

DRAFT: 12/6/56  
Bankhardt/Schnittke:ta

General Starbird  
Captain Musick

*SMusick 12-6-56 #55 12/6*

*Remind you  
he to tell you  
of talk with  
Haulon.*

Lt. Colonel Schnittke  
USE OF TAONGI ATOLL

The question of the use of Taongi Atoll was checked with the Office of the General Counsel and the Division of Information Services. Franklin Parks of OGC was asked for his opinion of our legal position regarding the use of Taongi as an additional testing site in the Pacific and Duncan Clark and Rod Southwick were asked to comment on the public reaction which might result.

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12/15/56*

The State Department position on the legality of tests in the Trust Territory is contained in a position paper prepared for the 18th Session of the Trusteeship Council (June 1956) entitled "Legality of Thermonuclear Tests in the Trust Territory of the Pacific Islands". Briefly, this position paper points out that Article 5 of the Trusteeship Agreement enjoins the administering authority (U. S.) "to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority shall be entitled: (1) to establish naval, military and air bases . . . in the trust territory (2) to station and employ armed forces in the territory, and (3) to make use of . . . facilities and assistance from the trust territory . . .". Also Article 3 states that "the administering authority shall have full powers of administration, legislation, and jurisdiction over the territory." State also pointed out that not only the agreement but also the circumstances in which it was concluded show that it was the intention of both the U. S. and the Security Council that a limited portion of the

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territory could be used for nuclear testing purposes. In fact the first nuclear test took place at Bikini in 1946 while the Agreement was being drafted. When there was some discussion at the meeting of the Security Council on cutting down the authority of the U. S. as administering authority Senator Austin, the U. S. representative said that if such amendments were ~~drafted~~ adopted the U. S. would withdraw its offer and administer the islands outside of the trusteeship system.

In other words State's position in the past has been that the U. S. has a clear right under the Trusteeship Agreement to use limited portions of the territory for testing. Further, the U. S. did not request the approval or concurrence of the Trusteeship Council in specifically setting aside Bikini and Eniwetok as closed areas for the purpose of conducting nuclear tests. Instead the U. S. representative simply informed the U. N. that these two atolls were being so used, in accordance with the provisions of the Trusteeship Agreement. This last information was checked with Mr. Dwight Craner of State (without, of course, bringing up the question of Taongi). It therefore appears that legally the question of establishing Taongi as an additional testing site in the trust territories would be handled in the same way. This opinion has not been checked with State.

In view of these facts, Mr. Parks feels that, pending an actual referral to State, we can say that our legal position on the use of Taongi is satisfactory. However, before proceeding further we should get confirmation of this legal opinion from State.

Duncan Clark and Rod Mouthwick felt certain that the Russians would make the most they could of our taking over an additional atoll for test purposes. The question was raised as to whether Taongi is used for gathering copra or for fishing as loss of these uses would then be important. Test Branch knows of no copra or fishing activities at Taongi. Next they were

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concerned over any increase in size of the danger area that might result during operations and also the possible increased interference with international air routes due to moving operations further north and east. Our feeling is that the danger area might be relocated to the east but would not be increased in overall size.

It might be possible to include in the announcement of plans to return the Rongelapese a statement that the AEC would move further high yield tests from Bikini to Taongi to better safeguard the Rongelapese from any additional fallout exposures and to make possible fewer shot delays due to wind conditions which have prolonged the length of test series in the past. However, Clark and Southwick felt that such an announcement would in effect announce plans for another Pacific test.

The Trust Territory Administration is under the Department of Interior (Office of Territories) but Interior is required to consult with State on all matters connected with the Trust Territories which may affect our international relations. In addition, the closing of an area of the territory for strategic purposes or security reasons (such as nuclear tests) is reserved for Presidential action. Consequently, in proceeding to have Taongi Atoll set aside as a test site we should get State and Interior concurrence prior to requesting the President to take appropriate action.

As a matter of interest we have learned from ~~the State Dept~~ <sup>JTF-7</sup> that CNO has arranged with Scripps Oceanographic Institute to make an oceanographic survey of the Taongi lagoon and adjacent waters. Apparently, their interest here stems from the possible use of Taongi as a site for their depth charge tests proposed for HARDTACK.

Schnittke & Bankhardt

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