

COVINGTON & BURLING

407600

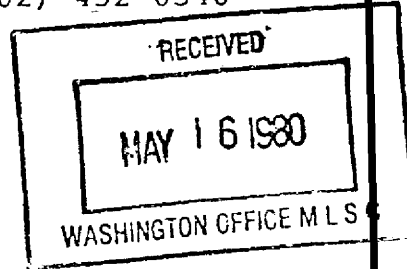
888 SIXTEENTH STREET, N.W.

WASHINGTON, D. C. 20006

TELEPHONE (202) 452-6000

WRITER'S DIRECT DIAL NUMBER

(202) 452-6340



April 21, 1980

JOHN T. SAPIENZA
 ERNEST W. JENNES
 STANLEY L. TENKO
 DON V. HARRIS, JR.
 WILLIAM STANLEY, JR.
 WEAVER W. DUNNAN
 EDWIN M. ZIMMERMAN
 JEROME ACKERMAN
 EDGAR F. CZARRA, JR.
 WILLIAM H. ALLEN
 DAVID B. ISBELL
 JOHN B. JONES, JR.
 H. EDWARD DUNKELBERGER, JR.
 BRUCE MCADOO CLAGETT
 JOHN S. KOCH
 PETER BARTON HUTT
 HERBERT DYM
 JOHN VANDERSTAR
 NEWMANT HALVORSON, JR.
 HARVEY M. APPELBAUM
 MICHAEL S. HORNE
 JONATHAN D. BLAKE
 CHARLES E. BUFFON
 ROBERT N. SAYLER
 E. EDWARD BRUCE
 DAVID N. BROWN
 PAUL J. TAGLIABUE
 ANDREW W. SINGER
 DAVID H. HICKMAN
 RUSSELL M. CARPENTER, JR.
 NICHOLAS W. FELS
 THEODORE L. GARRETT
 DANA T. ACKERLY
 JOHN THOMAS SMITH II
 JOHN P. RUPP

DANIEL M. GRIBBON
 HARRY L. SHNIDERMAN
 EDWIN S. COHEN
 JAMES C. MCRAE
 JOHN W. DOUGLAS
 HAMILTON CAROTHERS
 J. RANDOLPH WILSON
 HENRY P. SALLER
 JOHN M. SCHAFER
 ALFRED H. MOSES
 JOHN LEMOYNE ELLICOTT
 PAUL R. DUKE
 PHILIP R. STANSBURY
 CHARLES A. MILLER
 RICHARD A. BRADY
 ROBERT E. O'MALLEY
 EUGENE I. LAMBERT
 MARK A. WEISS
 HARRIS WEINSTEIN
 JOHN B. DENNISTON
 PETER J. NICKLES
 MICHAEL BOUDIN
 BINGHAM B. LEVERICH
 ALLAN TOPOL
 VIRGINIA G. WATKIN
 RICHARD D. COPAKEN
 CHARLES LISTER
 PETER D. TROBOFF
 WESLEY S. WILLIAMS, JR.
 DORIS D. BLAZEK
 WILLIAM D. IVERSON
 S. WILLIAM LIVINGSTON, JR.
 JOHN M. VINE
 STUART C. STOCK

NEWELL W. ELLISON
 H. THOMAS AUSTERN
 FONTAINE C. BRADLEY
 EDWARD BURLING, JR.
 HOWARD C. WESTWOOD
 CHARLES A. HORSBY
 W. CROSBY ROPER, JR.
 JAMES H. MCGLOTHLIN
 COUNSEL

JOHN SHERMAN COOPER
 OF COUNSEL

TWE 710 822-0008
 TELE: 89-593
 CABLE: COVLING

HAND DELIVERED.

Mr. Wallace O. Green
 Acting Assistant Secretary of
 International and Territorial Affairs
 Department of the Interior
 Room 6151
 18th and C Streets, N.W.
 Washington, D.C. 20240

Dear Mr. Green:

Mr. Anton A. deBrum, Foreign Secretary of the Marshall Islands, has asked me to forward to you the following information, which Congressman Robert Duncan requested from Secretary deBrum at the conclusion of his testimony on April 2, 1980 before the House Appropriations Committee. During his testimony, Secretary deBrum related to the Committee the efforts of the Government of the Marshall Islands to determine the health consequences of previous radiation exposure and residual radiation in the northern Marshall Islands left by the United States nuclear weapons testing. As Secretary deBrum explained in his testimony, shortly after assuming office on May 1, 1979, the Government of the Marshall Islands discovered extremely disturbing data indicating serious medical abnormalities of a type often connected to radiation exposure in people of atolls in the northern Marshall Islands which had been viewed by the United States as either uncontaminated by radioactive fallout from the nuclear weapons testing or contaminated by such a low level of radiation as to be of no consequence.

BEST COPY AVAILABLE

Mr. Wallace O. Green
 April 21, 1980
 Page Two

As you will recall, on May 16, 1979 a delegation sent by the Government of the Marshall Islands participated in a meeting you chaired with representatives of the Department of Energy, Interior, Defense, State and the Defense Nuclear Agency. On that occasion the Government of the Marshall Islands requested assistance from the assembled agencies in determining the scope of the potentially radiation related medical problems on the northern atolls previously considered uncontaminated which, unlike Bikini, Enewetak, Rongelap, and Utirik, had not heretofore been the subject of focused attention by the United States. At that meeting, the Government of the Marshall Islands presented the results of its own rough, preliminary survey of the people of one of these northern atolls, Likiep, which identified out of a population of approximately 600 people, 22 reported thyroidectomies, 18 other chronic throat disorders, 2 cases of severe birth malformations, one case of intestinal cancer and 2 cases of chronic nervousness. In light of these profoundly disturbing preliminary findings, the Government of the Marshall Islands asked the Department of Energy and the Department of the Interior to undertake the necessary medical examinations, building on the expertise they had gained in their studies of Bikini, Enewetak, Rongelap and Utirik, to determine the scope of the problems which may have been caused by long term exposure to the levels of radiation left on Likiep, Wotje, Mejit, Ailuk, Jemo and possibly other northern atolls by the nuclear weapons testing program.

Ten months later, when a delegation from the Government of the Marshall Islands was invited to return to Washington, the members of this delegation were extremely disheartened to learn that the Department of Energy had not even begun the necessary study of the medical problems of the people of the northern atolls to determine the effects of their low level radiation exposure. Instead, the Department had concluded a contract with Tabershaw Occupational Medicine Associates of Rockville, Maryland, in the amount of \$58,999, excluding travel expenses, for a six month project to send statisticians to the Marshall Islands to determine whether the preliminary questionnaire used by the Government of the Marshall Islands was a valid method of ascertaining certain historical medical information. Faced with this apparent unwillingness of the Department of Energy to undertake the necessary medical survey, the Government of the

Mr. Wallace O. Green
April 21, 1980
Page Three

Marshall Islands sought the assistance of Dr. Robert G. Loeffler to attempt to identify the medical information which must be obtained in order to determine the extent of potentially radiation related abnormalities in the northern Marshall Islands.

Since no definitive radiation measurements are available either for the fallout experienced by the atolls in question as a consequence of the weapons testing or for body dose exposure on these atolls, the only meaningful assessment of the risk factor created by the exposure of the people of the northern atolls is the current and recurrent determination of somatic effects in the potentially affected population. Furthermore, Dr. Loeffler advised us that since radiation induced carcinogenicity requires long latency periods (10-20 years for some solid tumors) retrospective analysis of incomplete, nondirected medical records are clearly inadequate to establish possible secondary deleterious effects. Recognizing that the proposed surveys of health effects will of necessity be incomplete, Dr. Loeffler is of the view that we must attempt to provide answers at least to the following specific questions.

I. What evidence exists of developmental effects associated with radiation?

This may be established by individual and population data of histories and physical examinations to include anthropometric data (adult and pediatric). Population genetic studies including cytogenetic chromosomal analyses should be conducted.

II. What evidence exists of late somatic effects associated with radiation?

This determination would require:

- a) Thyroid cancer and malfunction screening to include:
- History and physical examinations
 - Technitium radioisotope gamma camera imaging scanning (alternatively radioactive Iodine scanning)
 - Biochemical analyses including Thyroglobulin determination by radioimmune assay

Mr. Wallace O. Green

April 21, 1980

Page Four

- T₄ and TSH by radioimmune assay - standard SMAC 20 for general screening purposes (Calcium, Phosphorus, Alkaline Phosphatase and Cholesterol included)
 - Thyroxine Binding Globulin determination
 - If indicated, in selected cases, needle aspiration biopsy for cytological examination and possible surgical intervention
- b) Leukemia screening to include:
- History and physical examination
 - Complete peripheral bloodcount
 - Sedimentation rate
 - If indicated, in selected cases, bone marrow aspiration or biopsy
- c) Bone and Cartilage sarcoma screening to include:
- History and physical examination
 - Technitium⁹⁹ diphosphanate gamma imaging
 - Radiographic chest examination and skeletal survey where indicated
 - If indicated, in selected cases, open or closed biopsies
- d) Lenticular opacification screening to include:
- Ophthalmological examination to include slit lamp
- e) Skin cancer screening to include:
- History and physical examination
 - If indicated, in selected cases, incisional or excisional biopsies

All of the above studies must also be done on an appropriate control group to provide meaningful statistical analyses and conclusions.

The information which we are seeking is crucial to the Government of the Marshall Islands and to the Government of the United States in carrying out our shared determination that the necessary medical treatment be provided to all people of the Marshall Islands affected by the United States nuclear weapons testing program. Public Law 96-205 recently enacted by the Congress commits the Government of the United

Mr. Wallace O. Green
April 21, 1980
Page Five

States to provide to the people of each such atoll

"a program of medical care and treatment and environmental monitoring for any injury, illness or condition which may be the result directly or indirectly of such nuclear weapons testing program."

The statute mandated the development of a plan by the Secretary of Interior in consultation with the Government of the Marshall Islands and others that specifies an integrated, comprehensive health care program including primary, secondary and tertiary care tailored to the "condition and needs of the individual atoll peoples." The Government of the Marshall Islands cannot assist the Secretary in formulating such a plan until it first determines the current medical condition of the people living on the various affected atolls. Quite obviously the intention of Congress cannot begin to be carried out without first obtaining the answers to the questions we pose.

As Congress understood and intended, this effort must proceed immediately. In Senate Report No. 96-467 the Committee on Energy and Natural Resources clearly expressed the view that it

"expects the Secretary to immediately begin the development of the comprehensive health care and environmental monitoring plan as provided in this section using existing authorities."

During the House floor consideration of finally approved statutory language, Congressman Burton in referring to the deadline of January 1, 1981 for submission of this comprehensive health care and monitoring plan to Congress, emphasized the point that

"the committee encourages the Secretary to commence development of the plan as soon as possible and to complete it earlier than the deadline."

Chairman Burton went on to note that

"All costs of planning, including travel and other expenses, are to be chargeable to the budget of

Mr. Wallace O. Green

April 21, 1980

Page Six

the radiological program, but in the interest of expediting the program, the Secretary is encouraged to use other departmental funds for later reimbursement out of appropriation."

In contrast to the niggardly approach taken by the Department of Energy even to ascertaining the true nature of the medical problems that have possibly resulted from nuclear weapons testing, Congressman Burton emphasized during the floor consideration of the finally approved statutory language the intent and rationale of Congress that the United States err on the side of over inclusion rather than risk failing to treat any medical problems that were the legacy of the weapons testing program:

"Special emphasis is to be placed upon the biological effects of ionizing radiation, but since health effects associated with radiation exposure, such as thyroid anomalies, malignant tumors, and genetic defects are indistinguishable from the spontaneous occurrence of the same disorders, the only way to assure that the radiation-related problems are dealt with is to deal with all of the health problems of the affected peoples."

Later in his remarks Congressman Burton explained:

"We believe we have a special moral obligation to these people and it is our intent that this provision be interpreted to provide the most possible protection to them."

Finally, of pertinence to our request that the most sophisticated scientific approach and most advanced technology be employed in identifying the health problems in the northern Marshall Islands that received radioactive fallout, it is worth noting Congressman Burton's explanation that Congress specified the involvement of a scientific advisory committee "to insure the maintenance of the highest professional standards for both basic research and applied science."

Furthermore, the information we seek is crucial to the successful conclusion of the political status negotiations

OVINGTON & BURLING

Mr. Wallace O. Green
April 21, 1980
Page Seven

between the Government of the United States and the Government of the Marshall Islands. A key part of these negotiations is the conclusion of a separate agreement between the Government of the United States and the Government of the Marshall Islands regarding the provision by the United States of radiation related medical surveillance and treatment programs and radiological monitoring activities. Information regarding the effects of low level radiation in all of the northern atolls must be accumulated before this agreement can be negotiated.

We look forward to working with you on these important and urgent matters.

Sincerely yours,



Richard D. Copaken

gmd

cc: Congressman Duncan
Congressman Yates
Congressman Burton
The Honorable Amata Kabua
The Honorable Anton A. deBrum
Mr. John deYoung
Dr. Robert G. Loeffler