



GOVERNMENT OF THE MARSHALL ISLANDS

MAJURO, MARSHALL ISLANDS 96960

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August 8, 1980

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The Honorable Wallace O. Green
Acting Deputy Assistant Secretary
Territorial & International Affairs
U.S. Department of Interior
Office of the Secretary
Washington, D.C. 20240

Dear Wallace:

The Government of the Marshall Islands appreciated the opportunity to meet with you and other United States government officials on August 6, 1980 to present to you some preliminary reactions to the "Discussion Paper" dated August 1, 1980 prepared by the Department of the Interior (DOI) regarding the implementation of Section 102 of Public Law 96-205. We were quite disturbed however that the United States executive agencies were unable at that meeting to share with us their views as to the requirements imposed on them by the statute or to engage in any meaningful dialogue on this essential first question. We continue to await anxiously such an opportunity for consultations with the United States executive agencies at which time an exchange of views and, we are confident, a resolution of differences can take place.

As Secretary deBrum indicated to you in his letter of July 26, 1980, the Government of the Marshall Islands was extremely disappointed that DOI declined to prepare the promised first draft of a scope of work document in time for the August 6 meeting, and indeed had no document of any kind prepared for Secretary deBrum to consider at the time of his meeting with members of your office on July 23, 1980. Although he received the "Discussion Paper" by cable in Geneva, Switzerland only Saturday morning, August 2, 1980, and it provided no clear indication of the Department's thinking, Secretary deBrum, nevertheless, immediately interrupted the Marshall Islands participation in the crucial United Nations Conference on the Law of the Sea to return to Washington in the hope that clarification of the Department's views could be obtained in a meeting with you. Regretably,

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however, it has become apparent to the Government of the Marshall Islands from our earlier meetings, and was again emphasized in the meeting on August 6, 1980, that no meaningful consultations as mandated by Public Law 96-205 can take place until the United States Executive Branch is prepared to put forward orally or in writing some clear notion of its interpretation of the statute so that areas of difference can be identified and a mutually satisfactory health care plan developed.

Although we appreciate that we all must proceed expeditiously, the Government of the Marshall Islands must insist that it be provided a reasonable period of time to review and to discuss with you any scope of work document and draft contract before their presentation to an outside contractor and that the Government of the Marshall Islands be provided an opportunity to meet with the contractor before it proceeds to carryout any contract. Hopefully this consultation can take place in the Marshall Islands where the people to be involved in the health care program can be afforded an opportunity to participate. The Government of the Marshall Islands does not seek to delay for even one day or one minute the delivery of health care to the people of the Marshall Islands as provided by Public Law 96-205. We have been seeking to consult with the United States to develop a health care plan since March 12, 1980 when Public Law 96-205 came into force. However, we must insist that the implementation of the statute be carried forward in accordance with the Congressional intent that there be meaningful consultation with the Government of the Marshall Islands so that the people of the Marshall Islands receive the full range of health services to which they are entitled under this statute. We believe that with an opportunity for meaningful consultation and careful thought the plan called for in Public Law 96-205 can be prepared by January 1, 1981 as directed by the Congress and we are committed to working cooperatively with you to the fullest extent possible toward that goal.

With these thoughts in mind, the Government of the Marshall Islands offers the following preliminary comments on the Discussion Paper which we reviewed in our August 6, 1980 meeting. We have had only a short time to consider this paper and therefore reserve the opportunity to provide further comments on the Discussion Paper at a later date

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and, more importantly, to comment on and be consulted with regard to any scope of work document or draft contract prepared in connection with Section 102 of Public Law 96-205.

On page three of the Discussion Paper, the Interior Department offers a preliminary reading of Section 102 which raises several questions. The first issue is raised by the use of the word "inhabitants" and its implication of a residency requirement. Section 102 quite carefully refers to "people" of atolls and it is the view of the Government of the Marshall Islands that Congress intended this term to be interpreted consistent with customary Marshallese concepts of relationship between people and atolls which do not require residency on an atoll by any particular individual.

The most important issues raised by the DOI preliminary reading are the method for determining the atolls whose people are entitled to health care and the method for determining whether a particular injury, illness or condition of any person within the group of entitled people is eligible for treatment. The statute quite clearly sets up two tests for determining whether a particular person is entitled to treatment in a particular case:

1. Is that person one of the "people" of
 - a. Bikini, Enewetak, Rongelap or Utirik; or
 - b. Any other atoll of the Marshall Islands exposed to radiation from the nuclear weapons testing program;and
2. Is the injury, illness or condition for which treatment is being sought one which "may be the result directly or indirectly of such nuclear weapons testing program."

The preliminary reading of DOI seems to ignore these two statutorily established standards and to unjustifiably discriminate between the injuries, illnesses or conditions which will be treated with regard to people of group 1(a) above and group 1(b) above. As to the people of Bikini, Enewetak,

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Rongelap and Utirik, DOI appears to contemplate that every injury, illness or condition of such people will be eligible for treatment regardless of whether it is established that such injury, illness or condition "may be the result directly or indirectly of such nuclear weapons testing program." In contrast, as to the people of other atolls in the Marshall Islands, DOI appears to contemplate that the people of all other atolls are entitled to treatment under test #1 but that a particular injury, illness or condition will only be eligible for treatment if it is established that such injury, illness or condition "may be the result directly or indirectly of such nuclear weapons testing program."

The Government of the Marshall Islands completely agrees that, in addition to the people of Bikini, Enewetak, Rongelap and Utirik, the people of all other atolls of the Marshall Islands are entitled to the medical care provided for in the statute. Section 102 of Public Law 96-205 clearly states that medical care and treatment and environmental research and monitoring shall be provided to the people of "such other atolls as may be found to be or to have been exposed to radiation from the nuclear weapons testing program." (emphasis added) The Department of Energy has repeatedly asserted and confirmed that every atoll of the Marshall Islands was exposed to radiation from the nuclear weapons testing program. Consequently, the people of every atoll must be entitled to care under the terms of the statute.

The Government of the Marshall Islands also agrees that, in keeping with the intention of Congress to provide a comprehensive health care program in an efficient manner for all eligible individuals, the most logical, cost effective and technically feasible way to proceed is not to require that a particular eligible individual seeking treatment establish that his injury, illness or condition may relate directly or indirectly to the weapons testing program. We have been advised by several medical experts that it is virtually impossible to establish medically that any particular injury, illness or condition of an individual residing anywhere in the Marshall Islands may not be radiation related or, more broadly, related to the "nuclear weapons testing program." Moreover, the cost to procure and utilize sophisticated equipment and personnel necessary even to

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attempt to make such determinations would, we are advised, far exceed the cost of providing treatment to every person eligible for the treatment program contemplated in Section 102 of Public Law 96-205.

The Government of the Marshall Islands therefore agrees with the test that DOI appears to contemplate in relation to the people of Bikini, Enewetak, Rongelap and Utirik. However, we find no statutory basis for discriminating between people of these atolls and the equally eligible program participants from the other exposed atolls with regard to the determinations which will be required prior to treatment of a particular injury, illness or condition. We find it medically and morally unacceptable to turn away any individual entitled to treatment because that person cannot establish a scientifically unestablishable connection between an injury, illness or condition and the nuclear weapons testing program. We applaud DOI's inclination not to require such a test for the people of Bikini, Enewetak, Rongelap and Utirik but we insist that all other Marshallese from "exposed" atolls must be accorded that same consideration.

The logic of our position is borne out by the facts of the nuclear weapons testing program. Prior to the weapons testing, the people of Bikini and Enewetak were removed from their islands. Except for the people of Bikini who were returned to Bikini in the early 1970's and later evacuated, the people of Bikini and Enewetak were exposed to no higher levels of radiation than the other people on whose atolls they were residing. Conversely, people of other atolls who participated in the clean-up of contaminated atolls likely have been exposed to higher levels of radiation than the people of Bikini and Enewetak. As the Government of the Marshall Islands has previously indicated to the Government of the United States, we are quite concerned that the people involved in the Enewetak resettlement program may now receive new, medically hazardous levels of radiation exposure. Other than this group, however, there is no justifiable basis for concluding that injuries, illnesses or conditions of the people of Bikini or Enewetak are more likely to be radiation related, and therefore subject to any different test of radiation relatedness, than the injuries, illnesses or conditions of peoples of other atolls.

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The Government of the Marshall Islands is extremely pleased that pursuant to Public Law 96-205 the people of Rongelap and Utirik finally will be afforded medical treatment, rather than merely being the subjects of medical research. The background information regarding Rongelap and Utirik in the Discussion Paper raises one very important point regarding the feasibility of conducting any survey to establish the medical effects of radiation exposure on a population the size of the Marshall Islands, all of whom have been exposed to some level of radiation. As part of the medical research conducted on Rongelap, Rongelap people not on Rongelap at the time of the 1954 disaster have been used as a comparison population. Some of the comparison group are actually descendants of exposed people. Both the medical personnel of Brookhaven National Laboratories and other medical experts we have consulted agree that, particularly in light of the genetic abnormalities which can be caused by radiation exposure and passed through generations and the fact that all of the Marshallese people have received radiation exposure, a medically "normal" Marshallese control population simply cannot be found.

We are extremely disturbed by subpart (d) on page 6 of your paper regarding discussions between the Government of the Marshall Islands and the Government of the United States concerning the severe, potentially radiation related, medical problems which appear to exist among Marshallese people of atolls other than Bikini, Enewetak, Rongelap and Utirik. Shortly after taking office on May 1, 1979, the Government of the Marshall Islands received preliminary data indicating repeated cases of medical abnormalities of a type often related to radiation exposure in people of several northern atolls. The greatest bulk of the first information was received from the people of Likiep. The Government of the Marshall Islands brought this preliminary, yet alarming, data to Washington later in May and presented it to an interagency meeting. The Government requested that persons with untreated medical problems be provided with care at the earliest possible date and also asked the United States to assist the Government of the Marshall Islands in identifying those people in need of such care. The description in your Discussion Paper mischaracterizes these events in several important ways.

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The Government of the Marshall Islands did not present to the United States a "survey." We presented preliminary information, informally gathered indicating the existence of serious medical problems. We made no assertion regarding the "normal incidence" of such medical problems in the Marshall Islands, in fact, as explained above we do not believe that a determination of normalcy can be made for our population. On several previous occasions the Government of the Marshall Islands has objected to your characterization of these problems as "Likiep" problems. We received our first data from Likiep, but have advised you repeatedly that our efforts to determine the medical needs and to obtain care have focused on several atolls close to the areas of the highest levels of fallout concentration in the Bravo shot fallout pattern. Finally, the Government of the Marshall Islands has not requested that our people be "studied;" we have requested assistance in identifying medical problems and, more importantly, have requested that medical doctors be sent immediately to provide desperately needed medical care. We know that many people are seriously ill and suspect that many other people are similarly in need of care. We are requesting treatment, not scientific analysis and we anxiously await the doctors which you promised to send us over a year ago.

During the meeting in your offices on July 23, 1980 we presented to Department of Interior and Department of Energy officials a letter from our medical consultant, Dr. Robert G. Loeffler, suggesting several modifications to the proposed medical survey of Likiep atoll. I have attached a copy of that letter for your personal attention. (Attachment 1) We would appreciate a response to these suggestions at the earliest possible date.

The people of the Marshall Islands quickly are losing any hope which they may still retain that the United States is prepared to treat the serious medical problems left by the nuclear weapons testing program on atolls other than Bikini, Enewetak, Rongelap and Utirik. Frustrated with the slowness of the response of the United States to the information presented by the Government of the Marshall Islands in May of 1979, the people of Wotje Atoll commissioned Dr. Reuben Merliss to visit their atoll to report first hand on the scope of the medical problems in Wotje and their possible relation to radiation exposure.

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We submitted to you at the August 6, 1980 meeting a copy of Dr. Merliss' letter presenting his findings. A second copy is attached here. (Attachment 2) During his short visit, Dr. Merliss became aware of a shocking number of thyroid tumors, visual difficulties, birth anomalies and other disorders--medical problems strikingly similar to those reported by the people of Likiep. With regard to the thyroid tumors, Dr. Merliss concluded:

"There appears to be little doubt that the tumors, benign or malignant, are radiation-induced. There are just too many of them to be anything else. Otherwise one would have to postulate that the Marshallese had a remarkably high incidence racially of tumors of the thyroid, this existing before 1946, and the old people I spoke to denied this. They denied that prior to the bombs there was any particular epidemic of lumps in the neck. I cannot therefore accept the belief that the Marshall Islanders simply by virtue of their heredity have a tendency toward thyroid tumors."

Dr. Merliss further stated that:

"I think that these three: the tumors of the thyroid including cancer, disturbances in vision probably due to cataracts, and deformities of birth are a part of the radiation injury, and that the continuing injury is in large part due to food-chain entry by long-lived radioactive elements. I strongly suspect that the leukemias were radiation induced."

Dr. Merliss related an extremely disturbing account of the lack of medical care in Utirik and elsewhere in the Marshall Islands, as follows:

"For example, there was a general complaint of dimming vision some five or six years ago on Utric (sic), probably due to an increased incidence of cataracts. None of the people from Utric (sic) that I spoke to told me that any physician examined their eyes in such a way as to be able to recognize cataracts. Instead I was told that two boxes of eyeglasses were shipped to the island being of various models and frames, and the people were to come in and choose whichever eyeglass seemed to

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help them. And this was the sum of the investigation and treatment of the eye problems,--of what I think is a unique epidemic of cataracts.

The follow-up care of patients with total ablation of the thyroid also appears inadequate. Some had stopped their medicine because of side reactions and appear hypothyroid to my eyes. No regular follow-up has been pursued to allow change of thyroid medication, or increase or decrease of dosage."

Dr. Merliss makes several recommendations which we believe merit serious consideration in connection with the proposed medical surveys to be conducted in the Marshall Islands in the course of implementing Public Law 96-205. We request that you and other appropriate United States government officials review Dr. Merliss' findings and recommendations and meet with us to determine how his recommendations can be implemented and the medical problems which he identifies can be treated in the most expeditious manner.

In order to obtain useful information from the outside contractor which the Interior Department proposes to use to assist in developing the health care plan, the contract document must be carefully drafted and the questions to be answered clearly stated. We request that the contractor be asked to address the following questions:

1. In light of the fact that no dose assessment was carried out in the Marshall Islands at the time of the nuclear weapons testing program, how can it now be determined whether certain atolls of the Marshall Islands were "exposed" to radiation from the nuclear weapons testing program?
2. What level of radiation exposure can be definitively medically determined to have zero potential effect on the natural or human environment of an atoll?

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3. Where actual radiation dosage cannot be determined, where a medically "normal" control population cannot be identified, and where social and living patterns have been fundamentally altered, in what way would you seek to determine whether a particular injury, illness or condition may be related, directly or indirectly, to the nuclear weapons testing program? In what way can it be established that a particular injury, illness, or condition could not possibly be related in any fashion to the nuclear weapons testing program?

4. What would be the estimated cost per individual of attempting to make the medical determinations referred to in Question 3? How does this compare to the cost of providing necessary treatment?

5. Given that primary, secondary and tertiary medical care must be made available at a minimum to the people of Bikini, Enewetak, Rongelap and Utirik wherever they may reside in the Marshall Islands, and given that hospital facilities, medical equipment, medicines, doctors and other personnel must be brought to and maintained in the Marshall Islands for this purpose, and transportation and communication lines must be established for this purpose, what would be the additional incremental cost of making these facilities available to the rest of the Marshallese population?

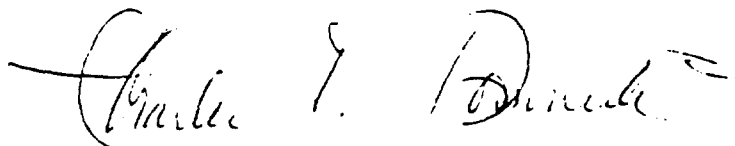
The primary concern of the Government of the Marshall Islands is that medical care be provided to people in need as contemplated by Section 102 of Public Law 96-205. In order to assist us in reaching this goal, we suggest one idea for your consideration. President Carter in his statement upon signing Public Law 96-205 referred to the provision

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of medical care to the northern Marshall Islands. The Government of the Marshall Islands firmly believes that every atoll in the Marshall Islands was "exposed to radiation from the nuclear weapons testing program" within the meaning of the statute. However, in order to accommodate the President's focus on the northern Marshall Islands, we suggest the following possible cooperative approach which follows the historical Marshallese definition of the "northern Marshall Islands." With regard to the people of the northern atolls, those from Aur north in the eastern Ratak chain and from Kwajalein north in the western Ralik chain, the Government of the United States would provide comprehensive primary, secondary and tertiary medical care, including associated transportation and communication, as required by Section 102 of Public Law 96-205. With regard to the people of the remainder of the Marshall Islands, the southern atolls, the Government of the Marshall Islands would assume the responsibility of the United States under Section 102 of Public Law 96-205 to provide primary medical care. The United States would make available to the people of these atolls secondary and tertiary care, and associated transportation and communication, on the same basis as that provided to the people of the northern atolls.

We look forward to the opportunity to consult with you on these matters.

Sincerely,



Charles T. Domnick
Deputy Secretary of
Foreign Affairs

Enclosures

CTD/cpf

cc: The Honorable Phillip Burton
The Honorable Henry M. Jackson
Ambassador Peter R. Rosenblatt
Mr. Jeffrey Farrow
Richard D. Copaken, Esq.