

Central Office

December 21, 1978

Amata Kabua, Chairman
Marshall Island Political Status
Commission
Majuro, Marshall Islands 96960

Dear Amata:

I want to expand somewhat upon my December 20 letter to Ambassador Rosenblatt, a copy of which I sent to you in yesterday's mail. Also, I want to suggest that we sit down at the earliest opportunity to discuss what I had to say to Ambassador Rosenblatt.

I have a threshold problem: It is not clear whether Mr. Rosenblatt has consciously undertaken to resolve the United States' responsibility for radiation related claims in the context of the political status negotiations. From several different sources available to me, I am getting different and conflicting indications, but his plan may be to work out financial arrangements for the Marshall Islands as a whole without mention of the specific needs of the People of Rongelap, Utirik and Enewetak, and then dispose of them with inclusion in the compact of a broad general clause precluding any and all other kinds of United States' assistance or programs. This would effectively terminate all on-going programs and legally foreclose any possibility of other future assistance. (Nearly everything I say here could apply equally to Bikini, but as you know we are not counsel for the People of Bikini and, hence, do not presume to speak on their behalf.)

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On the other hand, there is some indication that he simply is not very knowledgeable about the current radiation related programs at Enewetak, Bikini, Rongelap and Utirik, or the present and future claims which those people have.

From my conversation with him I have no doubt that there is what I take to be a very serious error in the way he is conceiving of the issue. In my view, the United States has sole, direct and exclusive responsibility (and liability) for the radiation related injuries, losses, problems and long term needs of these people. I do not believe that it is legally or morally permissible for the United States to impose that responsibility upon the future Government of the Marshall Islands. The United States cannot by that means attempt to escape the legal consequences of its conduct as administering authority of the Trusteeship. I am not at all sure that Mr. Rosenblatt agrees with me, but I am hopeful that he can be persuaded.

For our part, we will continue to look directly to the United States Government and its various agencies on these matters, not to the Marshall Island Political Status Commission. As I said in my letter to Mr. Rosenblatt, it seems to us, that settlement of all outstanding claims and provisions for all future programs related to the nuclear testing activity of the United States, must be worked out directly between the particular individuals and groups involved, on the one hand, and the United States Government on the other. The cost of such settlements and programs simply cannot be charged against the future total United States' financial assistance for the Marshall Islands government, which is not in any way responsible for causing the damage in the first place. Moreover, I have no indication that Mr. Rosenblatt's portfolio includes authority to represent the United States Government in the settlement of our client's claims arising out of the nuclear testing program.

I enclose a copy of Ambassador Rosenblatt's November 13, 1978 letter to Ms. Nancy Snyder, Deputy Administrator for Family and Nutrition Programs of the Department of Agriculture. The view expressed there is one of the principal causes of my concern. Also enclosed is a copy of my letter to Mr. Jonathan M. Weisgall,

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in his capacity as attorney for the People of Bikini, on one aspect of this overall problem. Because the time is so short until the next round of talks, I thought it prudent to send a copy of this letter and its enclosures directly to your attorney, Mr. Richard D. Copaken.

I am confident you know that we are not in any way attempting to intrude into your negotiations with Mr. Rosenblatt, because I know you share with me concern for those Marshallese who deserve the special care and attention of the United States as a result of the extraordinary consequences of the nuclear testing program. I am confident that with comparatively little effort, any conflict which might exist between the approach to the negotiations being taken by the United States and the rights of our clients, can be resolved.

Best Regards,

Theodore R. Mitchell

TRM/dl

xc: Richard D. Copaken

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