

October 29, 1975

TO: Guy H. Cunningham, OGC

The following material was discussed with Dr. Liverman.

STATEMENT OF ERDA POSITION ON BIKINI INJUNCTION

The purpose of this memorandum is to state the ERDA position on suit filed in the U. S. District Court for the District of Hawaii on the People of Bikini, et al vs Robert C. Seamans, Jr., et al, Motion for Preliminary Injunction.

Background

In 1946 the President approved for National security reasons, the use of Bikini Atoll for nuclear testing. In the period 1946 to 1958, 23 nuclear tests were conducted at Bikini Atoll.

Following a request from the Secretary of the Interior in December 1966, AEC agreed to review the radiological conditions in the Atoll and make recommendations on the return of the Bikini people. In August 1968 the President announced the decision to return the Bikini people to their Atoll. Also, the President directed the Secretary of Defense, Secretary of the Interior and Chairman of AEC to cooperate in the Bikini resettlement program.

The AEC was responsible for advice and assistance on radiological matters. The DOD was responsible for conducting the cleanup. The Department of the Interior was responsible for rehabilitation and resettlement.

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During the period 1966 to the present, AEC/ERDA has continued to provide the DOI with advice on the radiological aspects of the rehabilitation and resettlement of Bikini Atoll.

Periodic followup radiological surveys of Bikini have been conducted specifically in 1970, 1972 and 1975. In January 1975, ERDA agreed to conduct a radiological evaluation and make an assessment of the Trust Territory's preliminary plans for constructing additional housing at Bikini Atoll. A radiological survey of Bikini and Eneu Islands was made in June 1975. Preliminary results of this survey were presented at a briefing, August 1975. Additional information and assessments were to be provided in about 6 months.

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RG 326 U.S. ATOMIC ENERGY COMMISSION
Collection <u>DOS/Deal Files</u>
Box <u>13 Job 1326</u>
Folder <u>4-3 BIKINI-Lawsuit Correspondence</u>

I. RECOMMENDATIONS FOR ACCESS TO BIKINI ATOLL

- A. Access to Bikini Atoll and direct communications with the Bikini people are matters for the Department of the Interior and the Trust Territory Government who are responsible for their safety and welfare.
- B. As for an injunction that would permit resettlement, but would require persons to be fully apprised of conditions on the island, we don't believe such an order is necessary, because we fully expect that Trust Territory Admin. intends to so apprise persons in any event.

II. CONTINGENCY PLANNING FOR RELOCATION

- A. No ERDA role.

III. REQUIREMENT FOR INFORMATION IN MARSHALLESE AS WELL AS ENGLISH

- A. Would have no objection - indeed, we have in the past and will continue in the future - to making all our conclusions available to Bikini people.
- B. The best capability for accurate and meaningful translation of technical information into Marshallese is in Trust Territory staff. As in the past, ERDA is ready to work with Trust Territory Government in any translation it deems appropriate.

IV. MEDICAL EXAMINATION

- A. There is a need to emphasize that ERDA has no responsibility or authority to provide medical assistance to private persons, except where specifically authorized. (Cf. Medical Program on Rongelap, which was specifically funded.) DOI is the agency responsible for medical programs carried out by the Trust Territory Government. DOI must determine what is necessary and feasible. ERDA will cooperate with DOI within the limits of resources and capabilities.

V. PROHIBITION OF COMMUNICATION

- A. ERDA stands ready to conduct all its communications relative to Bikini Atoll with and through DOI.

DOE ARCHIVES

- B. ERDA will provide copies of any written statements to Plaintiffs' counsel, and will notify counsel of any contemplated meetings where radiological information is to be provided to the Bikini people.
- C. Some of plaintiffs' criticism of Bikini program can only be corrected by more, not less, communication with Bikini people.

VI. RADIOLOGICAL SURVEY

- A. ERDA is prepared to begin the aerial survey within 30 days of a commitment of logistics support by DOD.
- B. A survey of Bikini Atoll only would require about 2 weeks of field work to collect data. A complete written report of the aerial measurements will be available within 60 days. No surveys of other atolls in the Northern Marshalls are required to interpret the Bikini data.

VII. INDEPENDENT ANALYSIS

- A. ERDA is prepared to ask NAS to appoint a committee of 5 scientists to "analyze and evaluate the data produced" by the aerial survey; to cooperate fully with the NAS Committee and supply it with all available radiological data on Bikini.
- B. Alternatives:
 - 1. ERDA supply list of scientists to Court and Court appoints the Committee.
 - 2. ERDA and Plaintiffs' Counsel agree on a 5-man panel.

VIII. RADIOLOGICAL ANALYSES OF FLORA AND FAUNA

Considered to be part of VII above.

IX. CONTROL OF AGENCY SPENDING AND CONTRACTS DOE ARCHIVES

- A. Can't agree, and don't think plaintiffs' proposal is workable in any event. Propose that Government statement, or stipulation of parties, be submitted which specifies the commitments discussed above.

- B. While we don't think anything more is necessary, we would be prepared to provide periodic status reports to the Court on continuing developments.
- C. Decision re EIS should be Interior decision. Should action on EIS be initiated, ERDA will assist DOI with this effort as requested.

X. FURTHER MONITORING

- A. Can't agree to anything beyond what's stated in IX above.

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