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WHM, 2/19/82

F-12

January 22, 1975

MEMORANDUM FOR ED SCHMULTS

SUBJECT: Puerto Rico and Oil

Attached please find the letter from Lynn Coleman, Counsel to the Commonwealth of Puerto Rico, to Ken Cole concerning their demand for retention of all fees collected in connection with the refining of oil in Puerto Rico.

The license fees have now accumulated to \$300 million, with a great deal more to come when the President imposes his increased fees per barrel. Although Puerto Rico has been allowed to retain all Federal tax monies raised on the island, I question whether as a matter of tax equity the island should be allowed to retain the massive amounts that will be raised under the President's program on oil which, although refined in Puerto Rico, is ultimately shipped for consumption elsewhere in the United States.

I think this is a matter which will ultimately have to be submitted to the President for decision, and I would appreciate Treasury's analysis in that regard.

Thanks, Ed.

GEOFF SHEPARD

Attachment

cc: Larry Silberman
Frank Zarb

GCS:vs

✓ *cc: Norm Ross*

Had

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January 17, 1975

Mr. Kenneth R. Cole, Jr.
Assistant to the President
for Domestic Affairs
The White House
Washington, D. C. 20500

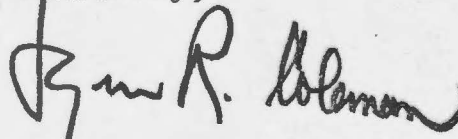
Re: Impact of President's
Import Fee Program on
Puerto Rico

Dear Mr. Cole:

Following up our conversation yesterday at the President's briefing of Governors and Mayors, I enclose a letter to Mr. Zarb together with a legal and policy memorandum which we have hurriedly prepared. This explains why Puerto Rico will be drastically impacted by the import fee program, unless reconsideration is given to a Justice Department letter to FEA of November 14, 1974 (also enclosed). This letter is to the effect that President Nixon's 1973 import fee proclamation, which expressly provided for rebate of license fees to the Commonwealth government, was unlawful. Unless this viewpoint is reconsidered, it appears that the President's new import fee program will extract \$300 million from Puerto Rican refiners, yet Puerto Rico would receive nothing in return.

I know that Governor Hernandez-Colon will personally appreciate any assistance you can give us in this matter.

Sincerely,



Lynn R. Coleman
Counsel to the
Commonwealth of Puerto Rico

LRC:slg
Enclosure



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January 17, 1975

Mr. Frank Zarb
Administrator
Federal Energy Administration
12th & Pennsylvania Ave., N.W.
Washington, D.C. 20461

Re: Impact of President's
Proposed Import Fee Program
on Puerto Rico

Dear Mr. Zarb:

As I mentioned to you yesterday at the President's briefing for Governors and Mayors, we represent the Government of Puerto Rico on energy matters. At your request, I am writing this letter to summarize the harsh impact which the President's import fee proposal will have on Puerto Rico unless the November 14, 1974 Justice Department Opinion to FEA is reconsidered.

Under the Puerto Rican Federal Relations Act of 1950, and for fifty years prior thereto, Puerto Rico has been entitled to rebate of all customs, tariffs, and duties collected on imports into Puerto Rico. This is an integral part of the "compact" relationship between Puerto Rico and the United States established when the Commonwealth form of government was created in Puerto Rico.

Under the mandatory oil import program, Puerto Rico received rebate of all import duties on oil imported into Puerto Rico. President Nixon's Proclamations 4210 and 4227, which established the "license fee" system in lieu of import duties, made express provision for rebate of such fees to Puerto Rico. This was confirmed by then Deputy Secretary William Simon as Chairman of the Oil Policy Committee.



Mr. Frank Zarb
January 17, 1975
Page Two

Subsequently, Mr. Dell Perry, as head of the Oil Import Administration, advised Puerto Rican officials by letter of August 15, 1973 that they were entitled to rebate of license fees.

Not until three days ago were we advised by the FEA General Counsel's office that Mr. Scalia of the Justice Department had rendered an opinion dated November 14, 1974, pursuant to FEA's request of July 18, 1974, to the effect that rebate of license fees on crude and product imports into Puerto Rico, as specified by President Nixon's proclamation, would be unlawful. The Commonwealth thus had no notice that its rights were being reconsidered, nor any opportunity to present its viewpoint. The narrow ground for this opinion is that a "license fee" is not technically an import "duty" and therefore no authority exists for rebate of such fees to Puerto Rico.

As we understand the President's proposal, Puerto Rican refiners and petrochemical companies will pay approximately \$300 million a year in import fees. Even with the entitlements program, this may well have a most severe adverse effect on the competitive position of these Puerto Rican refiners and petrochemical companies and in turn on the economy of Puerto Rico which has already been harshly impacted by the four-fold increase in the price of foreign oil on which Puerto Rico is completely dependent for all energy requirements. From statements made yesterday by the President and Secretaries Morton and Simon, it seems clear that the Administration's policy is to "rebate" to American citizens through tax cuts and revenue sharing all funds collected by import fees and excise taxes (if enacted by Congress). None of these measures will be of any benefit to Puerto Rico. Puerto Rico is not included in revenue sharing, and U.S. income tax laws do not apply in Puerto Rico -- hence a tax cut does not benefit Puerto Ricans.

In everything but nomenclature, "import fees" have the same effects on Puerto Rico as "import duties." The method chosen by Congress to assure that Puerto Rico was treated fairly, and not devastated, by application of U.S. import laws was that all funds thus collected be rebated to the Puerto

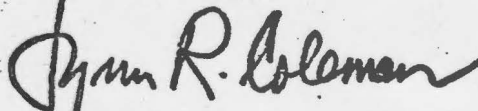
Mr. Frank Zarb
January 17, 1975
Page Three

Rican government: This historic principle should be honored in the President's import fee program as it was in Proclamations 4210 and 4227.

As noted above, the Justice Department's reconsideration of Puerto Rico's right to rebates was done without notice to the Commonwealth. At no time were we offered any opportunity to present our views on legal or policy issues. In an attempt to rectify that oversight, we have hurriedly prepared the enclosed memorandum summarizing this situation and setting forth some of the legal and policy reasons why Puerto Rico should be entitled to rebate of import fees under the existing program, as well as under the President's new import fee program.

I know you are already over-burdened with other problems, but this news has hit Puerto Rico like a shock wave. Accordingly, we shall genuinely appreciate your attention.

Sincerely,



Lynn R. Coleman

LRC:11j
Enclosure



January 17, 1975

M E M O R A N D U M

Re: Puerto Rican Entitlement to Rebate of Oil
Import License Fees Collected On Crude
Oil Imported Into Puerto Rico.

On November 14, 1974 Antonin Scalia, Assistant Attorney General, Office of Legal Counsel, Department of Justice, addressed a letter to Robert E. Montgomery, Jr., General Counsel of the Federal Energy Administration, taking the position that it is illegal and improper for the United States government to rebate to Puerto Rico oil import license fees collected pursuant to Presidential Proclamation 3279, as amended by Proclamations 4210 and 4227, on crude oil imported into Puerto Rico. That opinion was issued without any prior consultation with any representative of the Commonwealth and has come to the attention of the Commonwealth only this week. As detailed in subsequent sections of this memorandum, the Scalia opinion abruptly repudiates more than eighteen months of consistent contrary interpretation by virtually every cognizant federal official, from the President on down. Moreover, as also set forth below, the Scalia opinion is itself contrary to applicable statutes, which fully support the prior interpretations.

I

Shortly after the U.S. victory in the Spanish-American War, by which the United States obtained control of Puerto Rico, Congress enacted the Foraker Act of April 12, 1900 (31 Stat. 77). Section 2 of that statute provided:

"That on and after the passage of this Act the same tariffs, customs, and duties shall be levied, collected, and paid upon all articles imported into Porto Rico from ports other than those of the United States which are required by law to be collected upon articles imported into the United States from foreign countries . . .".



Section 4 of the same statute provided:

"That the duties and taxes collected in Porto Rico in pursuance of this Act, less the cost of collecting the same . . . shall not be covered into the general fund of the Treasury, but shall be held as a separate fund, and shall be placed at the disposal of the President to be used for the government and benefit of Porto Rico."

The same section went on to provide that, upon the formation of a civil government in Puerto Rico,

"all collections of duties and taxes in Porto Rico under the provisions of this Act shall be paid into the treasury of Porto Rico, to be expended as required by law for the government and benefit thereof instead of being paid into the Treasury of the United States."

The quoted provisions are still in effect. Section 2 of the Foraker Act is presently codified as § 739 of Title 48; section 4 is now set forth as § 740 of Title 48 of the United States Code.

Pursuant to these provisions, for almost 74 years all products imported into Puerto Rico from origins outside the United States have been subject to the same tariffs, customs, and duties as have products imported into the United States itself, and all such tariffs, customs, and duties have been duly paid into the treasury of Puerto Rico.

Among the tariffs, customs and duties so collected and paid was the 10-1/2¢ per barrel levy on crude oil which was imposed for many years prior to May 1, 1973. Puerto Rican receipts from this levy were running at an annual level of around \$10 million when the levy was suspended by Presidential Proclamation 4210, issued April 18, 1973. See 38 Fed. Reg. 9645 (April 19, 1973).

Proclamation 4210, issued by President Nixon, abolished the oil import quota system which had been established by Proclamation 3279, issued by President Eisenhower on March 12,

1959. See 24 Fed. Reg. 1781; 3 C.F.R., 1959-63 Comp., p.11. At the same time, Proclamation 4210 suspended the tariff which had theretofore been imposed on imported crude oil and replaced it with a system of import license fees. As stated in the preamble of that Proclamation, its purpose was to adjust imports of petroleum and petroleum products "through the suspension of existing tariffs and institution of a system of fees applicable to imports of crude oil, unfinished oils, and finished products, which fees may be adjusted from time to time."

Section 3(c)(1) of the Proclamation provided as follows:

"All monies received by the Secretary under the terms of paragraph (b) of this section [the license fees] shall be held by the Secretary of the Interior in a suspense account and may be drawn upon by the Secretary for the payment of any refunds of refundable license fees and for payments to Puerto Rico of sums collected by way of license fees for imports into Puerto Rico."
(Emphasis supplied.)

Lest the language of the Proclamation leave any doubt as to the intention to rebate license fees to Puerto Rico, William E. Simon, then Deputy Secretary of the Treasury and Chairman of the President's Oil Policy Committee, issued an explanatory statement simultaneously with the issuance of the Proclamation. In that statement Deputy Secretary (now Secretary) Simon stated:

"All license fees on Puerto Rican imports of oil will revert to the Commonwealth of Puerto Rico." CCH Energy Management ¶819; emphasis supplied.

Proclamation 4210 was specifically approved by the Office of Legal Counsel, Department of Justice, in a May 17, 1973 letter from Robert G. Dixon, Assistant Attorney General, to William E. Simon, Deputy Secretary of the Treasury. The letter concludes that

"the President's broad basic authority under the National Security Amendment [19 U.S.C. § 1862], as well as his continuing responsibility to adjust actions taken under that

Amendment to changing circumstances,
empower him to modify the oil import
program in the manner provided by
Proclamation No. 4210."

Nowhere in Mr. Dixon's letter is there the slightest hint of
any problem with § 3(c)(1).

On June 19, 1973 President Nixon issued Proclamation 4227
amending certain portions of Proclamation 4210, including
§ 3(c)(1). See 38 Fed. Reg. 16195 (June 21, 1973). However,
the revised paragraph 3(c)(1) still clearly provided for
rebate of license fees to Puerto Rico:

"All monies received by the Secretary under
the terms of paragraph (b) of this section
[the license fees] shall be held by the
Secretary in a suspense account and may be
drawn upon by the Secretary . . . (ii) for
the payment to Puerto Rico of sums equal to
the sums collected by way of license fees for
imports into Puerto Rico (other than imports
from the Virgin Islands) and not otherwise
refundable . . .". (Emphasis supplied.)

Proclamation 4227 thus apparently contemplated rebate to
Puerto Rico of the net license fees remaining after such
refunds as were provided for in § 3(a)(2).*/ Puerto Rico
desired to receive the gross amount of all license fees
attributable to imports into Puerto Rico and then to make the
required refunds itself. To this end, James M. Clark of the
Puerto Rican Economic Development Administration (known as
"Fomento") wrote to Mr. Dell Perry, Assistant Director, Oil
Imports, Office of Oil and Gas, U.S. Department of Interior,
on July 3, 1973, requesting appropriate revisions in Procla-
mation 4227. On August 15, 1973 Mr. Perry replied to Mr.
Clark's letter, explaining that a new draft proclamation was
being prepared which would make some changes in Proclamation
4227. Specifically in regard to the rebate of license fees
Mr. Perry stated:

*/ The most significant provisions in that section speci-
fied refunds of license fees paid with respect to crude oil
subsequently manufactured into asphalt or into finished
products or petrochemicals which are then exported.



"The language which you have asked to be included in subparagraph (3) of paragraph (a) of section 3 of the Proclamation is not included in the draft; however, the draft proclamation makes very clear that license fees collected for imports into Puerto Rico will be returned to Puerto Rico." (Emphasis supplied.)

The pertinent language of the draft proclamation attached to Mr. Perry's letter was identical to Proclamation 4227:

"All monies received by the Secretary under the terms of paragraph (b) of this section [the license fees] shall be held by the Secretary in a suspense account and may be drawn upon by the Secretary . . . (ii) for the payment to Puerto Rico of sums equal to the sums collected by way of license fees for imports into Puerto Rico (other than imports from the Virgin Islands) and not otherwise refundable . . ." (Emphasis supplied.)

In sum, every Presidential Proclamation and every interpretation of such proclamations -- including interpretations by the Chairman of the President's Oil Policy Committee and by the Assistant Director of the Interior Department's Office of Oil and Gas -- has consistently taken the position that oil import license fees attributable to crude oil imported into Puerto Rico are to be rebated to Puerto Rico. Those provisions and interpretations have been passed upon and approved by the Justice Department's Office of Legal Counsel. The Scalia letter of November 14, 1974 thus abruptly repudiates a course of administrative interpretation which has been absolutely consistent over the entire life of the import license fee system.

This sweeping reversal of prior policy was effected without consultation with any representative of the Commonwealth of Puerto Rico and without any opportunity for the Commonwealth to present its side of the question or to focus attention on the history and purpose of the statutory provision under which Puerto Rico's rights arise. Thus deprived of an opportunity to consider opposing views by such secrecy, it is not surprising that the conclusion reached in the Scalia letter is erroneous. Indeed, a fair analysis of the

questions involved strongly supports the Administration's consistent interpretation over the last eighteen months that rebate of import license fees to Puerto Rico is not only proper but required.

II.

The Scalia letter recognizes that 48 U.S.C. § 740 requires rebate of duties and taxes collected in Puerto Rico. It even recognizes that this statutory provision is an appropriations statute satisfying the constitutional provision requiring that "no money shall be drawn from the treasury, but in a consequence of appropriation made by law . . .". Article I, Section 9, clause 7. However, the Scalia letter concludes that § 740 does not authorize rebate of import license fees because such fees are not "duties". pp.3-4. In this conclusion the letter clearly errs.

The Foraker Act of 1900 was entitled "An Act Temporarily to Provide Revenues and a Civil Government for Porto Rico, and For Other Purposes." (Emphasis supplied.) As Senator Fairbanks stated during the Senate debates:

"We rest the justification of the pending bill upon the broad and simple proposition that it is the duty of Congress to provide revenue for the territories belonging to it, and to provide it in a just and equitable manner."
33 Cong. Rec. 3569 (March 31, 1900); emphasis supplied.

To this end, Congress provided in Section 2 of the Foraker Act (set forth above) that the same tariffs, customs, and duties should be levied upon articles imported into Puerto Rico from foreign countries as are levied upon articles imported into the United States from such countries. It also provided, in Section 3, that articles of Puerto Rican manufacture coming into the United States should be subject to U.S. internal revenue taxes and, conversely, that articles of U.S. manufacture coming into Puerto Rico should be subject to Puerto Rican internal revenue taxes. Finally, it provided in Section 4 that:

"the duties and taxes collected in Porto Rico in pursuance of this Act, less the cost of collecting the same, and the



gross amount of all collections of duties and taxes in the United States upon articles of merchandise coming from Porto Rico"

should be for the use and benefit of Puerto Rico.

The provision in Section 4 prescribing rebate of duties is now a key part of the Puerto Rican Federal Relations Act, Pub. L. 600 (64 Stat. 319); 48 U.S.C. § 740, pursuant to which the Commonwealth of Puerto Rico was created and which constitutes part of the "compact" between the U.S. and Puerto Rico. See Calero-Toledo v. Pearson Yacht Leasing Co., ___ U.S. ___, 40 L.Ed 2d 452, 461 (1975); 28 Dept. of State Bull. 584-589.

In short, in the interest of providing a just and equitable source of revenue for Puerto Rico, Congress enacted a comprehensive system of duties and taxes on products coming into Puerto Rico and on Puerto Rican products shipped to the United States -- and provided that all such duties and taxes, wherever collected, should be for the account of Puerto Rico.

The comprehensiveness of these provisions was consistently emphasized during the Congressional debates leading to passage of the Foraker Act. Thus, Congressman Tawney stated:

"Every dollar of the revenue collected under this bill, whether collected at the ports of Puerto Rico or in the ports of the United States, under the provisions of this bill, is segregated from all other revenues of the Government and turned over to the people of Puerto Rico to be used in defraying the expense of their government and to enable them to make such internal improvements as are necessary to better their present condition. Not a dollar of it is retained . . ." 33 Cong. Rec. 2201 (February 24, 1900); emphasis supplied.

To the same effect was the statement of Congressman Grosvenor of Ohio:



"[W]hen I told him [a newspaper editor] that every dollar of the money raised at either end of the line went into the Treasury and for the benefit of the Puerto Ricans, he was utterly amazed." Id. at 2407 (February 28, 1900).

The same theme was struck by Senator Perkins during the Senate floor debates:

"[I]t has been deemed wise, as well as expedient, . . . to raise what money is needed by an indirect tax from duty on its exports to this country and internal-revenue taxes on manufactured articles only that are exported into the United States.

"The money thus collected, being derived in this way, and also from duties on foreign imports into Porto Rico, comes from the most productive kinds of business in the island. So this indirect tax is less severely felt than if of a more general character, and every dollar thus collected is turned into the insular treasury of Porto Rico for the sole benefit of the people of that island . . ." Id. at 3639 (April 2, 1900); emphasis supplied.

The Senate report explained

"These revenues are given to Porto Rico not only because the necessities of the island are immediate and very great but for the further reason that it seems only just that the island should have the full benefit of all such duties and taxes, inasmuch as they arise on account of the island alone, and for the further reason that there is no satisfactory system of taxation or raising of revenues now in force in the island, and there will necessarily be much delay in inaugurating one." S. Rep. 249, 56th Cong., 1st Sess. 8 (February 5, 1900); emphasis supplied.



Thus the legislative history of the Foraker Act demonstrates:

1) That it was the intention of Congress to provide a sufficient source of revenue for Puerto Rico and to provide it in a just and equitable manner;

2) That Congress considered it only fair and just that Puerto Rico should have the full benefit of duties and taxes arising "on account of the island alone" -- i.e., on products produced in or imported into Puerto Rico; and

3) That, consistent with the two concerns set forth immediately above, Congress enacted a statute comprehensively providing for rebate to Puerto Rico of all duties and taxes imposed on Puerto Rican products transported to the United States as well as on all products imported into Puerto Rico. In light of these purposes, it is inconceivable that Congress could have intended that Puerto Rico be denied rebate of levies on foreign source petroleum imported into the Island simply by changing the appellation attached to such levies from "tariffs" to "import license fees".

An examination of Proclamation 4210 and of Deputy Secretary Simon's explanation of that proclamation makes clear that that is exactly what was done. Thus, the preamble to the Proclamation recites that the Chairman of the President's Oil Policy Committee had recommended

"immediately suspending tariffs on imports of petroleum and petroleum products and shifting to a system whereby fees for licenses covering such imports shall be charged and whereby such fees may be adjusted from time to time . . .".

The preamble continues by noting that the President agreed with this recommendation and therefore deemed it necessary to adopt

"a long term program for adjustment of imports of petroleum and petroleum products through the suspension of existing tariffs and the institution of a system of fees applicable to imports of crude oil, unfinished oils and finished products, which fees may be adjusted from time to time."



Finally, in his statement explaining and interpreting the Proclamation, Deputy Secretary Simon stated:

"Also effective May 1, 1973, existing tariffs on crude oil and refinery products will be suspended. In their place license fees will be imposed on imports . . .". CCH Energy Management ¶819; emphasis supplied.

No one can question the proposition that tariffs imposed by the United States on crude oil imported into Puerto Rico are "duties" required by 48 U.S.C. § 740 to be rebated to the Commonwealth. Since the present system of import license fees was adopted in place of the tariff and is, in all essential aspects, identical to a tariff */ such fees should clearly be treated as tariffs for rebate purposes within the meaning of the Puerto Rican Federal Relations Act.

Particularly is this so in light of the clear intent of Congress that all levies on products imported into Puerto Rico should be for the account of the Commonwealth. The narrow, technical interpretation of 48 U.S.C. § 740 in the Scalia letter simply ignores this broader picture. In so doing it clearly errs.

*/ That is, it is a levy imposed by the United States government on crude oil imported into the United States from foreign countries and must be paid before such crude oil can lawfully be brought into the United States.

U.S. Justice Department Opinion that rebate of license fees to Puerto Rico under President Nixon's proclamation would be unlawful.

NOV 14 1974

Robert E. Montgomery, Jr., Esq.
General Counsel
Federal Energy Administration
Washington, D.C. 20461

Dear Mr. Montgomery:

This is in response to your letter of July 18, 1974, requesting our opinion as to the legality of the system outlined in section 3(c)(1)(ii) and (iii) of Presidential Proclamation 3279, as amended by Proclamations 4210 and 4227, providing for payments to Puerto Rico, the Virgin Islands, Guam, and American Samoa derived from funds collected as oil import license fees pursuant to the Proclamation.^{1/} We regret the delay in responding.

Section 3(c)(1) provides in relevant part as follows:

All monies received by the Secretary [now the Administrator of FEA] under the terms of paragraph (b) of this section shall be held by the Secretary in a suspense account and may be drawn upon by the Secretary (i) for the payment of refundable license fees; (ii) for the payment to Puerto Rico of sums equal to the sums collected

^{1/} For a general discussion of the legal basis of Proclamation 4210, amending Proclamation 3279, see letter from Assistant Attorney General Robert Dixon to Deputy Secretary of the Treasury William Simon, dated May 17, 1973 (hereinafter "OLC letter of May 17, 1973"). Neither that letter nor the letter from Assistant Attorney General Robert Dixon to the President, dated June 14, 1973, dealing with Proclamation 4227 which further amended Proclamation 3279, addressed the question at issue here.

NOV 14 1974

by way of license fees for imports into Puerto Rico (other than imports from the Virgin Islands) and not otherwise refundable; and (iii) for the payment to American Samoa, Guam, or the Virgin Islands, as the case may be, of sums equal to the sums collected by way of license fees and not otherwise refundable for imports therefrom into the customs territory of the United States of crude oil or motor gasoline, other finished products, or unfinished oils, manufactured in American Samoa, Guam, or the Virgin Islands. Balances remaining in such suspense account and not required to be reserved for payments hereinabove provided shall be deposited at the end of each fiscal year in the Treasury of the United States and credited to miscellaneous receipts.

To carry out this mandate there was established in the Treasury a "Budget Clearing Account (Suspense)" in which the license fees have been deposited and from which refunds of license fees pursuant to section 3(a)(3) have been made. This type of account was first created in 1968 so as to give immediate budget effect to remittances which were "presumed to be applicable to Budget accounts in general" but which had to be held in suspense either because the specific budget account to be credited could not yet be determined or because the specific amount to be credited could not yet be determined. See Transmittal Letter No. 14 to the Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies (hereafter "Transmittal Letter No. 14").

Article I, section 9, clause 7 of the Constitution states: "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law. . . ." Funds held in Budget Clearing Accounts (Suspense) would appear to be "in the Treasury" for purposes of this provision. That appears first, from the manner in which such funds are recorded by the Treasury--to wit, as receipts into the Treasury in the same fashion as fees, fines, gifts, rents, and taxes. See Combined Statement of Receipts, Expenditures, and Balances of the United States Government (1973) (hereinafter referred to as "Combined Statement"). Moreover, all funds in Budget Clearing

Accounts (Suspense) are utilized in determining the monthly budget surplus or deficit, which reflects that the funds are dedicated "for the use of the United States" and are therefore required to be paid into the Treasury. See 31 U.S.C. § 484. Thus, the effect of placing the oil import license fees in a Budget Clearing Account (Suspense) is to require an appropriation by Congress for any payments to be made to Puerto Rico, the Virgin Islands, Guam or American Samoa pursuant to the Proclamation

A search of the statutes dealing with territories and with money and finance has failed to disclose any such appropriation act. The sole provision which even requires discussion relates only to Puerto Rico. Section 740 of Title 48 of the United States Code provides in relevant part that:

The duties and taxes collected in Puerto Rico in pursuance of the provisions of this chapter . . . shall be paid into the Treasury of Puerto Rico.

This is deemed a permanent, indefinite special fund appropriation. See The Budget of the United States Government in Fiscal Year 1975, Appendix, 735. But application of this statute to the oil import license fees requires a determination that such fees are "duties . . . collected . . . in pursuance of the provisions of [chapter 191 of the Act of April 12, 1900, 31 Stat. 77.]"^{2/} It is our view that such a determination is

^{2/} There are other statutes which say in general terms that customs duties shall be turned over to the respective island governments. See 48 U.S.C. §§ 1394, 1396, 1421e, 1421h, 1642, 1644. With reference to the Virgin Islands, however, the longstanding administrative interpretation of the statutes is that they apply only to duties collected on items imported into the Virgin Islands, not to duties collected on items imported into the United States from the Virgin Islands. See 23 Comp. Dec. 574 (1917). The provisions relating to Guam also apply only to duties on items imported into Guam. H.R. Rep. No. 1677, 81st Cong., 2d Sess., 15 (1950). There is no law dealing with Samoan customs duties at all.

not possible. While there are certain similarities between duties and these oil import license fees, there are substantial differences. These were outlined in a memorandum accompanying a letter from Assistant Attorney General Robert Dixon to Deputy Secretary of the Treasury William Simon dated April 11, 1973 (hereinafter referred to as "OLC memo"), preliminarily assessing the legality of the proposed Presidential Proclamation which, upon its issuance, replaced the previous oil quota system with the import license fee system. One conclusion of the memorandum was that the money exaction proposed by the Proclamation should be denominated an oil import license fee, not a duty, because aspects of the regulatory scheme were inconsistent with the latter concept.^{3/} Id. at 11. The difference between the license fees and normal duties is further reflected in the actual transactions involved in the collection and retention of the respective funds. Customs duties contemplated by 48 U.S.C. § 740 are collected by U.S. Customs Officials in Puerto Rico, and the funds are placed in a special funds receipt account, 20 x 5687. Combined Statement at 570. The oil import license fees, however, are paid to FEA and placed in its Budget Clearing Account (Suspense); Customs officials have no role whatever in the process. Thus the fees do not appear to be duties contemplated by 48 U.S.C. § 740, and that statute's appropriation of customs duties collected in Puerto Rico would not seem to apply to the oil import license fees. Even as to Puerto Rico, then, executive payment of funds from the Treasury account would violate the Constitution.

3/ This was so because: (1) duties are normally considered primarily a revenue measure, while the fees involved here had assuredly regulatory purposes; (2) the oil import scheme provides exemptions for certain persons based on their actions, and such exemptions from a duty are anomalous; (3) the scrapping of the existing statutory duty on oil would not be justified unless a whole new system were being created, using different regulatory devices. Id. at 10-11.

The question may arise how refunds (as distinct from the payments here at issue) may be made under section 3(a)(3) of the Proclamation. The answer is to be found in 31 U.S.C. § 725q-1, a permanent, indefinite appropriation for moneys erroneously deposited in the Treasury. This statute is regarded generally as an appropriation of money for the purpose of paying refunds on customs duties, taxes, fees, fines, etc. The justification would appear to be that the amount of money entitled to be refunded was not "received for the use of the United States" within the meaning of 31 U.S.C. § 484 and therefore should not have been covered into the Treasury. This justification cannot be applied to the regular payments to the island governments contemplated by section 3(c)(1) of the Proclamation, since these do not involve funds erroneously collected, and since the President had no authority to receive the funds properly collected except "for the use of the United States."

If the payments to the island governments were necessary to comply with or furthered the purpose of 19 U.S.C. § 1862, the statute which is the legal basis of Proclamation 3279, then it might be argued that that statute authorizes the President to make such payments. Cf. Varney v. Warehine, 147 F.2d 238 (6th Cir. 1945), cert. denied, 325 U.S. 882. Such is not the case, however. See Letter from Deputy Secretary of the Treasury William Simon to John Sawhill, dated May 25, 1973; Memorandum from Sandra Sherman to you, dated July 17, 1974.

It is our conclusion, therefore, that it is not within the President's authority to direct the payment to Puerto Rico, the Virgin Islands, Guam, and American Samoa of those oil import license fees collected on oil imported from the respective islands. Accordingly, section 3(c)(1)(ii) & (iii) is without legal foundation, and the payments contemplated therein should not be made.

We realize that this Office approved both Proclamation 4210 and 4227 for their legal sufficiency prior to their going into effect. We regret our oversight, pleading in

mitigation only that the provisions in question formed a small and relatively insignificant part of a complex Proclamation, raising substantial issues of executive authority and reviewed on an urgent basis.

Sincerely,

Antonin Scalia
Assistant Attorney General
Office of Legal Counsel

Puerto Rico FEA

- Volume of oil (Tax) used in P.R.
- what are we going to say now?



file
Punto R.20

THE WHITE HOUSE
WASHINGTON

December 4, 1974

TO: Paul O'Neill
Stan Ebner
Mike Duval

FROM:  Schleede

SUBJECT: Refund of Oil Import License Fees
to Island Governments

Please note the attached memo from Bob Montgomery
which is largely self-explanatory.

Not crystal clear in the attached material are the
facts that:

- . The island Governments are counting heavily
on the refunds -- making it a very touchy
political issue.
- . Some of the Governments have gone as far as
thinking about offering (or actually doing so)
rebates to oil producing companies or countries
as an incentive to locate refineries or trans-
shipment facilities in their territories.

Do any of you wish to attend the Friday meeting or
send a representative? I will contact Montgomery
and try to arrange to have the meeting in the OEOB.

Incidentally, total credit for identifying the problem
and pushing Treasury, FEA and Justice into facing up
to it belongs to Dudley Chapman.

CC: Norm Ross ✓

2P. in - Room 2



FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

DEC 03 1974

MEMORANDUM FOR: Mr. Glen Schleede
Mr. Gerald Parsky
Mr. John Hill
Mr. Dudley Chapman
Mr. Duke Ligon

FROM : Robert E. Montgomery *RE*
General Counsel

SUBJECT : Refunds of License Fees to Island Governments
under the Mandatory Oil Import Program

On July 18, 1974, I requested the Department of Justice to review a memorandum prepared by my staff, and to give us their opinion respecting the legality of Sections 3(c)(1)(ii) and (iii) of Proclamation No. 3279, as amended, providing for payments to Puerto Rico, the Virgin Islands, Guam, and America Samoa derived from the oil import license fees imposed on imports into Puerto Rico and on shipments to U. S. customs territory from the Virgin Islands, Guam, and Samoa. This request was prompted by a suggestion from Dudley Chapman that FEA review these provisions, and by the conclusion of my staff that they were of doubtful legality.

In a letter to me dated November 14, 1974, a copy of which is attached, Tony Scalia advised that no payments could be made under the subject provisions without an appropriation from Congress. A search by his office of the statutes dealing with territories, and with money and finance, failed to disclose any such appropriations act. Mr. Scalia acknowledged his office's oversight in failing to notice the invalidity during its original review of Proclamation No. 3279, as amended, early in 1973.



In view of Mr. Scalia's present determination, I should like to ask you to attend a meeting on Friday, December 6, in order to discuss a course of action for dealing with the situation. Please have your secretary call mine at your earliest convenience so that we may arrange an appropriate time.

I would like to consider the following questions:

1. In what manner, and by whom, should the island governments be advised of the Justice Department's determination?
2. What options are available?
 - a. Delete the provision from the Proclamation, without attempting to compensate the island governments;
 - b. Obtain permanent legislation authorizing payments in the manner set forth in the Proclamation;
 - c. Obtain legislation for the purpose of compensating the island governments for money which they expected to receive, and then delete the provision from the Proclamation.

I would tentatively favor option b. as being most consistent with general policies in the analogous tariff area.

Attachment



Department of Justice
Washington, D.C. 20530

NOV 14 1974

Robert E. Montgomery, Jr., Esq.
General Counsel
Federal Energy Administration
Washington, D.C. 20461

Dear Mr. Montgomery:

This is in response to your letter of July 18, 1974, requesting our opinion as to the legality of the system outlined in section 3(c)(1)(ii) and (iii) of Presidential Proclamation 3279, as amended by Proclamations 4210 and 4227, providing for payments to Puerto Rico, the Virgin Islands, Guam, and American Samoa derived from funds collected as oil import license fees pursuant to the Proclamation.^{1/} We regret the delay in responding.

Section 3(c)(1) provides in relevant part as follows:

All monies received by the Secretary [now the Administrator of FEA] under the terms of paragraph (b) of this section shall be held by the Secretary in a suspense account and may be drawn upon by the Secretary (i) for the payment of refundable license fees; (ii) for the payment to Puerto Rico of sums equal to the sums collected

^{1/} For a general discussion of the legal basis of Proclamation 4210, amending Proclamation 3279, see letter from Assistant Attorney General Robert Dixon to Deputy Secretary of the Treasury William Simon, dated May 17, 1973 (hereinafter "OLC letter of May 17, 1973"). Neither that letter nor the letter from Assistant Attorney General Robert Dixon to the President, dated June 14, 1973, dealing with Proclamation 4227 which further amended Proclamation 3279, addressed the question at issue here.

11/14 NOV 14 1974



by way of license fees for imports into Puerto Rico (other than imports from the Virgin Islands) and not otherwise refundable; and (iii) for the payment to American Samoa, Guam, or the Virgin Islands, as the case may be, of sums equal to the sums collected by way of license fees and not otherwise refundable for imports therefrom into the customs territory of the United States of crude oil or motor gasoline, other finished products, or unfinished oils, manufactured in American Samoa, Guam or the Virgin Islands. Balances remaining in such suspense account and not required to be reserved for payments hereinabove provided shall be deposited at the end of each fiscal year in the Treasury of the United States and credited to miscellaneous receipts.

To carry out this mandate there was established in the Treasury a "Budget Clearing Account (Suspense)" in which the license fees have been deposited and from which refunds of license fees pursuant to section 3(a)(3) have been made. This type of account was first created in 1968 so as to give immediate budget effect to remittances which were "presumed to be applicable to Budget accounts in general" but which had to be held in suspense either because the specific budget account to be credited could not yet be determined or because the specific amount to be credited could not yet be determined. See Transmittal Letter No. 14 to the Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies (hereafter "Transmittal Letter No. 14").

Article I, section 9, clause 7 of the Constitution states: "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law. . . ." Funds held in Budget Clearing Accounts (Suspense) would appear to be "in the Treasury" for purposes of this provision. That appears first, from the manner in which such funds are recorded by the Treasury--to wit, as receipts into the Treasury in the same fashion as fees, fines, gifts, rents, and taxes. See Combined Statement of Receipts, Expenditures, and Balances of the United States Government (1973) (hereinafter referred to as "Combined Statement"). Moreover, all funds in Budget Clearing

Accounts (Suspense) are utilized in determining the monthly budget surplus or deficit, which reflects that the funds are dedicated "for the use of the United States" and are therefore required to be paid into the Treasury. See 31 U.S.C. § 484. Thus, the effect of placing the oil import license fees in a Budget Clearing Account (Suspense) is to require an appropriation by Congress for any payments to be made to Puerto Rico, the Virgin Islands, Guam or American Samoa pursuant to the Proclamation.

A search of the statutes dealing with territories and with money and finance has failed to disclose any such appropriation act. The sole provision which even requires discussion relates only to Puerto Rico. Section 740 of Title 48 of the United States Code provides in relevant part that:

The duties and taxes collected in Puerto Rico in pursuance of the provisions of this chapter. . . shall be paid into the Treasury of Puerto Rico. . . .

This is deemed a permanent, indefinite special fund appropriation. See The Budget of the United States Government in Fiscal Year 1975, Appendix, 735. But application of this statute to the oil import license fees requires a determination that such fees are "duties. . . collected . . . in pursuance of the provisions of [chapter 191 of the Act of April 12, 1900, - 31 Stat. 77.]"^{2/} It is our view that such a determination is

^{2/} There are other statutes which say in general terms that customs duties shall be turned over to the respective island governments. See 48 U.S.C. §§ 1394, 1396, 1421e, 1421h, 1642, 1644. With reference to the Virgin Islands, however, the longstanding administrative interpretation of the statutes is that they apply only to duties collected on items imported into the Virgin Islands, not to duties collected on items imported into the United States from the Virgin Islands. See 23 Comp. Dec. 574 (1917). The provisions relating to Guam also apply only to duties on items imported into Guam. H.R. Rep. No. 1677, 81st Cong., 2d Sess., 15 (1950). There is no law dealing with Samoan customs duties at all.

not possible. While there are certain similarities between duties and these oil import license fees, there are substantial differences. These were outlined in a memorandum accompanying a letter from Assistant Attorney General Robert Dixon to Deputy Secretary of the Treasury William Simon dated April 11, 1973 (hereinafter referred to as "OLC memo"), preliminarily assessing the legality of the proposed Presidential Proclamation which, upon its issuance, replaced the previous oil quota system with the import license fee system. One conclusion of the memorandum was that the money exaction proposed by the Proclamation should be denominated an oil import license fee, not a duty, because aspects of the regulatory scheme were inconsistent with the latter concept.^{3/} Id. at 11. The difference between the license fees and normal duties is further reflected in the actual transactions involved in the collection and retention of the respective funds. Customs duties contemplated by 48 U.S.C. § 740 are collected by U.S. Customs Officials in Puerto Rico, and the funds are placed in a special fund receipt account, 20 x 5687. Combined Statement at 570. The oil import license fees, however, are paid to FEA and placed in its Budget Clearing Account (Suspense); Customs officials have no role whatever in the process. Thus the fees do not appear to be duties contemplated by 48 U.S.C. § 740, and that statute's appropriation of customs duties collected in Puerto Rico would not seem to apply to the oil import license fees. Even as to Puerto Rico, then, executive payment of funds from the Treasury account would violate the Constitution.

^{3/} This was so because: (1) duties are normally considered primarily a revenue measure, while the fees involved here had assuredly regulatory purposes; (2) the oil import scheme provides exemptions for certain persons based on their actions, and such exemptions from a duty are anomalous; (3) the scrapping of the existing statutory duty on oil would not be justified unless a whole new system were being created, using different regulatory devices. Id. at 10-11.

The question may arise how refunds (as distinct from the payments here at issue) may be made under section 3(a)(3) of the Proclamation. The answer is to be found in 31 U.S.C. § 725q-1, a permanent, indefinite appropriation for moneys erroneously deposited in the Treasury. This statute is regarded generally as an appropriation of money for the purpose of paying refunds on customs duties, taxes, fees, fines, etc. The justification would appear to be that the amount of money entitled to be refunded was not "received. . . for the use of the United States" within the meaning of 31 U.S.C. § 484 and therefore should not have been covered into the Treasury. This justification cannot be applied to the regular payments to the island governments contemplated by section 3(c)(1) of the Proclamation, since these do not involve funds erroneously collected, and since the President had no authority to receive the funds properly collected except "for the use of the United States."

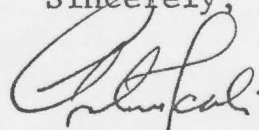
If the payments to the island governments were necessary to comply with or furthered the purpose of 19 U.S.C. § 1862, the statute which is the legal basis of Proclamation 3279, then it might be argued that that statute authorizes the President to make such payments. Cf. Varney v. Warehine, 147 F.2d 238 (6th Cir. 1945), cert. denied, 325 U.S. 882. Such is not the case, however. See Letter from Deputy Secretary of the Treasury William Simon to John Sawhill, dated May 25, 1973; Memorandum from Sandra Sherman to you, dated July 17, 1974.

It is our conclusion, therefore, that it is not within the President's authority to direct the payment to Puerto Rico, the Virgin Islands, Guam, and American Samoa of those oil import license fees collected on oil imported from the respective islands. Accordingly, section 3(c)(1)(ii) & (iii) is without legal foundation, and the payments contemplated therein should not be made.

We realize that this Office approved both Proclamation 4210 and 4227 for their legal sufficiency prior to their going into effect. We regret our oversight, pleading in

mitigation only that the provisions in question formed a small and relatively insignificant part of a complex Proclamation, raising substantial issues of executive authority and reviewed on an urgent basis.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Antonin Scalia', written in a cursive style.

Antonin Scalia
Assistant Attorney General
Office of Legal Counsel



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

DEC 5 1974

Honorable Rafael Hernandez-Colon
Governor of Commonwealth of Puerto Rico
La Fortaleza, San Juan, Puerto Rico

Dear Governor Hernandez-Colon:

Wally Scott, Frank Zarb and I all appreciate the opportunity to have met with you and the Resident Commissioner on October 17, to discuss the economic situation in Puerto Rico. We also appreciate the opportunity to comment on the most thoughtful study which you presented at our meeting.

The study vividly demonstrates the adverse impact on the economy of Puerto Rico of price increases, particularly for petroleum products, which have occurred over the last year. The steps which you have taken that are outlined in the study represent an impressive agenda to lessen the impact of the current economic situation.

Similarly, we on the Federal level have developed an agenda for the fight against inflation - an agenda which, like yours, includes budgetary restraint. Although I cannot provide you at this time with definite estimates of the impact that this budgetary restraint will have on the Commonwealth, I will address the specific recommendations made in your study and, where possible, will indicate how we are attempting to reconcile the requirements for fiscal discipline with the needs of the Commonwealth.

In connection with the discussion of the Puerto Rico budget, your study notes that Puerto Rico does not participate in General Revenue Sharing and, thus, cannot substitute these funds for reductions in categorical Federal programs. Although Puerto Rico does not participate in General Revenue Sharing, the Commonwealth could be considered to receive the ultimate measure of revenue sharing in the return to the Commonwealth of all Federal income tax and customs duties collected in Puerto Rico. The estimated revenues of \$171 million from these sources in fiscal year 1975 are most likely considerably higher than what the Commonwealth would receive were it to be included in the General Revenue Sharing formula.

At this time, we cannot provide the assurance requested in the study that \$1.5 million will be made available for the Corps of Engineers to start construction on the Portugues Bucana project. It may be necessary to propose deferral of some public works projects in order to achieve the \$300 billion outlay ceiling. The status of Portugues Bucana will be addressed in connection with overall needs, but you can be assured that this request will be given careful consideration.



The request in the study that the Economic Development Agency (EDA) provide \$5.1 million in public works grants has been discussed with that agency. EDA officials indicate that the \$3 million potentially available for public works projects in Puerto Rico is the result of favorable action on two projects at pre-application conferences. EDA presently does not have any formula type allocation of its funds, except for the very limited funding now being requested to implement the new supplementary grant allocation to States. Accordingly, all eligible recipients must compete for the available resources. To the extent that Puerto Rico proposes projects that are more worthy than the competition, it could receive additional funding.

The study cites a need for increased SBA and FmHA loan funds to be channeled into the food production and distribution sectors in order to meet the growing demand which is expected to result from implementation of the Food Stamp program. We share your concern on this issue and hope that the accelerated schedule for implementation of the Food Stamp program, which the Commonwealth proposed, will not have an adverse impact on the economy of Puerto Rico.

The Commonwealth's relative position regarding SBA loans appears to be excellent. In fiscal year 1974, the total number of SBA loans declined 68 per cent, while the number in Puerto Rico increased 22 per cent. Similarly, the situation for FmHA loans looks favorable. The Commonwealth's loans are expected to increase in fiscal year 1975 from \$27 million to \$45 million, including an increase of 50% in farm ownership and farm operating loans to \$4.5 million.

The proposal in the study that business and industrial loans be made to the Commonwealth for the purpose of being reloaned to small farmers unfortunately cannot be adopted. FmHA is prohibited by law from making loans which would subsequently be reloaned by the borrower to other borrowers. The request that the FmHA interest rate for business and industrial loans be reduced below the rate on Federal notes also cannot be adopted. The interest rate formula for this program is statutorily prescribed, and it is designed to produce an interest rate to borrowers that approximates market rates. The ongoing farm ownership and farm operating loan programs at 5% and 8-1/2% respectively are designed to serve small farmers of the kind discussed in your study.

In regard to the recommendations on housing, a major review of Federal housing policy has indicated that the Nation's housing needs can be met more effectively, efficiently, and equitably under a revised public housing leasing program than under the low ownership Assistance program which makes families eligible with the same income level as were eligible under the Section 235 program and the conventional public housing program. Accordingly, the Lower Income Housing Assistance program is being relied on to provide housing assistance in lieu of these programs. Most of the commitments under this program will be for construction of new housing units. Puerto Rico's housing needs will be carefully considered by HUD in the processing of applications for the new Lower Income Housing Assistance Program. The

recently enacted Emergency Home Purchase Assistance Act does not designate Puerto Rico as a high cost area. However, the Act does allow support for conventional mortgages of up to \$42,000.

Obviously, the housing problems of Puerto Rico and many other areas must ultimately be resolved by the private housing industry and indeed the Federal component must remain only a supplement to the private effort. We do appreciate the information on the housing needs of Puerto Rico.

The study concludes with some comments regarding Federal human resources programs and recommends that special attention be given to Puerto Rico and that ameliorative measures be devised. Too such ameliorative measures include:

- The conversion from commodity distribution to the Food Stamp Program should provide significant additional assistance to the low-income population of Puerto Rico. We are confident that, while the scheduled phased-conversion to food stamps during 1974-75 has been abandoned in favor of complete implementation by November 1, 1974, the economic assessment of feasibility has proved positive; thus, minimizing concerns of possible adverse impacts due to bottlenecks in the commercial food distribution system.
- The National Employment Assistance Act (NEAA), proposed by President Ford in his recent address on the economy, should provide significant assistance to the Commonwealth. Should the triggering conditions be met, Puerto Rico would be eligible for both extended unemployment insurance benefits (an additional 10 weeks for covered employees, 20 weeks for uncovered) and for participation in the Community Improvement Corps. At the national 6 per cent unemployment rate trigger, Puerto Rico could receive about \$28 million out of the \$500 million to be made available under the Community Improvement Corps.

In conclusion, we appreciate the opportunity both to have met with you and also to have reviewed the study which you submitted. Such dialogue with knowledgeable and responsible people like yourself is indispensable to good government. If we can provide additional information on Federal programs affecting Puerto Rico, please let us know.

Warmest regards,

Sincerely,

cc: Official File-HRD/IM

Director's Copy	Mr. Edtheredge	
Mr. O'Neill	Mr. Meyer	
Mr. Fischer	Mr. Tryck	
Mr. Rotherham	Mr. Speshock	Paul H. O'Neill
Mr. Barry	Mr. Hanna	Associate Director for
Mr. Smolkin		Human and Community Affairs
Mr. Parras	HRD/IM:JRotherham:fv	11-14-74
Mr. Landis		
Mr. Hamm		



GERALD R. FORD LIBRARY

This form marks the file location of item number 1 as listed
on the pink sheet (GSA form 7122 Withdrawal Sheet) at the front of the
folder.

W. H. M. 2/19/82



CITY OF SAN JUAN
OFFICE OF THE MAYOR
SAN JUAN, PUERTO RICO 00905

January 13, 1975

Mr. Norman Ross
Domestic Council
1600 Pennsylvania Ave. N.W.
Washington, D. C. 20500

Dear Mr. Ross:

First of all, I want to express my gratitude for your kindness in receiving us in your office during our visit to Washington last week.

As agreed in the course of our conversation with Mr. James H. Falk, I am enclosing a copy of the letter being mailed to Mr. William A. Morrill (which is self-explanatory).

I shall most sincerely appreciate any help you may be able to give us in our effort to win release of the Hill Burton funds for our two health facility construction projects.

Cordially,

Carlos Romero Barceló
Carlos Romero-Barceló



1/17



CITY OF SAN JUAN
OFFICE OF THE MAYOR
SAN JUAN, PUERTO RICO 00905

January 13, 1975

Mr. William A. Morrill
Assistant Secretary
Planning and Evaluation Office
Department of Health, Education and Welfare
330 Independence Ave. S.W.
Washington, D. C. 20201

Dear Mr. Morrill:

This is in reference to our meeting last week regarding the Hill-Burton funds granted to the San Juan Municipal Government through the State Agency (Department of Health) that administers those funds.

We have two on-going projects, as follows:

I - Rio Piedras Diagnostic and Treatment Center
Project Numer PR-308

The first Hill-Burton grant for this project was in the amount of \$700,000. Allocated funds were from F.Y. 1971 and 1972. In July 1974 a second allotment in the amount of \$600,000 was authorized by the Commonwealth Secretary of Health. These funds were from F.Y. 1973-74.

Since this project is now in the final construction stage (85% completed), we have been awarding bids for the completion of the center. For this purpose we have committed the \$600,000 mentioned previously. The first \$700,000 allotment has already been used in the construction phase.

II - San Juan Long Term Care and Rehabilitation Center
Project Number PR-403
Sub Numbers: PR-403A-L.T.C.
PR-403B-Rehabilitation



Mr. William A. Morrill
January 13, 1975

Page -2-

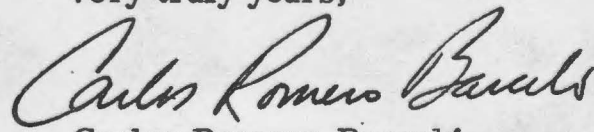
For this project the State Agency allocated the amount of \$994,492 from F. Y. 1973 and 1974.

A great deal of work has been done on this project. Final plans will be submitted by the architects in January 1975. We expect to start construction by June 1975, and to have the first phase finished in October 1976. As you know, that year marks the Bicentennial Celebration in which we are a participating city.

We appreciate most sincerely the attention you gave us during our visit to Washington, and whatever help you may be able to give us in obtaining the release of the Hill-Burton funds for the above-mentioned projects.

Naturally, I hardly need add that we are also anxiously awaiting word from you as to the final decision that is reached concerning the availability of this funding.

Very truly yours,


Carlos Romero-Barceló





DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
26 FEDERAL PLAZA
NEW YORK, NEW YORK 10007

December 18, 1974

Ing. Salda

REGION II
NEW JERSEY, NEW YORK
PUERTO RICO, VIRGIN IS.

Jose A. Alvarez de Choudens, M.D.
Secretary of Health
Puerto Rico Department of Health
San Juan, Puerto Rico 00924

Dear Dr. Alvarez:

The President's Message on budget restraint submitted to the Congress on November 26, proposed that the Congress rescind all unobligated balances remaining from the FY 1973 and 1974 appropriations for Medical Facilities Construction. The President intends to present in the very near future a comprehensive summary of all 1975 proposed rescissions and deferrals for the remaining HEW programs that are affected by these budget restraints.

While Congress considers these proposals, including the Medical Facilities Construction Grant rescission, the Department will not obligate any additional funds for these programs. Therefore, effective December 17, no pending medical facility grant applications may be approved for obligation. You are also advised that all funds previously allocated for projects which have not received Part IV approval are hereby suspended from any further action which would incur an obligation on behalf of the Federal Government. Accordingly, all unobligated balances available as of December 17 are hereby withdrawn except that funds may be available for payment for state administrative agency costs.

Please let me know if you have any questions with respect to this action.

Sincerely,

C. Robert Dean

C. Robert Dean, M.D.
Acting Regional Health Administrator



74-6821

Maya of San Juan

①

Hill Burton

1 - Drug Clinic

What
HEW
express
renewal
through
on so

2 - Hosp

Unobligation funds

②

Drug Abuse Prevention
O.E.O. — HEW

(March 75)

1/23/75

E/c

PUERTO RICO

Question:

How is Puerto Rico affected by the Proclamation?

Answer:

The fees established under the Proclamation apply to imports into Puerto Rico just as they apply to imports into the United States. In order to avoid any new burden on Puerto Rico, the President is seeking legislative authority to refund to the Government of Puerto Rico the amounts collected by the supplemental and existing fees (\$1.00 - \$3.00 per barrel) for those volumes actually consumed in Puerto Rico. This will provide Puerto Rico with the same relief as the President is providing other citizens through the tax and other refund measures which he is proposing. The President will also ask for remedial legislation to refund to Puerto Rico certain fees already collected. In addition, the Government of Puerto Rico will receive amounts collected pursuant to tariffs (this is equivalent to about 10¢ per barrel) which are being reinstated by the Proclamation.



FACT SHEET ON PUERTO RICO

1. Supplemental \$3.00 fee would apply to all imports into Puerto Rico. Existing arrangements with respect to the special contracts will be continued pending the three month review of the mandatory oil import program as provided by the President.
2. Tariffs would be reimposed and amounts paid would be refunded to the Government of Puerto Rico.
3. Fees paid on crude converted into products exported from Puerto Rico to destinations outside the U.S. customs territory would be rebated.
4. Special long-term allocations to certain refineries which require payments to the Puerto Rican government into the Puerto Rican Conservation Fund would be continued in their present form, but the supplemental \$3.00 fee would apply to their imports.
5. The President will seek legislation to provide the people of Puerto Rico financial benefits equivalent to those being provided other citizens through the President's proposed tax and other measures. Such legislation would provide for rebates to Puerto Rico of the amount of the fee collected on crude oil consumed in Puerto Rico. Thus, Puerto Ricans will bear no new burden under the fees. The President will also seek remedial legislation to refund fees already collected pursuant to the present proclamation.



1/23/75

VIRGIN ISLANDS

Question:

Will legislation be requested to permit rebate of the fees collected since May 1, 1973, as originally contemplated by the Proclamation issued in April 1973? In other words, will the Virgin Islands (also Guam and American Samoa) be treated consistently with Puerto Rico?

Answer:

The situation in the case of the Virgin Islands is entirely different than that of Puerto Rico. Since the Virgin Islands are outside the customs territory of the United States, the supplemental fees which will be paid by Puerto Rico consumers will not directly affect petroleum prices in the Virgin Islands. The need for insuring return of the higher import fee revenues to Virgin Island consumers is therefore not present. The question remains whether the limited rebate -- such as intended by the 1973 proclamation -- is still appropriate, however, we have not had time to thoroughly address this question. We will be doing that over the next couple of weeks and we will provide an answer as soon as possible.

