



**FILE
START**

Computer # _____

TRUST TERRITORY OF THE PACIFIC ISLANDS--ARCHIVES SURVEY FORM

Primary Branch, Department, Bureau, or Office producing materials: R&D

Subgroup of the above: LAN

Author/Title/Date of publication (if any) of specific materials:

Subject of materials: (See schedule in TTPI Files System Manual) LAN. 1-2, 4

Brief description: POLICY REGARDING MARINE LANDS FILLED (TALAU)

Geographic area dealt with in materials:

TTPI at large:
Individual districts: ✓
Individual governments:
Individual islands:
Other:

Span of years covered by materials: 1971-1975

Format of information:

Correspondence: ✓
Reports: ✓
Clippings:
Other:

Physical arrangement of materials: (How are they organized within the file?)

Geographically:
Chronologically:
By subjects: ✓
By organization:
Other:

Physical location of materials: (Area where presently located)

Office: R&D Subgroup: LAN
File cabinet number: 97813
Drawer number: 2
File folder number: 78.81.4
Estimated quantity of materials: 1 FOLDER

Recorded by: *SL*

Date: 10/7

Disposition of originals: 1 FOLDER

Microfilm roll No.: 3

Frame #:

Computer # _____

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Frame #:

Attorney General

Jan. 24, 1975
Serial:LS14658
File:178.81.0

Chief, Lands and Surveys

Status of Marine Lands filled by Government adjacent
to Private Uplands

The right of the Government to fill in marine lands adjacent to privately owned uplands and to retain ownership of the newly created filled lands appears to be well established under United States statutory and case law.

The question arises as to whether the Trust Territory Government in filling such lands is dispossessing the upland owner of his rights under 67 TTC 2(1)(c). 67 TTC 2(1)(c) extends to the upland owner the right to fill in marine lands owned by the Government upon application and the granting of permission by a District Administrator. If the Government itself fills the adjacent marine area, is the upland owner being deprived of this right conferred on him under law? The Chief Justice, in Ponape District Civil Action No. 415 (5 TTR 628), appears to say that the Government would be so doing. This opinion appears to differ from United States Law (see 3 TTR 27).

From an administrative point of view, United States law appears to be much more practical. However, if our reading of 5 TTR 628 must be followed, may the Government acquire this right through purchase? If the Government proceeds without acquiring this right, may the upland owner seek injunctive relief against the Government? If the Government controls the uplands and its appurtenances through a lease, may the Government fill the marine lands without specific authorization of the upland owner, i.e., is this right an appurtenance to the leased land? What is the status of the filled land after termination of the lease? We believe that the Government would own the filled lands, but what has happened to the upland owners right under 67 TTC 2(1)(c). The right appears no longer to exist. May the upland owner seek compensation from the Government for the loss of this right?

The above questions clearly point out the administrative difficulties which arise if our reading of 5 TTR 628 is correct.

The District Attorney, Marshalls, in his "Title Opinion" (copy attached) concerning a parcel of land filled by the Government at Majuro, appears to say that the upland owners rights are in a state of suspension until the Government removes its improvements and presumably fill material from the marine lands.

Attorney General

Jan. 24, 1975
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2.

While this may answer the question as to the status of the upland
owners rights, 5 TTR 628 would seem to provide an avenue for
compensation for suspension of this right. Determination of just
compensation, however, would be most difficult.

Your opinion on the above is then solicited.

Kozo Yamada

Enclosure: s/s

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Yamada

asure: a/s

ZCZC NS428/16/HL SKA
P. 180049Z NOV 52
FM NICOMIERPACIS SAIPAN
TO PISTAD PALAU

BT
REQUESTING ACTING DISTRICT LAND MANAGEMENT OFFICER OBTAIN COPY OF
NOTICE OF SPECIAL HEARING BY LAND COMMISSION ON LAND CLAIM DATED
OCTOBER 20 FOR HEARING ON OWNERSHIP OF LOT 233 A 23. ANNABESAN
ISLAND AND CONSULT WITH DISTRICT ADMINISTRATOR TO ENSURE GOVERNMENT
ASSERTS ITS CLAIM FOR OWNERSHIP OF LAND FILLED BY JAPANESE
ADMINISTRATION ABOUT 1943. SENIOR LAND COMMISSIONER INDICATES HE MAY
FIND A UNIT OF LOCAL GOVERNMENT AS OWNER. IT APPEARS TO US THIS
CASE IS QUITE SIMILAR TO PROTESTANT HIDDEN AT BANANG H. TRUST
TERRITORY GOVERNMENT, 3 TTR 26. NOTE IN CITED CASE OWNER WAS
DETERMINED TO BE ALIEN PROPERTY CUSTODIAN. HOWEVER, THIS POSES
NO PROBLEM AS ALIEN PROPERTY CUSTODIAN ONLY HOLDS LAND FOR
BENEFIT OF THE INDIGENOUS INHABITANTS OF TRUST TERRITORY. ALSO
SEE 67 TIC 2 AND VESTING ORDER OF SEPTEMBER 27, 1951. PASS INFO
COPY THIS MESSAGE TO SENIOR LAND COMMISSIONER. CHIEF LANDS AND
SURVEYS SENDS
BT

NNNR

178,81.6

Carlos Etcheit
PONAPE S.C.I. 96941
To Senior Land Commissioner
Ponape District
PONAPE S.C.I. 96941

September 9, 1971

Dear Mr. Castro,

I hereby acknowledge the receipt of your letter of this date, delivered to our store at 13.30 o'clock.

I beg to inform you that the Etcheit family's properties in MPOMP, Net District, are bounded by the rivers TAVANU and LUI, the seashore and the hillside, a superficies of about 500 hectares. The mangrove swamps alongside the seashore and the rivers are integral parts of the properties, and if the Japanese government has allowed any filling or improvement to be made on the seashore side of our land, it does not change the boundaries of our properties which have always been between the rivers TAVANU and LUI.

In the natural boundaries are undisputable, no others can be accepted by me and I don't see any reason nor necessity for you to send a delegation to put up an imaginary boundary line in our part of the seashore filled by the Japanese.

Yours sincerely,

Carlos Etcheit
Carlos Etcheit

*necessary to make a
survey - traverse (not a boundary)
so area will close and an
average can be computed*

cc: His Excellency the High Commissioner
District Administrator, Ponape,
Acting District Land Management Officer
District Surveyor
Chief, Lands and Surveys, Saipan.

*File
Ponape Land File
Rand Hill
178-81-7*

*Frankie has
his hands full
here but I'll have
him call you to see how
good you can be to
stand firm on the
public lands.*



~~178-147~~

178-81-7

8/16/71 SKA
NOV 72
ERRACLE SAIPAN
PALAU

G ACTING DISTRICT LAND MANAGEMENT OFFICER OBTAIN COPY OF
SPECIAL HEARING BY LAND COMMISSION ON LAND CLAIM DATED
FOR HEARING ON OWNERSHIP OF LOT 26 A ST. ANGELES
IN CONFLICT WITH DISTRICT ADMINISTRATION TO ENEMY GOVERNMENT
IS CLAIM FOR OWNERSHIP OF LAND FILLED BY JAPANESE
ABOUT 1943. SENIOR LAND COMMISSIONER INDICATED HE MAY
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178.81.6

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Senior Land Commissioner
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be completed
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*File
Ponape Land File
Raid File
178-81-7*

His Excellency the High Commissioner
District Administrator, Ponape,
Acting District Land Management Officer
District Surveyor
Chief, Lands and Surveys, Saipan.

*Frankie has
his hands full
here with I believe
will have to turn to
stand firm on the
file lands
M.H.*



TRUST TERRITORY OF THE PACIFIC ISLANDS
PONAPE DISTRICT LAND COMMISSION
PONAPE, E. C. I., 96941

September 9, 1971

Mr. Carlos Etscheit
Net, Ponape
Ponape, E. C. I., 96941

Dear Mr. Etscheit:

During the process of preparing surveys and maps responsive for title determination purposes, this Office found it necessary that a definite boundary delineation be made of the filled-in-land located in the general vicinity of the Metalanis Village area in Kolonia and the North-eastern sector of your property.

Accordingly, a research of the record was made and a Japanese map was located and of which it indicates the limits of the filled-in-area and the original shore line along your property.

With what was found on the record, the Survey Office was requested to establish the boundary limitation as indicated on the Japanese map and the project has been carried out.

By copy of this letter, the District Land Management Officer or his representative(s) is asked to be present on the land on Friday, September 10, 1971 at 1:00 P.M. so that the surveyed points may be viewed by Members of the Net Land Registration Team; key personnel of the District Land Commission and Land Management Offices, and you.

In view that you are a party of interest, your presence is solicited.

Sincerely,

F. L. G. Castro
Senior Land Commissioner

cc: District Administrator, Ponape
Acting District Land Management Officer
District Surveyor
Chief, Lands and Surveys, Saipan ✓

*Ponape File
Land File
178-81-7*

178-14-7





**FILE
END**