

UNITED STATES
ATOMIC ENERGY COMMISSION
WASHINGTON, D.C. 20545

401111

Mr. Stanley S. Carpenter
Director
Office of Territorial Affairs
Department of Interior
Washington, D. C. 20240


Dear Mr. Carpenter:

This is in response to your letter to Dr. Marks of March 27, 1974. The following addresses the suggestions by the Special Joint Committee Concerning Rongelap and Utirik Atolls of the Congress of Micronesia for modification of the draft interagency agreement. The suggestions were discussed in Senator Borja's letter of February 14, 1974, addressed to the Deputy High Commissioner. The numbers below refer to the items in the Senator's letter.

1. The words "AND UTIRIK" appear to apply to the cabled summary but not to the draft agreement.
2. The phrase "BETWEEN THE TRUST TERRITORY OF THE PACIFIC ISLANDS AND THE U.S. ATOMIC ENERGY COMMISSION" is included in the draft agreement but was omitted from the summary.
3. and 5. Relative to the extension of the agreement for a ten year period, it is the practice of AEC to fund projects of this type for one year periods. Therefore, we are unable to comply with the request for a ten year agreement. However, there is every reason to believe that the program will be extended annually if it is effective.

The maximum expenditure stipulated in the agreement is subject to annual review and adjustment in the light of experience. This is understood in all AEC contracts and does not need to be stated explicitly.

4. Addition of the phrase "OR THEIR SUCCESSORS" is accepted.
6. The clause "AND PAYMENTS HEREUNDER SHALL NOT IN THE AGGREGATE AT ANY TIME EXCEED THIS AMOUNT" refers only to the time period of the contract. It does not preclude changing the maximum payable amount in extending the Agreement at the end of any contract year as discussed in 3. and 5.

 5008542

7. Replacement of "INCLUDES" by "SHALL INCLUDE" is accepted.
8. The descendants are a poorly defined group at this time and cannot be included in Dr. Conard's roster for his study. Since this program of reimbursement of expenditures incurred under P.L. 5-52 must in some manner be related to Dr. Conard's scientific study to justify AEC funding, reimbursement cannot be provided for persons not included in Dr. Conard's roster such as the offspring of exposed and/or control persons. Furthermore, the addition of descendants to Dr. Conard's roster might in the future so overburden the program that both Dr. Conard's medical surveys and the reimbursement provided in this Agreement would be placed in jeopardy.
9. The words "UNRELATED TO IRRADIATION" are accepted. Since this addition may pose practical problems in implementation of the law, the special Joint Committee of the Congress may wish to reconsider its inclusion. However, AEC is prepared to accept the additional words if that is the wish of the Committee.
10. Addition of "\$9.00" is accepted.
11. Submission of a report of activities conducted under a contract at a specified interval prior to renewal is customary in AEC contracts.
12. The AEC cannot assume liability for the original irradiation of the inhabitants of the Marshall Islands since the U.S. Government did not acknowledge liability in P.L. 88-485. Accordingly, the indemnification clause is appropriate and is required for an agreement of this kind.

Item 5 in the Agreement provides that "this indemnification provision shall not apply to the extent that such liability, injury, loss or damage shall have resulted from the fault or negligence of the Commission, its contractors or employees." We interpret this statement to mean that the Trust Territory does not hold harmless the Commission, its contractors and employees if liability, injury, loss or damage shall have resulted from the fault or negligence of the Commission, its contractors or employees.


A revised draft incorporating the above changes is enclosed. On June 12, 1974, a meeting was held in Washington between Senator Kendall, Representative Sigrav and Mr. Farley of the Congress of Micronesia, Mr. Brown of the Department of the Interior and Drs. Burr, Marks and Stuart and Mr. Greenleigh of AEC. The meeting was most rewarding in arriving at a mutual understanding relative to the enclosed draft.

Mr. Stanley S. Carpenter

- 3 -


If the draft is acceptable to the Trust Territory and the appropriate committee of the Congress of Micronesia, we will seek to finalize and sign the Agreement at the earliest possible date.

Sincerely,



James L. Liverman, Director
Division of Biomedical and
Environmental Research

Enclosure:
Agreement and Appendix



5008544