sea of the United States.

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The Honorable
Walter B. Jones, Chairman
Committee on Merchant Marine & Fisheries
U.S. House of Representatives

In addition to placing CNMI on an equal footing with Guam, the Virgin Islands, and American Samoa, a three-mile grant to CNMI would be similar to Congressional grants to the Commonwealth of Puerto Rico and States of the Union. The Commonwealth of Puerto Rico received rights in offshore submerged lands pursuant to 48 U.S.C. Section 749, as amended in 1980, but seaward to three marine leagues, the maximum Submerged Lands Act grant to Florida along its coast in the Gulf of Mexico and to Texas. All other coastal States and the east coast of Florida have a grant of three geographic miles under the Submerged Lands Act of 1953.

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We appreciate the efforts of the committee in preparing complex legislation to clarify the scope of domestic authority and jurisdiction within the territorial sea and contiguous zone and the committee's interest in identifying and resolving legislative anomalies, such as this one concerning the CNMI.

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Curtis Bohlen



United States Department of State

*Bureau of Oceans and International
Environmental and Scientific Affairs*

Washington, D.C. 20520

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The Honorable
Ernest F. Hollings, Chairman
Committee on Commerce, Science, & Transportation
United States Senate

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The Honorable
George Miller, Chairman
Committee on Interior & Insular Affairs
House of Representatives

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George Bush Library Photocopy

The Honorable
Quentin N. Burdick, Chairman
Committee on Environment & Public Works
United States Senate

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THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

KEY DATES

1898 - The Kingdom of Spain ceded the Northern Mariana Islands to Germany.

WWI - CNMI was seized by Japan.

1947 - The U.N. approved the Trusteeship Agreement, under which the U.S. administered the former Japanese-mandated islands.

- Civil administration was under the authority of the Secretary of the Navy, except for Rota, which was under the civil administration of Secretary of the Interior.

1962 - Civil administration of CNMI was placed under the Secretary of the Interior.

1974 - Guam, American Samoa, and the Virgin Islands received a three-mile submerged lands act grant (48 U.S.C. Section 1705).

1975 - The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America was approved by plebiscite.

1976 - The U.S. Congress approved the Covenant. (Some provisions were given limited effect in 1976 and 1978.)

1977 - The Constitution of the Northern Mariana Islands was approved by presidential proclamation.

1978 - The NMI Constitution became effective 1/9/78.

1980 - A Presidential Proclamation exempted CNMI from certain U.S. vessel documentation requirements. (Note: This proclamation defined the coordinates for the 200-mile fishery conservation zone for purposes of this proclamation.)

1983 - The U.S. established a 200-mile Exclusive Economic Zone by Presidential Proclamation 4726, which included the 200-mile zone off CNMI "to the extent consistent with the Covenant" and the U.N. Trusteeship Agreement.

1986 - The U.S. Trusteeship was terminated 11/3/86 and the NMI Constitution and Covenant became effective 11/4/86.

- U.S. relations with CNMI were generally placed under the Secretary of the Interior.

1988 - Presidential Proclamation 5928 (Dec. 27, 1988) established a U.S. territorial sea of 12 miles, including the 12-mile zone offshore of CNMI.