

South Pacific Commission Symposium
On Land Tenure In Relation To Economic
Development (Suva, Fiji: Sept. 1-12, 1969

Land Tenure On Guam

June 20, 1969

BUREAU OF PLANNING
GOVERNMENT OF GUAM
P.O. BOX 2950
AGANA, GUAM 96910

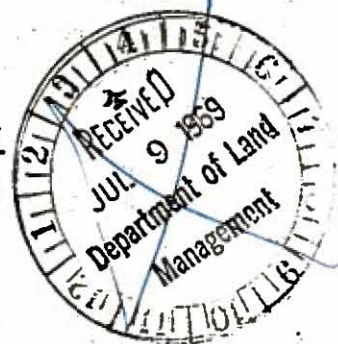
SOUTH PACIFIC COMMISSION

SYMPOSIUM ON LAND TENURE
IN RELATION TO ECONOMIC DEVELOPMENT
(Suva, Fiji : 1-12 September 1969)

LAND TENURE ON GUAM

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prepared by
the Department of
Land Management
Agana, Guam



A short history of land tenure on Guam is necessary for a better understanding of current problems. In all periods the situation has been aggravated by a lack of adequate survey and geodetic control. Public lands as well as private have been so affected.

During Spanish administration land was used as payment for special service rendered to the Crown. Such grants could also be revoked for many reasons. Descriptions of property included such terms as hillside, from the river, or to the beach. Problems resulting from inadequate description are evident today in attempting to effectuate hillside erosion control, establishing beach areas open to the public, or determining extent of riparian rights along water courses. Even with surveys, beach areas or cliff lines have more configuration than indicated by straight lines drawn between two points and questions of intent occur.

A change of administration occurred in 1898 with the acquisition of Guam by the United States. An early attempt was made to determine property boundaries by giving heads of households an opportunity to declare their claims. Surveys were begun to provide a firm description but lack of controls caused major discrepancies. In later years many people indicated that the land declarations were purposely small in order to reduce the amount of taxes. Remaining portions were considered public land and were subsequently leased in varying sizes. No attempt was made to survey leased land and descriptions only gave names of adjacent lessees or land owners. Upon proper application leases were conferred to heirs. A current problem is registration of former leased area by an heir who may not have understood the status of the land and the lack of evidence other than approximate size of leased land to justify government objection to the registration.

The advent of World War II brought about revocation of the leases but loss of many records during hostilities compounded the problem and new claims were established, many without supporting records. Court interpretation of these surveys at times indicated government approval. During this post war recovery period unused government land, excepting that for national defense, was not surveyed and consequently not registered by the government. This situation encouraged registration of government land by private individuals, especially if such land had been under control of a family for a long lease period.

Another long standing cause of problems is the custom of inheritance. Each heir is entitled to a portion of land on a share and share alike basis. With the large family size of the Guamanian, in which ten to fifteen children are not unusual, a large tract of land can be fractionalized into unusable portions in several generations. The high cost of survey and subdivision is such that the estate may be owned in common and several cases of a person owning a 1/92 or 1/138 share are recorded.

Recovery expedients following World War II have caused additional problems. Highway development utilized land through lease agreements while general easements were provided for utilities without logical patterns. Acquisition in fee simple of the highways is necessary for construction of improvements but negotiation and eminent domain actions have been hindered by utilization of current market values even though it was the highway that was the principal cause of land appreciation. Subdivisions for the homeless were established as a temporary measure but became permanent leading to blighted conditions as development standards were not followed. In addition, public lands were turned over for military utilization but excess military lands can only be acquired by the civil government at fair market value. Exceptions are lands for certain public uses but these are limited and usually carry reversionary clauses.

The civil administration is less than 20 years old. Youth is no justification for lack of problem resolution ; neither can it be expected that problems carried over from older and more experienced administrations be solved in a short time. Organizational structure changes more frequently under the present democratic government form as do personnel. Nevertheless improved legislative and administrative activity is apparent. Ineffective laws and procedures have been repealed or amended and further changes are inevitable. A look at current practices indicates government efforts to resolve land problems lie in four concurrent approaches : (1) community planning, (2) survey and registration, (3) land regulations, and (4) land management.

Community planning as envisioned in the Government Code consists partly of a comprehensive general plan prepared under the auspices of the Territorial Planning Commission with appropriate assistance from the various agencies. The Commission is composed of seven members appointed from the private sector by the Governor and confirmed by the Legislature. The first plan was completed in December of 1965 and provided general guidelines to future land use, highways and public facilities. While it served a purpose in presenting a coordinated analysis of development problems, it was deficient in depth and scope necessary to establish priorities and schedule development programs. A continuing program is underway to revise the general plan on the basis of 20 % annually to eliminate deficiencies as well as to update and upgrade material.

Survey and land registration is centered on the completion of a geodetic triangulation network and cadastral mapping. This is expected to lead to an accurate survey and registration of all existing properties, both public and private, during the next five years, including lots created during that time. Associated with this is a modern method of recording and storage utilizing microfilm and possibly computerization in the future.

Land regulations include subdivision control and zoning of compatible land uses. While subdivision control has been in effect for over fifteen years, a major revision occurred in December of 1962 with enforcement becoming more stringent as experience is gained by officials, surveyors, attorneys and the courts. The need to maintain standards and the high cost of subdividing has delayed development despite the increasing demand for suitable lots. Land regulations are not retroactive therefore emphasis is placed on prevention of future problems rather than resolution of past mistakes. With tax reform, economic pressures may help to rectify existing errors but such reform has not reached the point of concrete recommendations.

With approximately 10 % of the readily developable land on the island under local government ownership, dynamic management could establish patterns of orderly growth. Agricultural leases, traffic corridors, open space preservation, reservation for future facilities, and public housing sites can be accomplished by exchanges, easements and acquisition. Examples of current activity include urban renewal and fractional lot acquisition, consolidation and resale.

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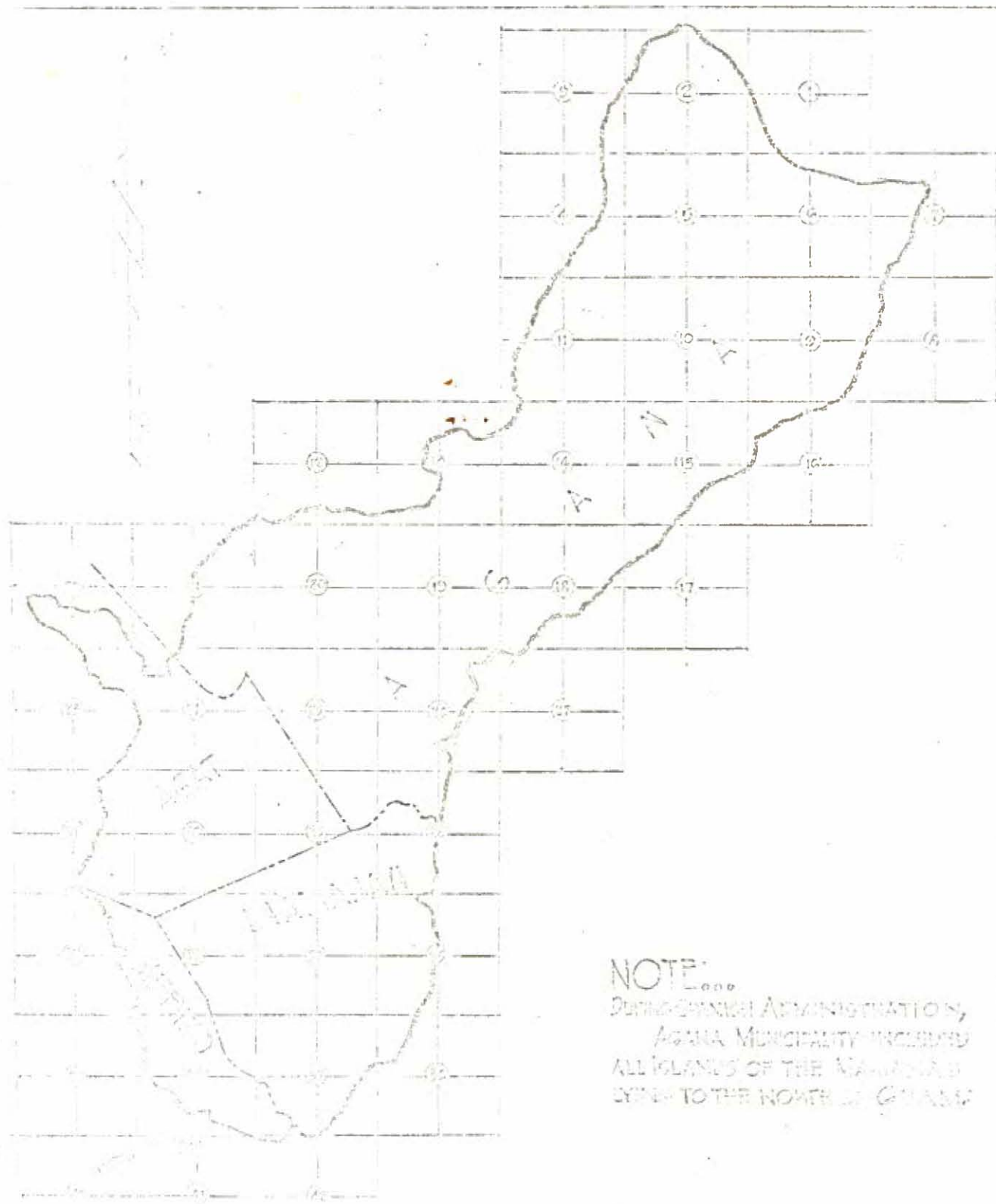
S U M M A R Y

Major problems of land tenure date back through Federal and Spanish administration as well as the young local administration. Inadequate property descriptions, lack of survey, fractionalization of lots through inheritance, and utilities development including access are receiving the principal attention. Public lands are not exempt from problems and individuals have been able to register land that is apparently public owned, but the burden of proof is usually placed on the Government. Although public lands, excluding those reserved for national defense, constitute more than twenty percent of the island, less than half is readily usable. This amount is sufficient, however, to establish orderly development patterns through dynamic management of leases, exchanges, land utilization and reservation for future needs.

The civil government is attacking problems by four basic methods: (1) community planning, (2) land survey and registration, (3) land regulation, and (4) land management. These methods have not been effectively utilized during the early years of the civil government, however, through increasing experience and training of public officials and by key legislative changes, progress is being made.

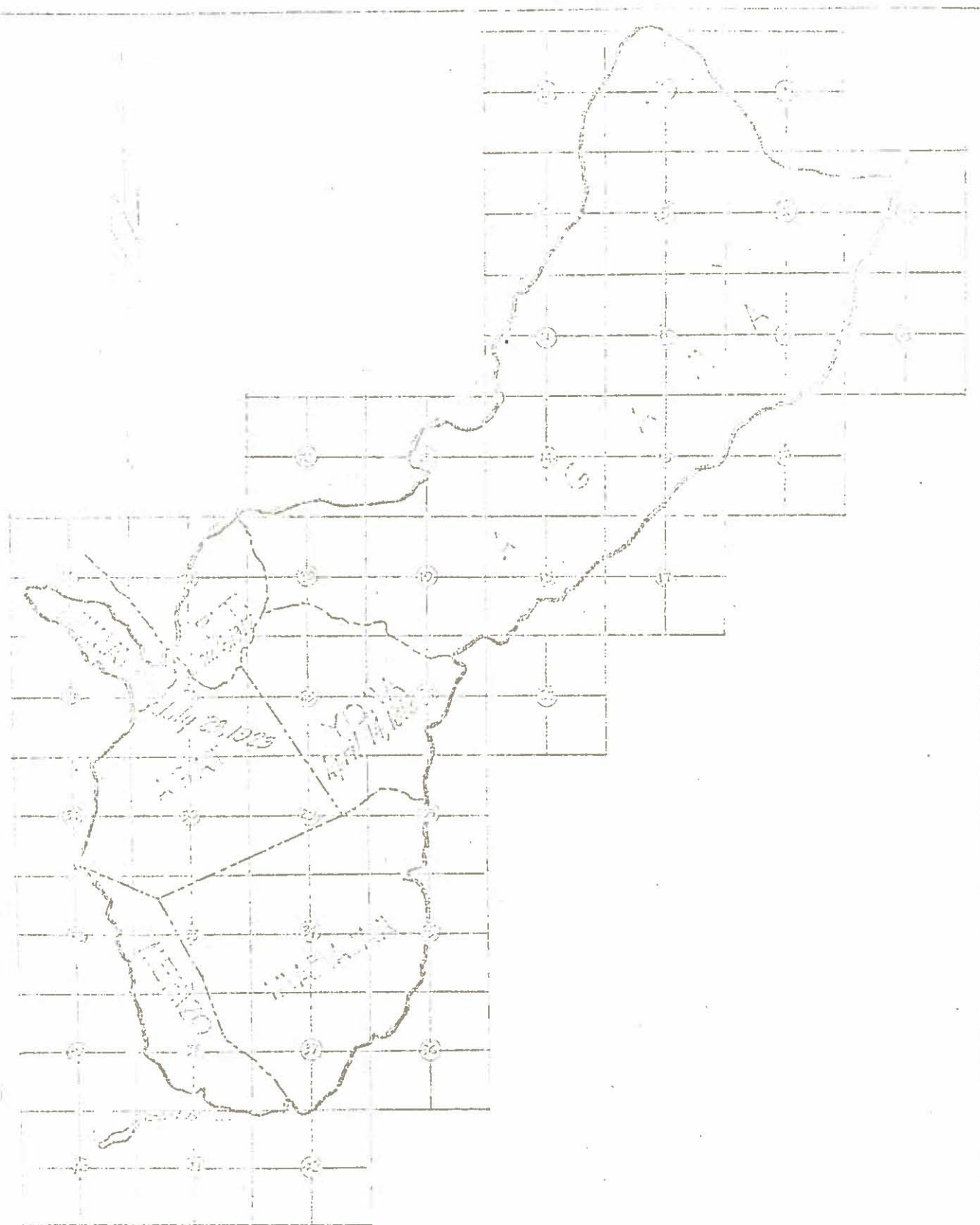
A Master Plan was completed in late 1965 and a continuing program is underway to revise twenty percent of the plan each year. A cadastral mapping program is to be completed under government supervision during the next five years with a goal of adequate surveys and property registration for the entire island. Land regulations include a revised subdivision code that is becoming more understood by officials, surveyors, attorneys and the courts and an island wide land use control was completed in September of 1967. These codes are not retroactive but can go far in preventing additional problems in the future.

At times the government seems to be the worst offender of proper development procedures as many infractions are caused by lack of information or a misunderstanding of intent as well as the letter of the law. Stronger coordination is being achieved through various councils and committees while the pulse of the community is felt through the many commission and municipal representatives. Development problems relate strongly to the economic condition of low annual wages and high costs of modern development. Public assistance is making itself felt in the fields of urban renewal and housing and it is expected that the private sector will harmoniously combine with the public sector to insure the highest standards of development for the Territory of Guam.

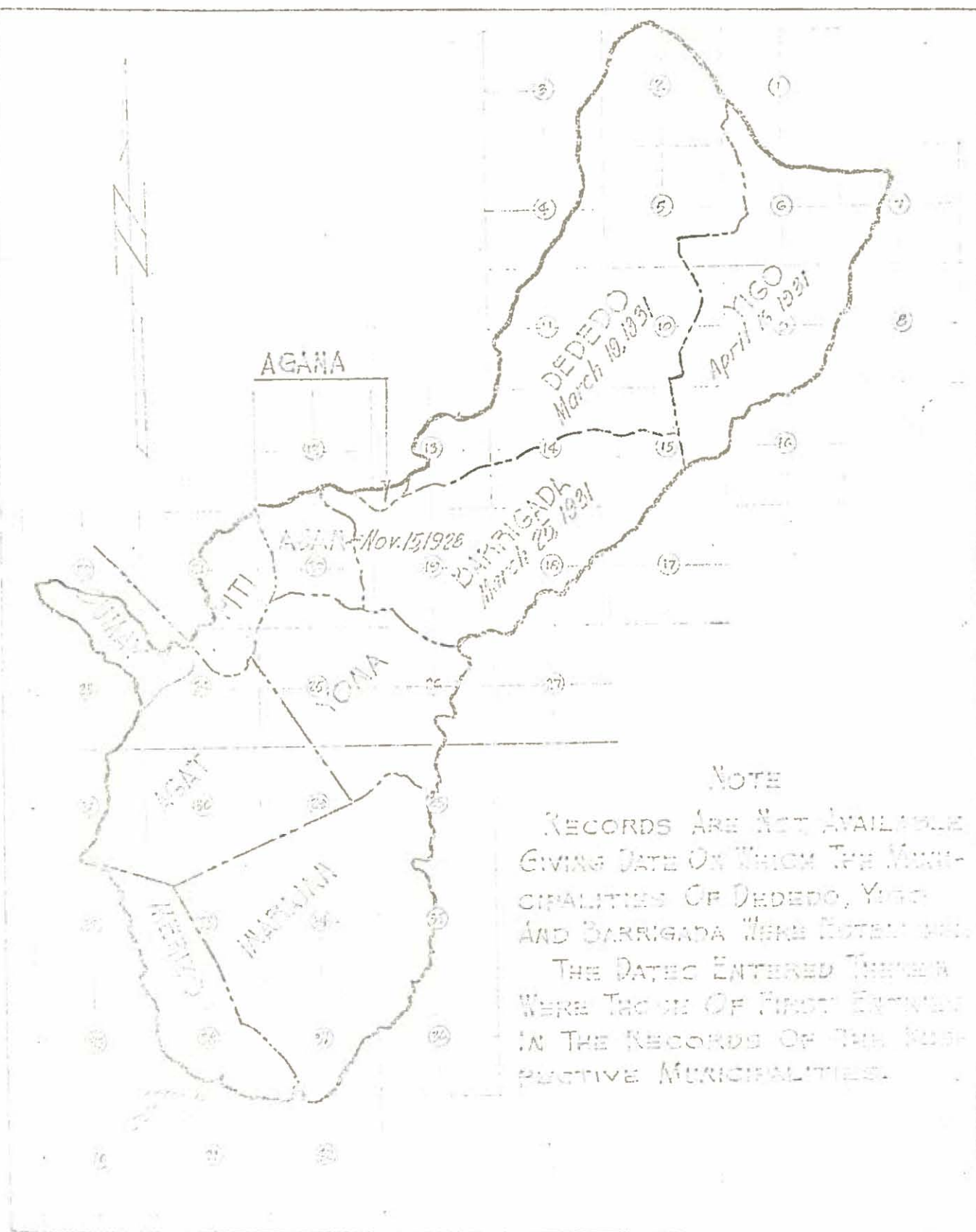


ORIGINAL MUNICIPALITIES

as of July 1, 1975

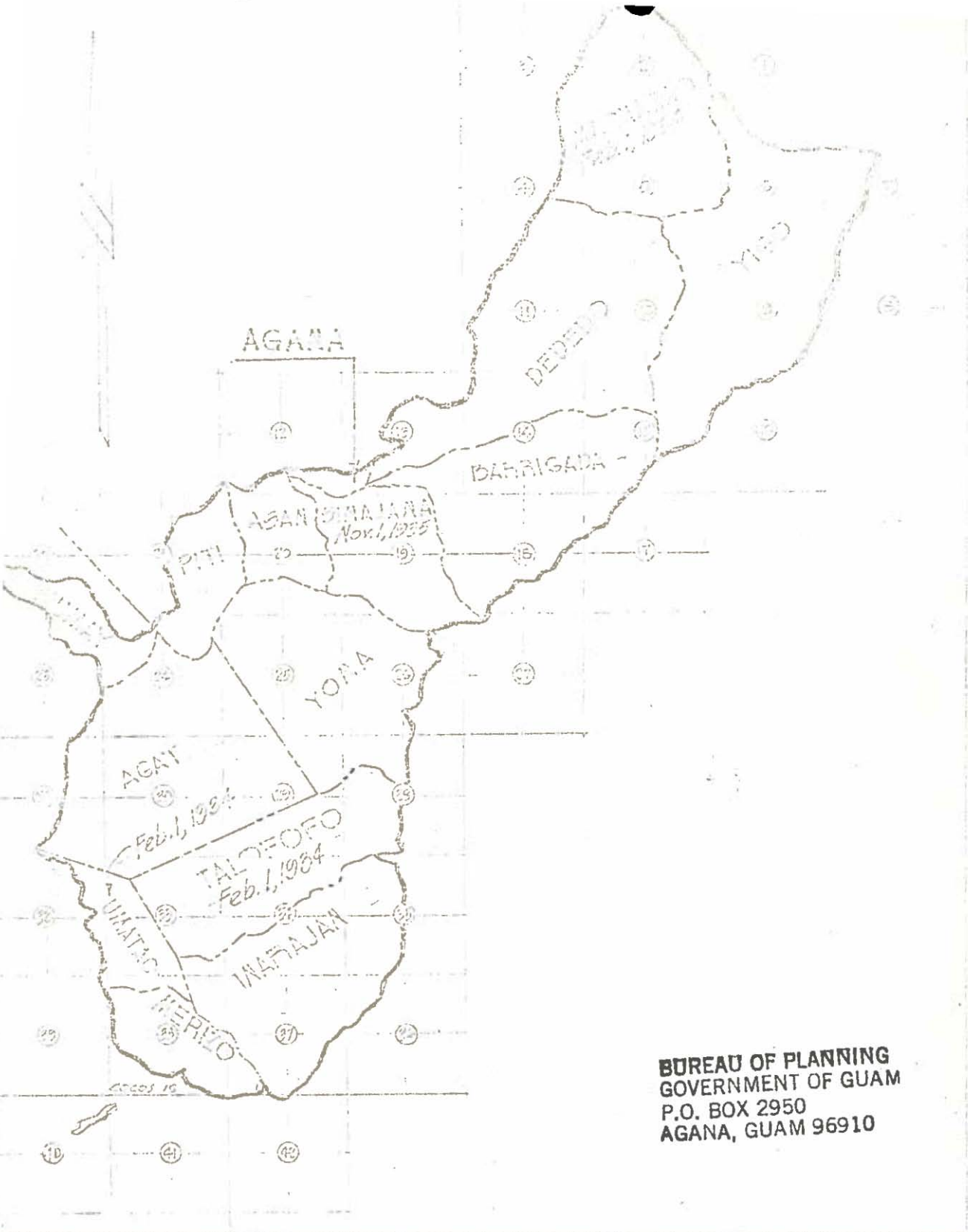


MUNICIPALITIES ADDED
 July 23 to November 14, 1923



MUNICIPALITIES ADDED

November 15, 1928 to March 1, 1931



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MUNICIPALITIES
As of March 10, 1934