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APPROVED
OCT 5 - 1974

THE WHITE HOUSE
WASHINGTON

ACTION

Last Day - October 8

October 4, 1974

Postal
10/5

To ARCHIVES
10/7

MEMORANDUM FOR:	THE PRESIDENT
FROM:	KEN COLE <i>C</i>
SUBJECT:	<u>Enrolled Bill H.R. 11559</u>

Attached for your consideration is House bill, H.R. 11559, Submerged lands - Guam, Virgin Islands, and American Samoa, which transfers title to certain submerged lands and uplands from the Federal Government to the jurisdiction of the territorial governments of Guam, the Virgin Islands, and American Samoa.

Roy Ash recommends approval of H.R. 11559 and provides additional background information in his enrolled bill report (Tab A).

We have checked with the Counsel's office (Chapman), Bill Timmons, and Paul Theis who concur.

RECOMMENDATION

That you sign the House bill, H.R. 11559 (Tab B).



APPROVED
OCT 5 - 1974

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 2 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 11559 - Submerged lands -
Guam, Virgin Islands, and American Samoa
Sponsor - Delegate deLugo (D) Virgin Islands
and 4 others

Last Day for Action

October 8, 1974 - Tuesday

Purpose

Transfers title to certain submerged lands and uplands from the Federal Government to the jurisdiction of the territorial governments of Guam, the Virgin Islands, and American Samoa.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Department of the Navy	Approval
Department of Justice	No objection
Department of Commerce	No objection (Informally)

Discussion

Under provisions of a 1963 Act, the Secretary of the Interior was given limited authority to convey title to certain submerged lands to the governments of Guam, the Virgin Islands, and American Samoa. However, this authority has seen scant use and for the most part the submerged lands of these territories are presently owned by the Federal Government and administered by Interior.

H.R. 11559 would convey to the governments of Guam, the Virgin Islands, and American Samoa title to the submerged lands beneath the three-mile territorial sea adjacent to their respective coastlines. The conveyance would be subject (a) to valid existing rights and (b) to eleven specific exemptions which taken together mean that little more than bare title to the submerged lands plus coral, sand, and gravel would initially pass to the territories. However, most of the conveyance exemptions could be overridden by the Secretary with the concurrence of the Federal agency having jurisdiction over the area after providing the Congressional Interior Committees with 60-days notice of the proposed conveyance action.

H.R. 11559 also would transfer income and trespass action rights associated with the conveyed submerged lands to the local government under whose jurisdiction the land would be placed. The estimated annual income to all three territories from sales of resources in the submerged lands is only about \$300,000 according to Interior staff.

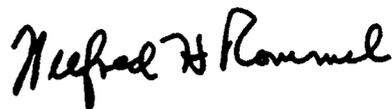
The enrolled bill would fully protect the United States' interests in national defense, commerce, navigation, flood control, production of power, and international affairs in each of the three territories. Section 2 of the bill specifically preserves the right of the President to establish naval defensive sea areas and naval airspace reservations around and over the islands of Guam, the Virgin Islands, and American Samoa when deemed necessary for national defense.

Finally, the enrolled bill would convey full title to the Virgin Islands government of Federal properties which were placed under its control by the 1937 Virgin Islands Organic Act, if such properties are not otherwise reserved by the Secretary of the Interior within 120-days after enactment; however, this would not be applicable to National Park Service properties.

In its enrolled bill letter, Interior states that:

"A similar action was taken by the Congress with respect to the coastal states in 1953 . . . In addition, Puerto Rico, pursuant to 48 U.S.C. 749, controls the submerged lands around the

Islands of Puerto Rico. We see no reason why the territories should not be given property rights comparable to the rights previously given these other areas. Moreover, we believe that the territories are fully competent to administer these tidelands and submerged lands under their own laws. Furthermore, section 1(b) i-xi of this bill appears adequate to exempt from transfer lands and minerals necessary to protect the national interest."



Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE
WASHINGTON

10/2/74

TO: WARREN HENDRIKS

Robert D. Linder



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 30 1974

Dear Mr. Ash:

This responds to your request for the views of this Department on enrolled bill H.R. 11559, "To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes."

We recommend that the President approve this enrolled bill.

Enrolled bill H.R. 11559 would transfer to the Territories of Guam, the Virgin Islands, and American Samoa the title of the United States to tidelands and submerged lands surrounding the three territories and the responsibility for administering these lands, with certain exceptions.

A similar action was taken by the Congress with respect to the coastal states in 1953. (See the Submerged Lands Act 43 U.S.C. 1301.) In addition, Puerto Rico, pursuant to 48 U.S.C. 749, controls the submerged lands around the Islands of Puerto Rico. We see no reason why the territories should not be given property rights comparable to the rights previously given these other areas. Moreover, we believe that the territories are fully competent to administer these tidelands and submerged lands under their own laws. Furthermore, section 1(b) i-xi of this bill appears adequate to exempt from transfer lands and minerals necessary to protect the national interest. Enactment of this law would not in any way reduce the territories' responsibility to comply with applicable Federal Air and Water Quality Standards. Moreover, the bill adequately protects the interests of United States foreign relations.

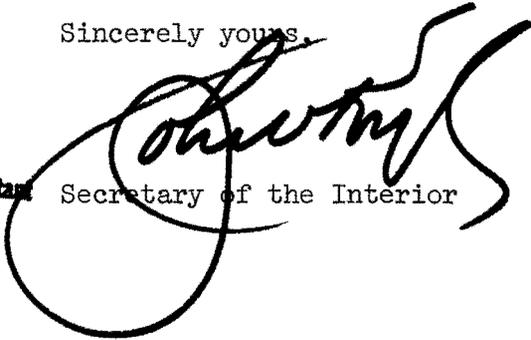


Save Energy and You Serve America!

As passed by the House on March 18, 1974, H.R. 11559 embodied many of the amendments suggested by this Department in its report on H.R. 6775, a previous bill concerning the same subject. (H.R. 11559 did not deal with the amendments to the Organic Act of Guam which H.R. 6775 contained: these amendments now appear in a separate bill, H.R. 11573 as passed by the House.)

In our report to the Senate Committee on Interior and Insular Affairs, we recommended enactment of H.R. 11559 if an amendment proposed by the Department of the Navy was adopted. Enrolled bill H.R. 11559 adopts that amendment by incorporating the language proposed by the Department of the Navy into section 1(b)(iii).

Sincerely yours,


Assistant Secretary of the Interior

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20500



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20350

October 1, 1974

Dear Mr. Ash:

Your transmittal sheet dated September 26, 1974, enclosing a facsimile of an enrolled bill of Congress, H.R. 11559 "To place certain submerged lands, within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes," and requesting the comments of the Department of Defense, has been received. The Department of the Navy has been assigned responsibility for the preparation of a report thereon.

H.R. 11559 would convey title and control of submerged lands on the coastlines of Guam, the Virgin Islands, and American Samoa, with specific exceptions, from the Federal Government to the governments of the respective territories.

This bill would also turn over to the Virgin Islands government title to properties, including Government buildings, which were placed under control of the Virgin Islands government by the 1937 Virgin Islands Organic Act, excepting National Park Service properties and providing that the properties are not otherwise reserved to the United States by the Secretary of the Interior within one hundred and twenty days after enactment of this legislation.

Section 2(a) of this bill retains existing law providing that "Nothing in this Act shall affect the right of the President to establish naval defense sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense."

The territories of Guam, the Virgin Islands, and American Samoa, all seeking a greater degree of self-government, currently are denied the ownership and control of their submerged coastal lands. While the coastal states and Puerto Rico enjoy such ownership and control, the submerged lands of Guam, the Virgin Islands, and American Samoa are owned by the Federal Government and administered by the Department of the Interior.

The language in subsection 1(b)(iii) of H.R. 11559 was proposed to the Senate Committee on Interior and Insular Affairs by the Department of the Navy. This was necessary to protect the Department of the Navy's project to build an Ammunition Pier, which has been authorized by statute.

The Department of the Navy on behalf of the Department of Defense
recommends the approval of H.R. 11559.

Sincerely yours,

A handwritten signature in cursive script that reads "J. William Middendorf II". The signature is written in black ink and is positioned above the typed name.

J. William Middendorf II

Honorable Roy L. Ash
Director, Office of Management and Budget
Washington, D. C. 20503

Department of Justice
Washington, D.C. 20530

OCT 1 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

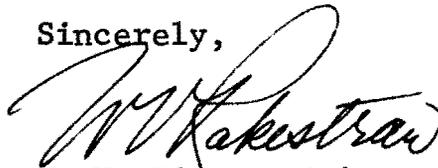
Dear Mr. Ash:

In compliance with your request I have examined a facsimile of the enrolled bill H.R. 11559, a bill "To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes."

H.R. 11559 would give the Governments of Guam, the Virgin Islands and American Samoa title to the tidelands and lands beneath the 3-mile territorial sea adjacent to those territories, with exceptions, and it would give to the Government of the Virgin Islands title to federal property heretofore placed under its control by its organic acts. This bill would encourage and facilitate local development, especially through filling in of shallow areas.

The Department of Justice has no objection to Executive approval of this bill.

Sincerely,



W. Vincent Rakestraw
Assistant Attorney General



**GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

OCT 1 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of this Department concerning H. R. 11559, an enrolled enactment

"To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes."

H. R. 11559 conveys to the territories of Guam, the Virgin Islands, and American Samoa the title of the United States to tidelands and submerged lands surrounding the three territories within the three-mile limit, and the responsibility for administering those lands, with certain exceptions.

The Department of Commerce would interpose no objection to approval by the President of H. R. 11559.

Enactment of this legislation would require no expenditure of funds by this Department.

Sincerely,

Karl E. Batke

General Counsel

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 625

Date: October 2, 1974

Time: 2:30 p.m.

FOR ACTION: ✓ Michael Duval
Phil Buchen
Bill Timmons
Paul Theis

cc (for information): Warren K. Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: October 4, 1974, Friday

Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 11559 - Submerged lands - Guam, Virgin Islands, and American Samoa

ACTION REQUESTED:

___ For Necessary Action

XX For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

OK

Mike Duval

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 625

Date: October 2, 1974

Time: 2:30 p.m.

FOR ACTION: Michael Duval
✓ Phil Buchen
Bill Timmons
Paul Theis

cc (for information): Warren K. Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: October 4, 1974, Friday

Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 11559 - Submerged lands - Guam, Virgin Islands, and American Samoa

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

*No objection
D.C.*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
for the President

THE WHITE HOUSE

WASHINGTON

October 3, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS

FROM: WILLIAM E. TIMMONS *W.E.T. for BT*

SUBJECT: Action Memorandum - Log No. 625
Enrolled Bill H.R. 11559 - Submerged Islands -
Guam, Virgin Islands, and American Samoa

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 625

Date: October 2, 1974

Time: 2:30 p.m.

FOR ACTION: Michael Duval
 Phil Buchen
 ✓ Bill Timmons
 Paul Theis

cc (for information): Warren K. Hendriks
 Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: October 4, 1974, Friday

Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 11559 - Submerged lands - Guam,
 Virgin Islands, and American Samoa

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
 For the President

To Women 10/2

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 2 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 11559 - Submerged lands -
Guam, Virgin Islands, and American Samoa
Sponsor - Delegate deLugo (D) Virgin Islands
and 4 others

Last Day for Action

October 8, 1974 - Tuesday

Purpose

Transfers title to certain submerged lands and uplands from the Federal Government to the jurisdiction of the territorial governments of Guam, the Virgin Islands, and American Samoa.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Department of the Navy	Approval
Department of Justice	No objection
Department of Commerce	No objection (Informally)

Discussion

Under provisions of a 1963 Act, the Secretary of the Interior was given limited authority to convey title to certain submerged lands to the governments of Guam, the Virgin Islands, and American Samoa. However, this authority has seen scant use and for the most part the submerged lands of these territories are presently owned by the Federal Government and administered by Interior.

Last Day - October 8

October 4, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 11559

Attached for your consideration is House bill, H.R. 11559, Submerged lands - Guam, Virgin Islands, and American Samoa, which transfers title to certain submerged lands and uplands from the Federal Government to the jurisdiction of the territorial governments of Guam, the Virgin Islands, and American Samoa.

Roy Ash recommends approval of H.R. 11559 and provides additional background information in his enrolled bill report (Tab A).

We have checked with the Counsel's office (Chapman), Bill Timmons, and Paul Theis who concur.

RECOMMENDATION

That you sign the House bill, H.R. 11559 (Tab B).

Last Day - October 8

October 4, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 11559

Attached for your consideration is House bill, H.R. 11559, Submerged lands - Guam, Virgin Islands, and American Samoa, which transfers title to certain submerged lands and uplands from the Federal Government to the jurisdiction of the territorial governments of Guam, the Virgin Islands, and American Samoa.

Roy Ash recommends approval of H.R. 11559 and provides additional background information in his enrolled bill report (Tab A).

We have checked with the Counsel's office (Chapman), Bill Timmons, and Paul Theis who concur.

RECOMMENDATION

That you sign the House bill, H.R. 11559 (Tab B).

Last Day - October 8

October 4, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 11559

Attached for your consideration is House bill, H.R. 11559, Submerged lands - Guam, Virgin Islands, and American Samoa, which transfers title to certain submerged lands and uplands from the Federal Government to the jurisdiction of the territorial governments of Guam, the Virgin Islands, and American Samoa.

Roy Ash recommends approval of H.R. 11559 and provides additional background information in his enrolled bill report (Tab A).

We have checked with the Counsel's office (Chapman), Bill Timmons, and Paul Theis who concur.

RECOMMENDATION

That you sign the House bill, H.R. 11559 (Tab B).

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 625

Date: October 2, 1974

Time: 2:30 p.m.

FOR ACTION: ~~Michael Duval~~
~~Phil Buchen~~
~~Bill Timmons~~
✓ Paul Theis

cc (for information): Warren K. Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: October 4, 1974, Friday

Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 11559 - Submerged lands - Guam, Virgin Islands, and American Samoa

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

Union Calendar No. 407

93D. CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
No. 93-902

PLACING CERTAIN SUBMERGED LANDS WITHIN THE JURISDICTION OF THE GOVERNMENTS OF GUAM, THE VIRGIN ISLANDS, AND AMERICAN SAMOA, AND FOR OTHER PURPOSES

MARCH 12, 1974.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HALBY, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany H.R. 11559]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 11559) to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

H.R. 1159, by Messrs. deLugo, Won Pat, Burton, Don H. Clausen, and Regula, as approved by the House Committee on Interior and Insular Affairs on January 31, 1974, is an outgrowth of previous hearings by the Subcommittee on Territorial and Insular Affairs on a comparable bill, H.R. 6775, by Mr. deLugo and Mr. Won Pat.

PURPOSE

H.R. 11559 would convey title and control of submerged lands on the coastlines of Guam, the Virgin Islands, and American Samoa, with specific exceptions, from the Federal government to the governments of the respective territories.

This bill would also turn over to the Virgin Islands government title to properties, including Government buildings, which were placed under control of the Virgin Islands government by the 1937 Virgin Islands Organic Act, excepting National Park Service properties and providing that the properties are not otherwise reserved to the United States by the Secretary of the Interior within one hundred and twenty days after enactment of this legislation.

Section 2(a) of this bill retains existing law providing that "Nothing in this Act shall affect the right of the President to establish naval

defense sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense."

BACKGROUND AND NEED

The territories of Guam, the Virgin Islands, and American Samoa, all seeking a greater degree of self-government, currently are denied the ownership and control of their submerged coastal lands. While the coastal states and Puerto Rico enjoy such ownership and control, the submerged lands of Guam, the Virgin Islands, and American Samoa are owned by the Federal Government and administered by the Department of the Interior.

COST

The objectives of the bill can be accomplished without appropriation by Congress or additional cost to the Federal government.

SECTION-BY-SECTION ANALYSIS

Section 1(a) conveys title of submerged lands on the coastlines of Guam, the Virgin Islands, and American Samoa from the United States to the respective territorial governments.

Section 1(b) excepts from the conveyance of the rights to oil, gas and mineral deposits, also properties for which the Federal government has continuing use, and those lands which may be designated by the President within 120 days after the date of enactment of the Act. Also exempted are all submerged lands adjacent to property above the line of mean high tide acquired by the United States after the date of enactment of this Act.

Section 1 also authorizes the Secretary of the Interior, upon request of the Governor of Guam, the Virgin Islands, or American Samoa, to convey to the territorial government various of the excepted properties with the concurrence of the federal agency having custody.

Section 2(a) retains existing law with respect to the President's right to establish naval defensive sea areas and airspace reservations around and over the islands.

Section 2(b) reserves the rights of the United States and the Congress with regard to authority in navigation, flood control, and the production of power on and over lands transferred by this Act.

Section 2(c) retains for the United States all rights and powers of control for the constitutional purposes of commerce, navigation, national defense, and international affairs.

Section 3 amends the Revised Organic Act of the Virgin Islands by giving title to property the Organic Act reserved to the United States, excepting properties which may be reserved to the United States by the Secretary of the Interior within 120 days of enactment of the subsection or property which is a part of the National Park System.

Section 4 transfers rights to rents, leases and use permits issued for conveyed properties by the United States prior to this Act to the appropriate local government.

Section 5 repeals the first section and sections 2 and 3 of the Submerged Lands Act of November 20, 1963, relating to Guam, the Virgin Islands, and American Samoa.

Section 6 provides against any person being denied access to or benefits accruing from the lands conveyed on the basis of race, religion, creed, color, sex, national origin, or ancestry.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs, by voice vote, recommended enactment of H.R. 11559.

DEPARTMENTAL REPORTS

The reports of the Department of the Interior (dated September 24, 1973), the Department of the Navy (dated September 24, 1973), and the Department of Justice (dated September 24, 1973) follow:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 24, 1973.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs, House of
Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 6775, a bill "To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes."

We recommend enactment of this bill, if amended as suggested herein.

H.R. 6775 would transfer to the Territories of Guam, the Virgin Islands, and American Samoa the title of the United States to tidelands and submerged lands surrounding the three territories and the responsibility for administering those lands, with certain exceptions.

A similar action was taken by the Congress with respect to the coastal states in 1953. (See the Submerged Lands Act 43 U.S.C. 1301.) In addition, Puerto Rico, pursuant to 48 U.S.C. 749, controls the submerged lands around the Islands of Puerto Rico. We see no reason the territories should not be given property rights comparable to the rights previously given these other areas. Moreover, we believe that the territories are fully competent to administer these tidelands and submerged lands under their own laws. Furthermore, section 1(b) i-xi of this bill appears adequate to exempt from transfer lands and minerals necessary to protect the national interest. Enactment of this law would not in any way reduce the territories' responsibility to comply with applicable Federal Air and Water Quality Standards. Moreover, the bill adequately protects the interests of United States foreign relations.

Our suggested amendments center on sections 4 and 5 of the bill. Section 4 would turn over to the Virgin Islands Government title to property which was placed under control of that government by the 1937 Virgin Islands Organic Act (48 U.S.C. 1405 c.) We have no objection to the concept of this section but would recommend that language be inserted to allow this Department some time to review the status of each of the pieces of property transferred by the 1937 Act. By this means, we can determine if there is any overriding reason for

having the U.S. Government retain title to any of these tracts for the achievement of Federal goals and responsibilities in the territorial areas and can make appropriate recommendations to the President. Therefore, we would recommend that the language of Section 4 be amended as follows:

"(b) All right, title and interest of the United States in the property placed under the control of the government of the Virgin Islands by section 4(a) of the Organic Act of the Virgin Islands of the United States (49 Stat. 1807, 1808), and not reserved by the President of the United States within 120 days from the passage of this act, is hereby conveyed to such government, except that any part of said property which on the date of enactment of this subsection is administered by the Secretary of the Interior as a part of the national park system shall be retained by the United States."

With regard to section 5, there is an error in lines 15 and 16, page 6. The statute cited in those lines should read "48 U.S.C. 1421f(b)." We also have a substantive problem with this section. Its thrust is to change the status of "All other property"—as the term is used in Section 28(b) of the Organic Act of Guam—from property controlled by Guam to property owned by Guam. As now worded, the proposed amendment would convey, as of the date the bill becomes law, property acquired by the United States after November 1, 1950, and which is currently owned by the United States. Examples of such later-acquired property are several parcels of land which were deeded by the Government of Guam to the Department of the Interior on April 3, 1970, for a proposed "War in the Pacific National Historic Park." In order to clarify that the amendment is meant to apply only to property acquired before November 1, 1950, and not to after-acquired property, we suggest that lines 17-19, page 6, be rewritten as follows:

"(b) All other property, real and personal, owned by the United States in Guam prior to November 1, 1950, and not reserved by the President of the United States prior to that date, is hereby . . ."

We would also recommend that in keeping with the amendments of section 5, the word "control" in section 28(c) of the Organic Act of Guam, 48 U.S.C. 1421f(c), be deleted and the word "ownership" be substituted in its place.

Finally, this Department recommends the adoption of amendments to H.R. 6775 as outlined in the reports by the Departments of Justice and Defense which would:

Amend Section 1(b) (iii) by inserting the word "hereafter" following the word "lands".

Amend Section 1(b) (iv) by inserting the word "heretofore" on page 2, line 1 before the word "lands".

Amend Section 1(b) by adding an additional exception numbered (xii) as described in the Defense report.

Amend Section 1(b), on page 4, line 1, after the words "may be" by deleting the remainder of the sentence and substituting in lieu thereof "with the concurrence of the agency having custody thereof."

Amend Section 2(c) by deleting the last three words in line 1 and all of line 2 on page 5.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL,
Assistant Secretary of the Interior.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., September 24, 1973.

HON. JAMES D. HALEY,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your requests for comment on H.R. 6135 and H.R. 6775, identical bills "To place certain submerged lands within the jurisdiction of the governments of Guam, and Virgin Islands, and American Samoa, and for other purposes," and H.R. 4696, a bill "To amend the Act of November 20, 1963, placing certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes," have been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

Under the provisions of the Act of November 20, 1963 (Public Law 88-183, 77 Stat. 338) the Secretary of the Interior, upon the request of the Governor of Guam, the Virgin Islands or American Samoa, is authorized to transfer to the government of the territory concerned, under certain circumstances, certain tidelands, submerged lands or filled lands in or adjacent to the territory. The statute provides for notification to Congress, reservation of certain rights and concurrent jurisdiction.

H.R. 6135 and H.R. 6775 would repeal the Act of November 20, 1963 and would convey such lands to the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, subject to valid existing rights, and subject to eleven exceptions set forth in those bills. Among the excepted lands not conveyed by the bills are "all lands that are within the administrative responsibility of any agency or department of the United States other than the Department of the Interior", as set forth in Section 1(b) (viii) of the bills. The Secretary of the Interior may, however, upon the request of the appropriate territorial Governor convey to the territorial government certain of the excepted lands, including those within the administrative responsibility of the Department of Defense, if such lands are no longer needed by the United States.

H.R. 4696 is similar to H.R. 6135 and H.R. 6775 in its general effect, but with certain notable differences. It would amend the Act of November 20, 1963 to effect the conveyance of such lands to the governments of Guam, the Virgin Island and American Samoa. Although the bill provides seven exceptions from such transfer, it does not except "all lands that are within the administrative responsibility of any agency or department of the United States other than the Department of the Interior" as does H.R. 6135 and H.R. 6775. In addition, H.R. 4696

provides that the President, vice the Secretary of the Interior, may, upon request of the appropriate Governor, convey lands no longer needed by the United States.

We are of the opinion that language such as is contained in Section 1(b) (viii) of H.R. 6135 or H.R. 6775, which excepts from conveyance those lands within the administrative responsibility of any agency or department of the United States other than the Department of the Interior, is necessary to preserve the interests of the Department of Defense in its land holdings in Guam, the Virgin Islands and American Samoa. However, to the extent that the final paragraph of Section 1(b) of H.R. 6135 and H.R. 6775 would permit the Secretary of the Interior to convey land excepted under 1(b) (viii) without the prior approval of the Secretary of Defense, the Department of Defense is opposed. It would be inimical to the interests of national security to permit a federal agency not familiar with the needs of the Department of Defense to determine if such lands are no longer important to the Department of Defense and that such lands should be conveyed to a territorial government, without first obtaining the approval of the Secretary of Defense. In addition, it is noted that the Department of the Navy has pending a land exchange agreement dated April 1972 with the Government of Guam which provides for the exchange of land relative to construction of the Sella Bay Ammunition Pier authorized by the Military Construction Authorization Act, 1971 (Public Law 91-511, 84 Stat. 1204), as amended by section 201 of the Military Construction Authorization Act, 1973 (Public Law 92-545, 86 Stat. 1135). The effectiveness of such agreement has been deferred by a court decision until such time as the agreement is approved by the Guam legislature, which has not yet occurred. Under these circumstances, the exceptions from the proposed statutory conveyance in H.R. 6135, H.R. 6775 and H.R. 4696 would not extend to the land to be acquired by the Navy for the ammunition pier, unless the exchange is consummated prior to enactment of the bills.

It is also noted that under all three bills, the exception in section 1(b) (ii) is subject to two interpretations since it is not clear whether the words "above the line of mean high tide" modifies "lands" or "property." It is presumed that it was intended to modify "property" and this interpretation is required in order to protect the needs of the Department of Defense. Accordingly, it is recommended that the ambiguity be clarified by inserting the words "which is" before "above the line . . ." in any bill which is favorably considered.

Because of the explicit disclaimer in each bill of intention to affect various control rights (notably naval airspace restrictions in section 2(a)), it is recommended that the bills contain a specific exclusion of the effect on control under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.), the primary authorization for airspace control.

The words "in trust" contained in section 1 of each bill could be construed to impose an obligation on the island governments that would not otherwise exist with respect to the lands conveyed. It is therefore recommended that the words "in trust" be deleted from these sections.

In summary, the Department of the Navy, on behalf of the Department of Defense, is opposed to H.R. 6135, H.R. 6775 and H.R. 4696 as written, because of the deficiencies in each as noted above. We are not

opposed to the general intent of the bills and would have no objection to a bill similar to H.R. 6135, if such bill contained the following provisions in addition to those already contained in H.R. 6135:

(1) In section 1 (b) starting on page 4, line 1, after the words, "may be" delete the remainder of the sentence and substitute therefore the following: "with the concurrence of the agency having custody thereof".

(2) An additional exception under section 1(b) to the general conveyance, in substance, as follows:

"(xii) all lands adjacent to property required for completion of the Department of the Navy Land Acquisition Project relative to the construction of the Sella Bay Ammunition Pier authorized by the Military Construction Authorization Act, 1971 (84 Stat. 1204), as amended by section 201 of the Military Construction Authorization Act, 1973 (86 Stat. 1135)."

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on H.R. 6135, H.R. 6775 and H.R. 4696 for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely yours,

E. H. WILLETT,
Captain, U.S. Navy, Deputy Chief.

DEPARTMENT OF JUSTICE,
Washington, D.C., September 24, 1973.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 4696, H.R. 6135, and H.R. 6775, three bills to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes. Because the three above-mentioned bills are substantially identical, our comments will be directed to H.R. 6775 as a matter of convenience.

H.R. 6775 would give the Governments of Guam, the Virgin Islands and American Samoa title to the tidelands and lands beneath the 3-mile territorial sea adjacent to those territories, with exceptions; it would give those territorial governments concurrent jurisdiction with the Federal Government over federal property, and it would give to the Government of Guam and the Virgin Islands title to federal property heretofore placed under their control by their organic acts. This bill would encourage and facilitate local development, especially through filling in of shallow areas, and would bring federal reservations under the jurisdiction of local laws (domestic and probate law, etc., as well as criminal law).

Presently, Guam has title to and authority over property previously owned by the United States pursuant to 48 U.S.C. 1421f, which provides:

(a) The title to all property, real and personal, owned by the United States and employed by the naval government of Guam in the administration of the civil affairs of the inhabitants of Guam * * * shall be transferred to the government of Guam within ninety days after the enactment of this Act.

(b) All other property, real and personal, owned by the United States in Guam, not reserved by the President of the United States within ninety days after the date of enactment of this Act, is hereby placed under the control of the government of Guam, to be administered for the benefit of the people of Guam, and the legislature shall have authority, subject to such limitations as may be imposed upon its acts by this Act or subsequent Act of the Congress, to legislate with respect to such property, real and personal, in such manner as it may deem desirable.

(c) All property owned by the United States in Guam, the title to which is not transferred to the government of Guam by subsection (a) hereof, or which is not placed under the control of the government of Guam by section (b) hereof, is transferred to the administrative supervision of the head of the department or agency designated by the President under section 3 of this Act, except as the President may from time to time otherwise prescribe: *Provided*, That the head of such department or agency shall be authorized to lease or to sell, on such terms as he may deem in the public interest, any property, real or personal, of the United States under his administrative supervision in Guam not needed for public purposes.

In 65 I.D. 193 (1958) the Solicitor of the Department of the Interior ruled that tidelands and submerged lands, artificially filled or not, were not transferred to the Government of Guam or placed under its control under the foregoing provisions, in view of the general rule that such lands do not ordinarily pass under general statutes but must be specified particularly.

The Act of July 14, 1960, 74 Stat. 529, granted two described parcels of submerged, tide and filled lands to the Government of Guam for park and recreational use, to revert if such use ceased.

The Virgin Islands has authority over property formerly acquired by the United States pursuant to 48 U.S.C. 1405c(a), which provides:

All property which may have been acquired by the United States from Denmark in the Virgin Islands under the convention entered into August 4, 1916, not heretofore or within one year hereafter reserved by the United States for public purposes, is hereby placed under the control of the Government of the Virgin Islands * * *.

By statute, Congress has established a local territorial government in the Virgin Islands consisting of three branches with the territorial legislature exercising powers comparable to the "police powers" of the individual States in the United States. 48 U.S.C. 1541.

The present territorial rights and status of American Samoa are set forth in 48 U.S.C. 1661, et seq.

There is some uncertainty regarding the extent to which federal jurisdiction over federal reservations and property in Guam, the Virgin Islands and American Samoa is exclusive of or concurrent with jurisdiction of the territorial governments. See H. Rept. No. 1827,

87th Cong., 2d sess., pp. 4-7, 11-12, 16-17 (1962). See also, *United States v. Borja*, 191 F. Supp. 563 (D. Guam 1961). Section 3(a) of H.R. 6775 would remove that uncertainty. Certain other provisions in H.R. 6775, however, need clarification.

Section 1(b) (iv) excepts from the grant of submerged lands to the territories "all lands filled in, built up, or otherwise reclaimed by the United States for its own use." As presently worded this provision could be construed to except from the grant to the territories any of the submerged lands which the United States reclaims in the future. If by this provision, it is intended to except only those parcels reclaimed before enactment of the legislation, the word "heretofore" should be inserted on page 2, line 15 after the word "lands."

Subsection 1(b) (iii), as presently worded, excepts from the grant submerged lands obtained by the United States by eminent domain, purchase, exchange or gift. There is no indication whether this exception applies to submerged lands acquired in the specified ways in the past or only in the future. Consequently, if one could construe the treaty of 1916 between Denmark and the United States, 39 Stat. 1706, under which the United States acquired the Virgin Islands for \$25 million, as a purchase of those islands and the adjacent submerged lands, then the Virgin Islands would obtain nothing by the exception under section 1(b) (iii) of these bills. If, on the other hand, the intention is to except from the grant those lands acquired in the specified ways after the passage of this legislation, the word "hereafter" should be inserted on page 2, line 12 after the word "lands."

Section 2(c) sets out the powers retained by the United States under these bills. Except for the last five lines of that section, i.e., lines 1-5, page 5, this section is identical to section 6 of the Submerged Lands Act, by which Congress conveyed the submerged lands to the States. 43 U.S.C. 1314. By these five lines, the bill apparently distinguishes two kinds of lands and natural resources under this bill, those not in derogation of the United States navigational servitude and those in derogation of such servitude. However, by the words at the beginning of section 2(c) of the bill, the United States is not granting any lands and natural resources in derogation of its navigational servitude. Consequently, the last five sentences of this section are confusing and should be amended to conform with section 6 of the Outer Continental Shelf Lands Act. This can be easily accomplished by deleting the last three words in line 1 and all of line 2 on page 5.

Additionally, it appears that on page 6, line 16, 48 U.S.C. 1421f has been erroneously described as 48 U.S.C. 4421f(a), and accordingly the appropriate change should be made.

Whether H.R. 6775 should be enacted involves questions as to which the Department of Justice defers to the views of the Department of the Interior and the Department of State.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Cordially,

MIKE McKEVITT.

CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

REVISED ORGANIC ACT OF THE VIRGIN ISLANDS (68 Stat. 510; 48 U.S.C. 1545(b))

SEC. 31. (a) The Secretary of the Interior shall be authorized to lease or to sell upon such terms as he may deem advantageous to the Government of the United States any property of the United States under his administrative supervision in the Virgin Islands not needed for public purposes.

[(b) The government of the Virgin Islands shall continue to have control over all public property that is under its control on the date of approval of this Act.]

(b) All right, title, and interest of the United States in the property placed under the control of the government of the Virgin Islands by section 4(a) of the Organic Act of the Virgin Islands of the United States (48 U.S.C. 1405c (a)), not reserved to the United States by the Secretary of the Interior within one hundred and twenty days after the date of enactment of this subsection, is hereby conveyed to such government. The conveyance effected by the preceding sentence shall not apply to that land and other property which on the date of enactment of this subsection is administered by the Secretary of the Interior as part of the National Park System and such lands and other property shall be retained by the United States.

(ACT OF NOVEMBER 20, 1963 (77 STAT. 338; 48 U.S.C. 1701-1703))

[(That (a) upon the request of the Governor of Guam, the Governor of the Virgin Islands, or the Governor of American Samoa, the Secretary of the Interior is authorized to convey to the government of the territory concerned whatever right, title, or interest the United States has in particular tracts of tidelands, submerged lands, or filled lands in or adjacent to the territory, subject to the limitations contained in this section. The term "tidelands, submerged lands, or filled lands" means for the purposes of this Act all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coastlines of the territory, as heretofore or hereafter modified by accretion, erosion, and reliction, including artificially made, filled-in, or reclaimed lands which were formerly permanently or periodically covered by tidal waters.

(b) No conveyance shall be made pursuant to this section unless the land proposed to be conveyed is clearly required for specific economic development purposes or to satisfy a compelling public need.

(c) No conveyance shall be made pursuant to this section until the expiration of sixty calendar days (exclusive of days on which the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which the Secretary of the Interior submits to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate an explanatory statement indicating the tract proposed to be conveyed and the need therefor, unless prior to the expiration of such sixty calendar days both committees inform the Secretary that they wish to take no action with respect to the proposed conveyance.

(d) Conveyances pursuant to this section shall be subject to such terms and conditions as the Secretary of the Interior may deem appropriate, and shall be made without reimbursement or with such reimbursement as he may deem appropriate.

(e) The governments of Guam, the Virgin Islands, and American Samoa shall have proprietary rights of ownership and the rights of management, administration, leasing, use, and the development of the lands conveyed pursuant to this section, but the Secretary of the Interior and such territorial governments shall not have the power or right to convey title to such lands unless the Secretary of the Interior (1) determines that such right to convey is necessary and (2) advises the committee of such determination in the manner described in subsection (c) of this section, and (3) unless the Secretary of the Interior, in proposing to convey such lands to such territorial governments, and such territorial governments in proposing to convey such lands to a third party or third parties pursuant to this section, shall publish notice of such proposed conveyance at least once a week for three weeks in a daily newspaper or newspapers of general circulation in the territory affected by the proposed conveyance. Such published notice shall include the names of all parties to the proposed contract of conveyance, the purchase price, and a general summary of the boundaries of the tract or tracts proposed to be included in the conveyance.

(f) There shall be excepted from conveyances made pursuant to this section all deposits of oil, gas, and other minerals, but the term "minerals" shall not include sand, gravel, or coral.

SEC. 2. (a) The Secretary of the Interior shall have administrative responsibility for all tidelands, submerged lands, or filled lands in or adjacent to Guam, the Virgin Islands, and American Samoa, except (1) lands conveyed pursuant to section 1 of this Act, (2) lands that are not owned by the United States on the date of enactment of this Act, and (3) lands that are within the administrative responsibility of any other department or agency of the United States on the date of enactment of this Act, for so long as such condition continues. In exercising such authority, the Secretary may grant revocable permits, subject to such terms and conditions as he may deem appropriate, for the use, occupancy, and filling of such lands, and for the removal of sand, gravel, and coral therefrom.

(b) Nothing contained in this section shall affect the authority heretofore conferred upon any department, agency, or officer of the United States with respect to the lands referred to in this section.

Sec. 8. (a) Nothing in this Act shall affect the right of the President to establish naval defensive sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands which he deems necessary for national defense.

(b) Nothing in this Act shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of the lands conveyed pursuant to section 1 of this Act and the navigable waters overlying such lands, for the purposes of navigation or flood control or the production of power, or shall be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control, or the production of power.

(c) The United States retains all of its navigational servitude and rights in and powers of regulation and control of the lands conveyed pursuant to section 1 of this Act and the navigable waters overlying such lands, for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources not in derogation of United States navigational servitude and rights which are specifically conveyed to the governments of Guam, the Virgin Islands, or American Samoa, as the case may be, pursuant to section 1 of this Act.]

* * * * *



PLACING CERTAIN SUBMERGED LANDS WITHIN THE JURISDICTION
OF THE GOVERNMENTS OF GUAM, THE VIRGIN ISLANDS, AND
AMERICAN SAMOA, AND FOR OTHER PURPOSES

SEPTEMBER 16, 1974.—Ordered to be printed

Mr. CHURCH, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany H.R. 11559]

The Committee on Interior and Interior Affairs, to which was referred the act (H.R. 11559) to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the act as amended do pass.

PURPOSE

H.R. 11558 would convey title and control of submerged lands on the coastlines of Guam, the Virgin Islands, and American Samoa, with specific exceptions, from the Federal Government to the governments of the respective territories.

This bill would also turn over to the Virgin Islands government title to properties, including Government buildings, which were placed under control of the Virgin Islands government by the 1937 Virgin Islands Organic Act, excepting National Park Service properties and providing that the properties are not otherwise reserved to the United States by the Secretary of the Interior within one hundred and twenty days after enactment of this legislation.

Section 2(a) of this bill retains existing law providing that "Nothing in this Act shall affect the right of the President to establish naval defense sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense."

BACKGROUND AND NEED

The territories of Guam, the Virgin Islands, and American Samoa, all seeking a greater degree of self-government, currently are denied the ownership and control of their submerged coastal lands. While the

coastal states and Puerto Rico enjoy such ownership and control, the submerged lands of Guam, the Virgin Islands, and American Samoa are owned by the Federal Government and administered by the Department of the Interior.

COST

The objectives of the bill can be accomplished without appropriation to Congress or additional cost to the Federal government.

COMMITTEE AMENDMENTS

The language in subsection 1(b)(iii) of H.R. 11559 as approved by the House of Representatives is designed to protect the proposed ammunition dock at Sella Bay in Guam. Because the Committee felt that the House language placed a cloud over all submerged lands, it amended the provision to clarify the intent and limit the exception specifically to the Sella Bay project. This amendment was recommended by the Department of the Navy.

The Committee also added a provision which would retain the present sixty-day Congressional review of future transfer of submerged lands.

Section 6 is amended by adding a proviso that the civil rights provision shall not conflict with the terms of the American Samoa cession. The Committee is aware that land in American Samoa is held communally and of their concern over the possible alienation of their land. The purpose of the proviso is to assure that there will be no conflict between this legislation and the American Samoan land policy to the degree that the ratification of the cession guaranteed this policy.

The Committee also amended the bill to state that the provisions of H.R. 11559 shall not affect the status of lands beyond the three-mile limit.

This was done to preclude the possible establishment of a doctrine contrary to existing law pertaining to the United States ownership of the Outer Continental Shelf.

COMMITTEE RECOMMENDATIONS

The Committee on Interior and Insular Affairs in open mark-up session on September 10, 1974, by voice vote unanimously ordered H.R. 11559, as amended, favorably reported to the Senate.

DEPARTMENTAL REPORTS

The reports of the Departments of Justice, Interior and Navy, and the Office of Management and Budget on H.R. 11559 are set forth in full as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., June 19, 1974.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 11559, a bill "To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes."

H.R. 11559 would give the Governments of Guam, the Virgin Islands and American Samoa title to the tidelands and lands beneath the 3-mile territorial sea adjacent to those territories, with exceptions, and it would give to the Government of the Virgin Islands title to federal property heretofore placed under its control by its organic acts. This bill would encourage and facilitate local development, especially through filling in of shallow areas.

Presently, Guam has title to and authority over property previously owned by the United States pursuant to 48 U.S.C. 1421f, which provides:

(a) The title to all property, real and personal, owned by the United States and employed by the naval government of Guam in the administration of the civil affairs of the inhabitants of Guam * * * shall be transferred to the government of Guam within ninety days after the date of enactment of this Act.

(b) All other property, real and personal, owned by the United States in Guam, not reserved by the President of the United States within ninety days after the date of enactment of this Act, is hereby placed under the control of the government of Guam, to be administered for the benefit of the people of Guam, and the legislature shall have authority, subject to such limitations as may be imposed upon its acts to legislate with respect to such property, real and personal, in such manner as it may deem desirable.

(c) All property owned by the United States in Guam, the title to which is not transferred to the government of Guam by subsection (a) hereof, or which is not placed under the control of the government of Guam by subsection (b) hereof, is transferred to the administrative supervision of the head of the department or agency designated by the President under section 3 of this Act, except as the President may from time to time otherwise prescribe: *Provided*, That the head of such department or agency shall be authorized to lease or to sell, on such terms as he may deem in the public interest, any property, real or personal, of the United States under his administrative supervision in Guam not needed for public purposes.

In 65 I.D. 193 (1958) the Solicitor of the Department of the Interior ruled that tidelands and submerged lands, artificially filled or not, were not transferred to the Government of Guam or placed under its control under the foregoing provisions, in view of the general rule that such lands do not ordinarily pass under the general statutes but must be specified particularly.

The Act of July 14, 1960, 74 Stat. 529, granted two described parcels of submerged, tide and filled lands to the Government of Guam for park and recreational use, to revert if such use ceased.

The Virgin Islands has authority over property formerly acquired by the United States pursuant to 48 U.S.C. 1405c(a), which provides:

All property which may have been acquired by the United States from Denmark in the Virgin Islands under the convention entered into August 4, 1916, not heretofore or within one year hereafter reserved by the United States for public purposes, is hereby placed under the control of the Government of the Virgin Islands * * *.

By statute, Congress has established a local territorial government in the Virgin Islands consisting of three branches with the territorial legislature exercising powers comparable to the "police powers" of the individual States in the United States. 48 U.S.C. 1541.

The present territorial rights and status of American Samoa are set forth in 48 U.S.C. 1661, et seq.

By statute in 1963, Congress authorized the Secretary of the Interior to convey certain submerged lands to the governments of Guam, the Virgin Islands and American Samoa, under certain conditions, including specifically acquiescence of the Committees on Interior and Insular Affairs of the House of Representatives and the Senate for each particular tract proposed to be conveyed. P.L. 88-183, 77 Stat. 338.

Whether H.R. 11559 should be enacted involves questions as to which the Department of Justice defers to the views of the Department of the Interior and the Department of State.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

W. VINCENT RAKESTRAW,
Assistant Attorney General.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 17, 1974.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 11559, an Act "To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes", in the Senate of the United States.

We recommend enactment of this bill, if amended as suggested herein.

H.R. 11559 would transfer to the Territories of Guam, the Virgin Islands, and American Samoa the title of the United States to tidelands and submerged lands surrounding the three territories and the responsibility for administering those lands, with certain exceptions.

A similar action was taken by the Congress with respect to the coastal states in 1953. (See the Submerged Lands Act 43 U.S.C. 1301.) In addition, Puerto Rico, pursuant to 48 U.S.C. 749, controls the submerged lands around the Islands of Puerto Rico. We see no reason why the territories should not be given property rights comparable to the rights previously given these other areas. Moreover, we believe that the territories are fully competent to administer these tidelands and submerged lands under their own laws. Furthermore, section 1(b) i-xi of this bill appears adequate to exempt from transfer lands and minerals necessary to protect the national interest. Enactment of this law would not in any way reduce the territories' responsibility to comply with applicable Federal Air and Water Quality Standards. Moreover, the bill adequately protects the interests of United States foreign relations.

As passed by the House, H.R. 11559 embodies many of the amendments suggested by this Department in its report on H.R. 6775, a previous bill concerning the same subject (H.R. 11559 does not deal with the amendments to the Organic Act of Guam which H.R. 6775 contained: these amendments now appear in a separate bill, H.R. 11573 as

passed by the House.) However, H.R. 11559 does not contain the recommended subsection (b) (xii) set out in the report of the Department of the Navy as an additional exception to the lands which would be transferred pursuant to the bill. We recommend that the amendment recommended by the Department of the Navy be adopted. Finally, the bill as passed contains a new section 6 which would prohibit discrimination in access to its benefits. We have no objection to the addition of this provision.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN H. KYL,
Assistant Secretary of the Interior.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., July 16, 1974.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Your request for comment on H.R. 11559, an act "To place certain submerged lands within the jurisdiction of the Governments of Guam, the Virgin Islands, and American Samoa, and for other purposes," has been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

Section 1(a) of the act would effect statutory conveyance to the respective territorial Governments of all right, title, and interest of the United States in all submerged lands within three miles from their coastlines. Section 1(b) would except from such conveyance or "transfer" the categories listed in paragraphs (i) through (xi) thereof. Paragraph (iii) would except submerged lands adjacent to property above the line of mean high tide acquired by the United States any time after the date of enactment of the act without limitation. This would provide a broader exception than is required to protect the interests of the Department of Defense. There is need, however, to protect the Department of the Navy project to build an ammunition pier which has been authorized by statute. To this end, the Department of the Navy, on behalf of the Department of Defense, recommends that section 1(b) (iii) be amended by substituting the following language:

"all submerged lands adjacent to property above the line of mean high tide acquired by the United States, after the date of enactment of this act, as required for completion of the Department of the Navy Land Acquisition Project relative to the construction of the Ammunition Pier authorized by the Military Construction Authorization Act, 1971 (84 Stat. 1204) as amended by section 201 of the Military Construction Authorization Act, 73 (86 Stat. 1135), by eminent domain proceedings, purchase, exchange, or gift;"

Subject to the foregoing, the Department of the Navy, on behalf of the Department of Defense has no objection to the enactment of H.R. 11559.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on H.R. 11559 for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely yours,

E. H. WILLETT,
Captain, U.S. Navy,
Deputy Chief.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., July 29, 1974.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of June 10, 1974, for the views of the Office of Management and Budget on H.R. 11559, an act "To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes."

The Office of Management and Budget concurs in the views of the Departments of the Interior and the Navy in their reports on H.R. 11559, and accordingly recommends enactment of the bill if amended as suggested by the Departments.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for
Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, H.R. 11559, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

REVISED ORGANIC ACT OF THE VIRGIN ISLANDS

(68 Stat. 510; 48 U.S.C. 1545 (b))

* * * * *
Sec. 31. (a) The Secretary of the Interior shall be authorized to lease or to sell upon such terms as he may deem advantageous to the Government of the United States any property of the United States under his administrative supervision in the Virgin Islands not needed for public purposes.

[(b) The government of the Virgin Islands shall continue to have control over all public property that is under its control on the date of approval of this Act.]

(b) All right, title, and interest of the United States in the property placed under the control of the government of the Virgin Islands by section 4(a) of the Organic Act of the Virgin Islands of the United States (48 U.S.C. 1405c (a)), not reserved to the United States by the Secretary of the Interior within one hundred and twenty days after the date of enactment of this subsection, is hereby conveyed to such government. The conveyance effected by the preceding sentence shall not apply to that land and other property which on the date of enactment of this subsection is administered by the Secretary of the Interior as part of the National Park System and such lands and other property shall be retained by the United States.

* * * * *

(ACT OF NOVEMBER 20, 1963 (77 STAT. 338; 48 U.S.C. 1701-1703))

[That (a) upon the request of the Governor of Guam, the Governor of the Virgin Islands, or the Governor of American Samoa, the Secretary of the Interior is authorized to convey to the government of the territory concerned whatever right, title, or interest the United States has in particular tracts of tidelands, submerged lands, or filled lands in or adjacent to the territory, subject to the limitations contained in this section. The term "tidelands, submerged lands, or filled lands" means for the purposes of this Act all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coastlines of the territory, as heretofore or hereafter modified by accretion, erosion, and reliction, including artificially made, filled-in, or reclaimed lands which were formerly permanently or periodically covered by tidal waters.

(b) No conveyance shall be made pursuant to this section unless the land proposed to be conveyed is clearly required for specific economic development purposes or to satisfy a compelling public need.

(c) No conveyance shall be made pursuant to this section until the expiration of sixty calendar days (exclusive of days on which the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which the Secretary of the Interior submits to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate an explanatory statement indicating the tract proposed to be conveyed and the need therefor, unless prior to the expiration of such sixty calendar days both committees inform the Secretary that they wish to take no action with respect to the proposed conveyance.

(d) Conveyances pursuant to this section shall be subject to such terms and conditions as the Secretary of the Interior may deem appropriate, and shall be made without reimbursement or with such reimbursement as he may deem appropriate.

(e) The governments of Guam, the Virgin Islands, and American Samoa shall have proprietary rights of ownership and the rights of management, administration, leasing, use, and the development of the lands conveyed pursuant to this section, but the Secretary of the Interior and such territorial governments shall not have the power or right to convey title to such lands unless the Secretary of the Interior (1) determines that such right to convey is necessary and (2) advises the committee of such determination in the manner

described in subsection (c) of this section, and (3) unless the Secretary of the Interior, in proposing to convey such lands to such territorial governments, and such territorial governments in proposing to convey such lands to a third party or third parties pursuant to this section, shall publish notice of such proposed conveyance at least once a week for three weeks in a daily newspaper or newspapers of general circulation in the territory affected by the proposed conveyance. Such published notice shall include the names of all parties to the proposed contract of conveyance, the purchase price, and a general summary of the boundaries of the tract or tracts proposed to be included in the conveyance.

(f) There shall be excepted from conveyances made pursuant to this section all deposits of oil, gas, and other minerals, but the term "minerals" shall not include sand, gravel, or coral.

SEC. 2. (a) The Secretary of the Interior shall have administrative responsibility for all tidelands, submerged lands, or filled lands in or adjacent to Guam, the Virgin Islands, and American Samoa, except (1) lands conveyed pursuant to section 1 of this Act, (2) lands that are not owned by the United States on the date of enactment of this Act, and (3) lands that are within the administrative responsibility of any other department or agency of the United States on the date of enactment of this Act, for so long as such condition continues. In exercising such authority, the Secretary may grant revocable permits, subject to such terms and conditions as he may deem appropriate, for the use, occupancy, and filling of such lands, and for the removal of sand, gravel, and coral therefrom.

(b) Nothing contained in this section shall affect the authority heretofore conferred upon any department, agency, or officer of the United States with respect to the lands referred to in this section.

SEC. 3. (a) Nothing in the Act shall affect the right of the President to establish naval defensive sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands which he deems necessary for national defense.

(b) Nothing in this Act shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of the lands conveyed pursuant to section 1 of this Act and the navigable waters overlying such lands, for the purposes of navigation or flood control or the production of power, or shall be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control, or the production of power.

(c) The United States retains all of its navigational servitude and rights in and powers of regulation and control of the lands conveyed pursuant to section 1 of this Act and the navigable waters overlying such lands, for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources not in derogation of United States navigational servitude and rights which are specifically conveyed to the governments of Guam, the Virgin Islands, or American Samoa, as the case may be, pursuant to section 1 of this Act.]

* * * * *

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to valid existing rights, all right, title, and interest of the United States in lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coastlines of the territories of Guam, the Virgin Islands, and American Samoa, as heretofore or hereafter modified by accretion, erosion, and reliction, and in artificially made, filled in, or reclaimed lands which were formerly permanently or periodically covered by tidal waters, are hereby conveyed to the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, to be administered in trust for the benefit of the people thereof.

(b) There are excepted from the transfer made by subsection (a) hereof—

(i) all deposits of oil, gas, and other minerals, but the term "minerals" shall not include coral, sand, and gravel;

(ii) all submerged lands adjacent to property owned by the United States above the line of mean high tide;

(iii) all submerged lands adjacent to property above the line of mean high tide acquired by the United States by eminent domain proceedings, purchase, exchange, or gift, after the date of enactment of this Act, as required for completion of the Department of the Navy Land Acquisition Project relative to the construction of the Ammunition Pier authorized by the Military Construction Authorization Act, 1971 (84 Stat. 1204), as amended by section 201 of the Military Construction Act, 1973 (86 Stat. 1135);

(iv) all submerged lands filled in, built up, or otherwise reclaimed by the United States, before the date of enactment of this Act, for its own use;

(v) all tracts or parcels of submerged land containing on any part thereof any structures or improvements constructed by the United States;

(vi) all submerged lands that have heretofore been determined by the President or the Congress to be of such scientific, scenic, or historic character as to warrant preservation and administration under the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.);

(vii) all submerged lands designated by the President within one hundred and twenty days after the date of enactment of this Act;

(viii) all submerged lands that are within the administrative responsibility of any agency or department of the United States other than the Department of the Interior;

(ix) all submerged lands lawfully acquired by persons other than the United States through purchase, gift, exchange, or otherwise;

(x) all submerged lands within the Virgin Islands National Park established by the Act of August 2, 1956 (16 U.S.C. 398 et seq.), including the lands described in the Act of October 5, 1962 (16 U.S.C. 398c-398d); and

(xi) all submerged lands within the Buck Island Reef National Monument as described in Presidential Proclamation 3448 dated December 28, 1961.

Upon request of the Governor of Guam, the Virgin Islands, or American Samoa, the Secretary of the Interior may, with or without reimbursement, and subject to the procedure specified in subsection (c) of this section convey all right, title, and interest of the United States in any of the lands described in clauses (ii), (iii), (iv), (v), (vi), (vii), or (viii) of this subsection to the government of Guam, the Virgin Islands, or American Samoa, as the case may be, with the concurrence of the agency having custody thereof.

(c) No conveyance shall be made by the Secretary pursuant to this section until the expiration of sixty calendar days (excluding days on which the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which the Secretary of the Interior submits to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate an explanatory statement indicating the tract proposed to be conveyed and the need therefor, unless prior to the expiration of such sixty calendar days both committees inform the Secretary that they wish to take no action with respect to the proposed conveyance.

SEC. 2. (a) Nothing in this Act shall affect the right of the President to establish naval defensive sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense.

(b) Nothing in this Act shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of the lands transferred by the first section of this Act, and the navigable waters overlying such lands, for the purposes of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control or the production of power.

(c) The United States retains all of its navigational servitude and rights in and powers of regulation and control of the lands conveyed by the first section of this Act, and the navigable waters overlying such lands, for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically conveyed to the government of Guam, the Virgin Islands, or American Samoa, as the case may be, by the first section of this Act.

(d) Nothing in this Act shall affect the status of lands beyond the three-mile limit described in section 1 of this Act.

SEC. 3. Subsection (b) of section 31 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1545(b)) is amended to read as follows:

“(b) All right, title, and interest of the United States in the property placed under the control of the government of the Virgin Islands by section 4(a) of the Organic Act of the Virgin Islands of the United States (48 U.S.C. 1405c(a)), not reserved to the United States by the Secretary of the Interior within one hundred and twenty days after the date of enactment of this subsection, is hereby conveyed to such government. The conveyance effected by the preceding sentence shall not apply to that land and other property which on the date of enactment of this subsection is administered by the Secretary of the Interior

as part of the National Park System and such lands and other property shall be retained by the United States.”.

SEC. 4. On and after the date of enactment of this Act, all rents, royalties, or fees from leases, permits, or use rights, issued prior to such date of enactment by the United States with respect to the land conveyed by this Act, or by the amendment made by this Act, and rights of action for damages for trespass occupancies of such lands shall accrue and belong to the appropriate local government under whose jurisdiction the land is located.

SEC. 5. The first section, and sections 2 and 3 of the Act entitled “An Act to authorize the Secretary of the Interior to convey certain submerged lands to the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes”, approved November 20, 1963 (48 U.S.C. 1701-1703), are repealed.

SEC. 6. No person shall be denied access to, or any of the benefits accruing from, the lands conveyed by this Act, or by the amendment made by this Act, on the basis of race, religion, creed, color, sex, national origin, or ancestry: *Provided, however,* That this section shall not be construed in derogation of any of the provisions of the April 17, 1900 cession of Tutuila and Aunuu or the July 16, 1904 cession of the Manu’s Islands, as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4).

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

September 26, 1974

Dear Mr. Director:

The following bills were received at the White House on September twenty-sixth:

S. J. Res. 244 ✓
S. 3320 ✓
H. R. 5507 ✓
H. R. 11559 ✓
H. R. 15404 ✓
H. R. 16243 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D.C.