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For The Northern Mariana Islands
By _____
(Deputy Clerk) 

Joseph L.G. Taijeron, Jr.
James D. Livingstone
CNMI Assistant Attorneys General
OFFICE OF THE ATTORNEY GENERAL
Commonwealth of the Northern Mariana Islands
2nd Floor, Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Saipan, MP 96950
Tel: (670) 664-2341
Fax: (670) 664-2349

Attorneys for the Commonwealth of the
Northern Mariana Islands

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF THE NORTHERN MARIANA ISLANDS**

THE COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS,

Plaintiff,

v.

THE UNITED STATES OF
AMERICA,

Defendant and
Counterclaim Plaintiff

) CIVIL ACTION NO. CV 99-0028
)
)

) STIPULATION TO PARTIAL STAY OF JUDGMENT
) RELATIVE TO SUBMERGED LANDS AND
) WATERS OVERLAYING THREE NAUTICAL MILE
) AREA SEAWARD OF THE COMMONWEALTH OF
) THE NORTHERN MARIANA ISLANDS' LOW-
) WATER MARK
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The Commonwealth of the Northern Mariana Islands ("Commonwealth"), Plaintiff, and the
United States of America, Defendant, hereby agree and stipulate to request that this Court issue a
partial Stay of Judgment entered in this matter on August 8, 2003,¹ based on the following:

¹ The parties also hereby stipulate that the instant agreement and partial stay of the August 8, 2003 Judgment applies to the enforcement of the "Order Denying Commonwealth's Motion For Summary Judgment, Granting United States' Motion For Summary Judgment, and Declaring 2 N.Mar.I. Code § 1101 *et seq.*, and 2 N.Mar.I. Code § 1201 *et seq.*, Preempted By

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1 WHEREAS, on August 7, 2003, the District Court issued an Order that, *inter alia*, declared the
2 Commonwealth's Marine Sovereignty Act of 1980 (2 CMC §1101 et seq.) and the Submerged Lands
3 Act (2 CMC §1211 et seq.) to be preempted by federal law and issued the judgment on this matter on
4 August 8, 2003 ("Judgment"); and

5 WHEREAS, the CNMI has appealed the Judgment to the United States Court of Appeals for
6 the Ninth Circuit, and said appeal is currently pending; and

7 NOW THEREFORE, in order to allow the Commonwealth's to enforce local laws that were in
8 effect on August 6, 2003, governing fish, aquatic living resources, and wildlife protection, public
9 health and safety, immigration, and criminal conduct, in the waters seaward of the low-water mark on
10 the Commonwealth's coastlines to a point that is three (3) nautical miles therefrom, the
11 Commonwealth and the United States of America hereby stipulate and agree to a partial and limited
12 stay of the Judgment subject to the following conditions:
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- 14 1) That a limited stay of the Judgment should be entered, and that said stay will allow
15 CNMI to enforce local laws applicable to fish, wildlife, and coral reef protection, public
16 health and safety, immigration, and criminal conduct that were in effect in the
17 Commonwealth on August 6, 2003 in the geographical area of waters seaward of the
18 low-water mark on the CNMI's coastlines, that is, the submerged lands and the waters
19 overlaying them, to a point three (3) nautical miles therefrom. Nothing in this
20 Paragraph 1 should be construed to authorize the CNMI Government to sell, lease,
21 transfer, assign, or otherwise alienate any interest in oil, gas, and minerals in this
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25 Federal Law," of August 7, 2003 as well as the District Court's Errata of August 11, 2003 to the extent that the August 7
26 order and August 11 errata have any legal effect apart from the August 8 judgment.

1 geographical area, or to act contrary to any federal law which expressly applies to these
2 waters, and submerged lands situated thereunder.

3 2) That the stay referenced in Paragraph 1 shall remain in effect until the earliest to occur
4 of the following events:

5 a. A judgment is rendered by a court of competent jurisdiction declaring that the
6 District Court's Judgment would, in the absence of a stay, not preclude the CNMI
7 from enforcing the local CNMI laws referred to in Paragraph 1 above in the
8 geographical area of waters seaward of the low-water mark on the CNMI's
9 coastlines, that is, the submerged lands and the waters overlaying them, to a point
10 three (3) nautical miles therefrom;

11 b. The United States Congress enacts legislation conveying ownership (subject to
12 appropriate reservations) of the lands covered by tidal waters from mean high tide
13 seaward of the Commonwealth's coastlines to a point three (3) nautical miles
14 therefrom; or
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16 c. The Ninth Circuit issues its mandate in this matter.

17 3) That the United States is entering into this Stipulation for the limited stay referenced in
18 1) above without conceding that the Commonwealth would be entitled to a stay pending
19 appeal in the absence of this Stipulation;
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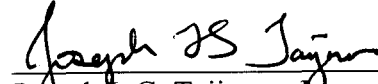
21 4) That nothing in this Stipulation may be cited as evidence in support of a claim or
22 argument that the CNMI is likely to succeed on the merits or suffer irreparable harm in
23 the absence of a stay of the District Court's Judgment;
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- 1 5) That if this stipulated request for a limited stay is granted by the Court, no other stay
2 request will be filed by the CNMI concerning the District Court's Judgment pending
3 appeal to the Ninth Circuit, and no enlargement of the scope of the limited stay
4 requested herein will be sought except by stipulation between the CNMI and the United
5 States.
- 6 6) The instant Stay shall be applicable and limited to three (3) nautical miles of submerged
7 lands, and waters overlaying them, seaward of the low water mark in the
8 Commonwealth and shall not operate or be construed to be a waiver of either parties'
9 rights. Nothing in this Paragraph 6 or in Paragraph 1 shall affect the Commonwealth's
10 authority, consistent with Section 306(a) of the Magnuson Stevens Fishery
11 Conservation and Management Act, 16 U.S.C. § 1856(a), to conserve living marine
12 resources both within or beyond the geographical area of waters seaward of the low-
13 water mark on the CNMI's coastlines to a point three (3) nautical miles therefrom.
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1 IT IS SO STIPULATED.

2 Dated this the 16th day of January, 2004.

Respectfully submitted,


Joseph L.G. Taijeron, Jr.

James D. Livingstone
CNMI Assistant Attorneys General
Attorneys for The Commonwealth of the
Northern Mariana Islands
Civil Division—Capitol Hill
2nd Floor, Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Saipan, MP 96950
Tel: (670) 664-2329
Fax: (670) 664-2349

11 Dated this the 16th day of January, 2004


Edward S. Geldermann

Trial Attorney
U.S. Department of Justice
Environment and Natural Resources Division
General Litigation Section
P.O. Box 663
Washington, D.C. 20044-0663
Tel: (202) 305-0242
Fax: (202) 305-0506