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SUMMARY SHEET

Subject:

ACTION REGARDING PAYMENT OF COSTS OF SPECIAL MEDICAL CARE FOR INHABITANTS OF RONGELAP AND UTIRIK ATOLLS

Purpose:

This paper provides the background for and recommendations regarding an impending decision as to whether or not the AEC should assume costs of special transportation and medical care for Rongelap and Utirik people in the Marshall Islands. The paper further relates this issue to an anticipated later request for compensation for personal and property damage to the Pacific Islands and their inhabitants.

Discussion:

The Micronesian Congress has passed a bill to improve year-round care of persons exposed to radioactive fallout on Rongelap and Utirik atolls in March 1954, to their offspring and to controls. The bill directs the High Commissioner of the Trust Territory to seek an executive agreement whereby expenses incurred under the act will be defrayed by the Atomic Energy Commission. Three alternatives, presented and discussed in section 9 and 10, are:

- a. Refuse to offer reimbursement on graounds that government rather than agency action is appropriate.
- b. Unconditionally agree to payment as requested in the bill.
- c. Propose provisional agreement under which costs will be shared with Department of Interior pending revision of bill in next session of Micronesian Congress and fully assumed by AEC subsequent to acceptable revision.

Issue:

Payment of medical costs as requested in Micronesian S.B. No. 89

Recommendation:

That the Commission approve alternative c., negotation of a provisional agreement to share costs with Department of Interior until certain provisions of bill are revised at a later date and assume all costs subsequent to acceptable revision of the bill.

Coordination:

In addition to the offices of the Controller and General Counsel, the following AEC Division concur:

- a. Military Applications
- b. International Programs

No further coordination appears warranted.

Scheduling:

To be filled in later

ATOMIC ENERGY COMMISSION

ACTION REGARDING PAYMENT OF COSTS OF SPECIAL MEDICAL CARE FOR INHABITANTS OF RONGELAP AND UTIRIK ATOLLS

THE PROBLEM

1. To consider the response of the Atomic Energy Commission to a forthcoming request by the High Commissioner of the Pacific Islands Trust Territory for reimbursement of expenses incurred under Micronesian Senate Bill No. 89, which provides to inhabitants of Rongelap and Utirik atolls exposed to radioactive fallout in 1954, their offspring and their controls, transportation to and medical care at hospitals in Majuro or Ebeye.

BACKGROUND AND SUNMARY

2. The inhabitants of Rongelap and Utirik atolls in the Marshall Islands were accidentally exposed to fallout radiation following a detonation of a high yield thermonuclear device during tests at Bikini in the Pacific Proving Grounds in March 1954. The radiation exposure ranged from 14 rads of whole body radiation to persons on the Utirik Atoll up to an estimated dose of 175 rads of whole body gamma radiation to the population on the Rongelap Atcli The Rongelap inhabitants also incurred internal deposition of radioactive isotopes, especially including those of iodine; the latter resulted in the onset of thyroid abnormalities several years after the event. Thyroid nodules were first detected nine years after the detonation and ultimately affected 23 of 67 persons who were exposed on the island of Rongelap at the time of the detonation. Four malignant thyroid tumors have been diagnosed in the Rongelap and Utirik populations. A case of acute leukemia was detected in a 19 year old Rongelap male during the Brookhaven medical survey in September 1972; the boy died two months later. Compensation was provided to the people of Rongelap in accordance with U. S. Public Law 88-485, passed on August 22, 1964. The payment, made in full settlement and discharging all claims against the United States

arising out of the detonation, provided to each exposed individual or his heirs approximately \$11,000 as a lump sum payment. (See Enclosure 2 for additional information concerning the radiation exposure, medical sequelae and compensation.)

^{3.} Because of the physical geography of the area (many small islands

inhabited by few persons spread over a considerable region of the Pacific Ocean), medical care for inhabitants of the outlying islands such as Rongelap and Utiri' is provided by medical aides who have a level of competence equivalent to that of pharmacist mates or medical assistants. The regional hosptial at Majuro provides better care than that available on the outlying islands, but the care at Majuro is probably below the level care delivered in an average hospital on the mainland. The Rongelap population has benefited from the excellent annual medical surveys conducted by the Brookhaven survey team, which are to be supplemented by midyear hematologic surveys in the future.

In providing medical care, the Trust Territory has not distinguished between the population exposed to fallout and the unexposed residents of other Pacific island. However, we understand that the Trust Territory is now willing to recognize that the exposed population is distinctive from a medical standpoint and entitled to closer medical surveillance than unexposed populations. The Micronesian Senate Bill is designed primarily to improve the year-round care of the exposed and related populations of Rongelap and Utirik.

4. A special joint committee of the Micronesian Congress was created by Public Law No. 4C-33 early in 1972 "to insure that the people of Rongelap and Utirik Atolls receive. . .the best medical treatment available and...compensation for the injuries that they have suffered." In February 1973, Senate 3ill No. 89 (Enclosure 3) was passed by the Micronesian Senate; it was signed into law by the Deputy High Commissioner on April 12, 1973 as Public Law No. 5-52. It provides benefits in the form of regular or emergency transportation to hospitals at Majuro or Ebeye (the latter under construction), per diem expenses, housing and medical care to exposed persons from Rongelap and Utirik atolls, their offspring and control persons and an accompanying member of the family. The class of illness covered by the bill is restricted by the statement that "this section (6 in the bill) shall not be construed to allow persons the aforesaid benefits if the ailment or complaint could have been treated at the person's place of residence by the health personnel available." The annual cost to the government under the bill is projected at not more than \$9,000 per year by

the Special Joint Committee of the Micronesian Congress.

Although the bill provides for reimbursement of medical care, the major part of the cost will be for transporation since charges for medical and hospital services in the Trust Territory are quite nominal. Section 10 of the bill directs the Office of the High Commissioner "to seek an executive agreement with the Atomic Energy Commission whereby the expenses under the provisions of this act will be defrayed either directly or on a reimbursable basis by the AEC."

The apparent reason for seeking payment of expenses by the AEC rather than the Department of the Interior is the expectation that Interior Department funds would be taken from the federal grant to the Trust Territory. AEC payment would provide funds in addition to those normally received whereas Interior Department funding would involve a reallocation of existing monies and therefore, a corresponding reduction in some other service. In addition, the AEC is held responsible for conducting the tests in the Marshall Islands and, therefore, "for the damage" (see cover letter in enclosure 3).

S. B. No. 89 contains an excessively broad definition of controls; we would suggest that it be narrowed by revision of the bill during the next session of the Micronesian Congress. In Section 3, controls are defined to include "those persons now living in the Marshall Islands district who were not exposed to fallout from the March 1, 1954, test, but who agree as hereinafter provided in this act, to be examined and tested in like manner as exposed persons." We favor limiting the class of controls to persons accepted by the Brookhaven medical team as members of their control population for purposes of their study.

Dr. Robert A. Conard, head of the Brookhaven medical survey team, has also raised a question as to the propriety of including the offspring of the exposed population among persons eligible for benefits under the bill. He feels that the lack of evidence of genetic damage thus far to the offspring of the Japanese A-bomb survivor population makes it unlikely that the Marshallese offspring will show adverse effects as a result of the exposure of their parents. On the other hand, the exclusion of offspring from the bill may be difficult politically, especially since studies on the offspring of Japanese survivors are quite incomplete.

5. In view of the provision in P. 6. No. 88-485 that the payment made in 1964 to the Rongelapese discharged all claims against the United States arising out of the detonation, there is probably no legal basis for providing additional compensation payments to that population in the absence of new enabling legislation. Medical research on the Rongelap population can be justified as in the past. Activities funded under the bill could contribute to the Brookhaven

study the interim observation of disease events that might otherwise not be detected by the Brookhaven survey team or by medical aides in residence on the outlyin islands. If a decision were reached to provide payment in accordance with S. B. No. 89, it would probably be necessary to state that the funds are research funds and that they are subject to the usual periodic review of research expenditures.

6. On 2-12-73 the Micronesian Congress passed another bill, S. B. No. 146 (Enclosure 4), which extended the life of the special Joint Committee for two additional years and considerably broadened its scope to include investigation of the "results of irradiation to the people, reef, land and marine life of Rongelap and Utirik Atolls in the Marshall Islands District and any other effects of atomic weapons testing in the Trust Territory" and obtaining "compensation for the people of Rongelap and Utirik atolls for their dislocation, injury, deprivation, illness and suffering, both physical and mental, and for damage to the islands, their flora and fauna, reefs, lagoons and sources of food or livelihood as a result of exposure to irradiation."

To date, the Committee has not acted on that part; of its mission concerned with obtaining compensation for the people "for the injuries which they have suffered." We may infer that postponement of action on the compensation issue was linked to broadening the scope of compensation to mental as well as physical injury and to damage to the islands and environment as detailed in the preceding paragraph.

- 7. In February 1973, the Special Joint Committee issued a 264 page report titled "A Report on the People of Rongelap and Utirik Relative to Medical Aspects of the March 1, 1954, Incident-Injury, Examination and Treatment." The report presents a scientific introduction, a historical narrative of the thermonuclear detonation and its after effects on the population and certain complaints against AEC and DOD as well as a set of recommendations (see Enclosure 5 for further discussion of the Committee report).
- 8. Any actions or negotiations undertaken by the AEC with respect to the Marshallese must be considered in the larger context of the relations between the U. S. Government and the Pacific Islands. There are a number of issues under consideration by the Trust Territory such as property negotiations concerning other islands, continued DOD testing in the Marshall Islands, and long-term continuation of the trusteeship. Political influences such as complaints to the Trusteeship Council of the U. N. may be brought to bear on the situation. The issue of personal injury to the Marshallese is perhaps the most newsworthy in this complex picture.



In the bill providing for continuation of its life, the Special Joint Committee is instructed to seek broad compensation for a variety of damages.
 B. No. 89 may be viewed as the first round in a series of negotiations that will involve larger compensation questions later.

ALTERNATIVES

- 10. Three alternative actions may be considered for the AEC in negotiating an executive agreement with the High Commissioner.
 - a. Refuse to offer reimbursement on grounds that government rather than agency action is appropriate.
 - b. Unconditionally agree to offer payment as requested in the bill.
 - c. Propose a provisional agreement under which costs would be shared with

 Department of Interior pending acceptable revision of bill in next

 session of Micronesian Congress and then fully assumed by AEC.
- 11. a. Refuse to offer reimbrusement on grounds that government rather than agency action is appropriate.

(1) Pros:

- (a) The AEC could not be interpreted as assuming responsibility for damage to the exposed populations.
- (b) Consultation with other departments or agencies of the government such as the State Department would become possible.
- (c) The AEC could not be accused of circumventing the intent of Congress as expressed in U. S. Public Law 88-485.

(2) <u>Cons</u>:

- Territory, which signed the bill into Law, the AEC might be subjected to adverse publicity for failure to cooperate.
- (b) The medical care provided in the bill also provides medical information of possible value to the Brookhaven survey team and therefore can be viewed as a research activity.
- (c) There are precedents for provision of medical care in support of research as in the activities of the ABCC and certain AEC laboratories.
- (d) There may be advantages in handling this inexpensive item separately from the large compensation package which is likely to come later.

- b. Unconditionally agree to payment as requested in the bill
 - (1) Pros:
 - (a) Unconditional agreement would place AEC in most favorable light from public relation standpoint.

(2) Cons:

- (a) Unconditional agreement will eliminate any chance of obtaining alteration of bill in next session of Micronesian Congress to meet AEC objections.
- (b) Such action may encourage Micronesian Congress to make further demands without recognition of the need for negotiation with AEC or other U. S. government agencies.
- (c) Legal authority for this is questionable unless the funding is designated to be for research purposes.
- (d) Cost is difficult to project with broad definition of controls in bill as passed.
- c. Proposal of provisional agreement under which costs would be shared with Department of Interior pending acceptable revision of bill in next session of Micronesian Congress and then fully assumed by AEC.

(1) Pros:

- (a) Potential unfavorable reaction may be mitigated by declaration of earnest implicit in willingness to assume part and then all of cost.
- (b) Need to negotiate with AEC or any other agency of U. S. Government rather than legislate demands will be conveyed to Micronesian Congress.
- (c) Opportunity to rectify objectionable features in bill would be gained.
- (d) Information about interim medical events in support of Brookhaven study will be acquired.

(2) Cons:

(a) Micronesian Congress may react unfavorably to less than complete immediate assumption of payments by AEC, thus resulting in adverse publicity despite positive action.

(b) Unfavorable reaction may render later negotiation concerning compensation issues more difficult.

STAFF JUDGMENTS

12. To be filled in later

RECOMMENDATIONS

- 13. The General Manager recommends that the Atomic Energy Commission:
 - a. Propose provisional agreement under which costs will be shared with Department of Interior until certain provisions of bill are revised at a later date and assume all costs subsequent to acceptable revision of the bill.
 - b. Adopt a fallback position of unconditional agreement to assume costs incurred in the bill. Include in the record statement concerning objection to offending passages.

Mr. 3.

Enclosure 1



Public Law 88-485 88th Congress, H. R. 1988 August 22, 1964

An Act.

78 STAT. 598.

To provide for the settlement of claims of certain resideuls of the Trust Territory of the Pacific Islands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby assumes compassionate responsibility to compensate inhabitants in the Rongelap Atoll, in the Trust Territory of the Pacific Lisands, for radiation exposures sustained by them as a result of a station.

March 1, 1954.

Sec. 2. There is authorized to be appropriated for such purpose out of the Treasury of the United States the sum of \$950,000 to be conditions for expended by the Secretary of the Interior (hereinafter referred to as the "Secretary") in the manner hereinafter provided. After deducting the amount provided for in section 5 hereof, the Secretary shall be a secretary in the secretary to such of the effect of the bits. pay the remainder in equal amounts to each of the affected inhabitpay the remainder in equal amounts to each of the allected inhabitant ants of Rongelap, except that (a) with respect to each such inhabitant who has died before receipt of such payment, the Secretary shall pay such sum to the heirs or legatees of such inhabitant, and (b) with respect to any such inhabitant who is less than twenty-one years of ago or who has been adjudged incompetent or insane, payment shall be made, in the discretion of the Secretary, to a parent, relative, other parent or institution to his bonefit person, or institution for his benefit.

SEC. 3. The Secretary shall give advice concerning prudent financial management to each person receiving a payment pursuant to this Act, to the end that each such person will have information as to methods of conserving his funds and as to suitable objects for which such funds

may be expended.

SEC. 4. A payment made under the provisions of this Act shall be in full settlement and discharge of all claims against the United States

Arising out of the thermonuciear detonation on March 1, 1954.

Sco. 5. The Secretary is authorized to pay reasonable attorney fees attorney fees for legal services rendered on behalf of the people of Rongelap prior to the date of enactment of this Act. Such fees shall be paid out of the funds authorized to be appropriated in section 2 of this Act, but the total of such fees paid shall not exceed 5 per centum of the appro-

Sec. 6. The decisions of the Secretary in carrying out the provisions of this Act shall be final and not subject to review.

Approved August 22, 1964.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 110 (Comm. on Interior & Insular Affairs).
SERVITE RUPORT No. 1257 (Comm. on Interior & Insular Affairs).
CONGRESSIONAL RECORD:
Vol. 109 (1963): Apr. 1, considered and passed House.
Vol. 110 (1964): July 31, considered and passed Senate, amended.

Aug. 12, House concurred in Senate amendment.

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Enclosure 2 - Additional Information Concerning the Radiation Exposure, Medical Seque and Compensation

The inhabitants of Rongelap and Utirik atolls in the Marshall Islands were accidentally exposed to fallout radiation following a detonation of a high yield thermonuclear device during experiments at Bikini in the Pacific Proving Grounds in March 1954. An unpredicted shift in winds caused a deposition of significant amounts of fallout on four inhabited Marshall Islands to the east of Bikini (see Figure 1) and also on 23 Japanese fishermen aboard their

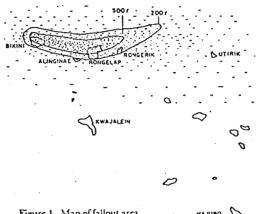


Figure 1. Map of fallout area,
Marshall Islands, March 1, 1954.

fishing vessel, the Lucky Dragon. Of the inhabitants of the islands of Rongelap, 105 nautical miles away from the detonation, 64 received the largest fallout exposure: an estimated dose of 175 rads of whole-body gamma radiation, contamination of the skin sufficient to result in beta burns, and internal absorption of radioactive materials through inhalation and ingestion. Another 18 Rongelap people away on a nearby island (Ailinginae), where less fallout occurred, received only an external gamma dose of about 69 rads. There were 28 American servicemen on the island of Rongerik further to the east who received about the same amount of radiation as did the Rongelap people on Ailinginae. Lastly, 157 Marshallese on Utirik Island, about 200 miles further east, received an estimated 14 rads of whole-body radiation. The fallout was not visible on this island and no skin effects developed. These data are summarized in Table 1.

The exposed people were evacuated from these islands by plane and ship about 2 days after the accident and taken to Kwajalcin Naval Base about 150 miles to the south, where they received extensive examinations for the following 3 months.

Table 1
Summary of Fallout Effects

Group*	Composition	Fallout observed	Estimated gamma dose, rads	Extent of skin lesions
ngelap	64 Marshallese	Heavy (snowlike)	175	Extensive
linginae	18 Marshallese	Moderate (mistlike)	69	Less extensive
ngerik	28 Americans	Moderate (mistlike)	78	Slight
irik	157 Marshallese	None	14	No skin lesions or epilation

lso exposed were 23 Japanese fishermen who received a sublethal dose.

During this period vigorous efforts were necessary to decontaminate the skin completely.

In view of the generally negative findings on the American servicemen, they were later returned to their duty stations. The Utirik people were also allowed to return to their home island, where radioactive contamination was slight enough to allow safe habitation. Because Rongelap Atoll was considered to be too highly contaminated, a temporary village was constructed for the Rongelap people (including the 18 from Ailinginae) on Majuro Atoll several hundred miles to the south, where they lived for the following 3-1/2 years and were examined at yearly intervals by a special medical team. In July 1957, after careful evaluation of radioactive contamination, Rongelap Island was considered safe for habitation. A new village was constructed, and the Rongelap people were moved there by Navy ship.

Annual surveys by a Brookhaven medical team are carried out at Rongelap and also at Kwajalein and Majuro Atolls, where a number of Rongelap and Utirik people now reside. Examinations on Utirik Atoll are carried out about once every 3 years.

A group of more than 100 Rongelap people, who were relatives of the exposed people but had been away from the island at the time of the accident, moved back with the exposed people to their home island and have served as an ideal comparison population for the studies. The number has since increased 7, 72.70.

2.4. Nine years after the detonation, thyroid abnormalities began to appear in the exposed Rongelap population, especially in persons who were less than 10

Sec. 31

of 67 exposed Rongelap inhabitants, 4 of 124 exposed Utirik inhabitants and 10 of 331 unexposed controls. Seventeen of 19 high level, exposed Rongelap childred who were less than 10 years of age at the time of the detonation, showed thyroid lesions. Four malignant thyroid tumors days topical, 3 in Rongelapese and 1 in a Utirikese. Enclosure 1 presents additional details regarding the thyroid lesions.

A case of acute leukemia was detected in September 1972 in a 19 year old, high level, exposed Rongelap boy who was one year of age at the time of the detonation. The patient received excellent treatment but nevertheless expired at the Clinical Center of the National Institutes of Health in November 1972.

In contrast to the thyroid lesions for which a causal relationship between ingested radioactive isotopes of iodine and the thyroid lesions is considered definite, uncertainty exists with respect to the relationship between the fallout and the one case of leukemia. The late appearance of the leukemia speaks against the relationship while the small size of the exposed Rongelap population and the early evidence of severe hematopoietic damage after the detonation may be cited as evidence for it. Neither argument is definitive. The scientific and lay world are likely to regard the fallout and leukemia case as presumptively related.

3.4. Compensation was provided to the people of Rongelap in accordance with U. S. Public Law no. 88-485, passed on August 22, 1964. The law was an indirect outgrowth of a legal complaint filed prior to 1960 that sought \$8,500,000 compensation for property damage, radiation sickness, burns, physical and mental agony, loss of consortium, and medical expenses (past, present, future and undetermined) by virtue of negligence on the part of the United States in the Bravo detonation. The case never came to Court because of a prior Court ruling that the Trust Territory constituted a foreign country and that jurisdiction in a U. S. Federal Court was, therefore, lacking. After a plea on behalf of the Marshallese was presented to the U. N. Trusteeship Council in 1960, the Department of State encouraged the introduction of legislation to provide compensation to the people of Rongelap.

P.L. No. 88-485 was titled "An act for the settlement of claims of certain residents of the Trust Territory of the Pacific Islands." The law stated that the Congress "hereby assumes compassionate responsibility to compensate inhabitants

in the Rongelap atoll,..., for radiation exposures sustained by them as a result of a thermonuclear detonation at Bikini Atoll in the Marshall Islands on March 1, 1954" (specenclosure—2). The Secretary of the Interior was authorized to pay \$950,000 less fees for legal services to the 83 inhabitants of Rongelap, or to their survivors, affected by radiation exposure after the detonation. The payment was made in full settlement and discharge of all claims against the United States arising out of the detonation. Each exposed individual or his heirs received approximately \$11,000 as a lump sum payment.

Although thyroid lesions were discovered by the Brookhaven medical survey team as early as September 1963, the bill was introduced prior to that date and was acted upon without apparent awareness of any late medical sequelae of the exposure to fallout.

The bill did not provide for payment of compensation to the Utirik people full.

who received an average estimated radiation dose of 14 rads from fallout. The people of Utirik have felt slighted at their omission from the compensated population, especially since they were evacuated from their island to Majuro for a limited period and are included in the medical surveys at three year intervals. In November 1970 the Atomic Energy Commission made a sum of \$16,000 available to the Trust Territory as an inconvenience payment to the 157 exposed Utirik persons or their heirs. It was felt that this token sum would satisfy the need of the Utirik people for recognition.

The High Commissioner of the Trust Territory never signed the executive agreement required to accomplish the disbursement of the payments to the Utirikese for reasons that we have not been able to ascertain.

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