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 W. J. RAIN



United States Department of the Interior

OFFICE OF THE SECRETARY
 WASHINGTON, D.C. 20240

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AUG 14 1980

Dr. William W. Burr
 Director
 Office of Health and Environmental
 Research
 Office of Environment
 Mail Station E-201
 Department of Energy
 Washington, D.C. 20545

Dear Dr. Burr:

At the August 6, 1980, meeting on Section 102 of P.L. 96-205 with representatives of the Government of the Marshall Islands and representatives from the various affected atolls, the Marshalls Government representatives stated that a medical doctor recently visited Wotje Atoll to examine the people for possible radiation induced illnesses or conditions. For the record, the Marshall Islands Government delegation presented us with a copy of a letter addressed to a lawyer, Mr. Gordon Stemple of Beverly Hills, California, by Dr. Reuben Merliss, M.D., also of Beverly Hills. A copy of Dr. Merliss' letter is enclosed for your information and review.

While we were informed at the August 6, 1980, meeting that Dr. Merliss had examined the people of Wotje Atoll, his report is very general in nature. He does not mention "Wotje" but rather speaks of "the Marshall Islands". In one instance, he mentions a boy with "leukemia". This, we assume, must be a reference to of Rongelap. He also refers to patient hospital records he examined at Majuro, but does not identify the individuals by island. At one point he mentions Utirik Atoll and problems the Utirikese are experiencing with vision. Many of his comments appear to us to refer to the people of Rongelap Atoll since he speaks of immediate effects of the fallout, i.e., hair loss and burns of the skin.

I would greatly appreciate if you and your medical consultants could provide comments on Dr. Merliss' report and his conclusions.

Sincerely,

Wallace O. Green
 Assistant Secretary Designate
 Territorial and International Affairs

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Enclosure

[Handwritten notes and signatures]

Accordingly, we contacted the contractors as soon as possible. Accordingly, this Department mailed an initial Request for Proposals to seven contractors on August 8. I so advised your counsel on August 11, enclosing a copy of the request. Enclosed herewith is a copy

Mr. Charles T. Donnick

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of my covering letter of August 11 and the Request for Proposals. As you will note, the statement of the "Responsibilities of the Contractor" is close to the same as in the August 1 Discussion Paper, but we modified it in some particulars in light of our August 4 and 6 consultations. As soon as possible after we have assessed the comments that we receive by August 18, we expect to issue a supplementary document, reflecting such changes in the Request for Proposals as we find appropriate.

Your letter of August 8, which we of course did not have when the Request for Proposals was mailed that day, contains suggestions that we will be pleased to incorporate in the supplementary document, to the fullest extent we find possible. We had already modified certain of the references to Likiep, in light of the August 6 discussions, but we will examine those references further. I would point out that your suggestion numbered 5, on page 10 of your letter, seems to us to be substantially comprehended in our statement of the Responsibilities of the Contractor.

I regret that we cannot afford a longer period for comment, as you request. We have provided the period August 1 through August 18, and given the task that needs to be accomplished in the next few months, that two and one-half weeks is all that time permits. I do not doubt, however, that there will be further opportunities for meetings and other consultations as those months unfold.

On page seven of your letter, you ask for a response from us to a letter from your medical consultant, Dr. Loeffler, to your counsel, Mr. Copaken, dated July 23, concerning the proposed medical survey of Likiep. You state that the letter was presented to Interior on July 23, but in actuality it was not. Messrs. de Brum and Copaken passed it informally to Department of Energy officials at the conclusion of the July 23 meeting, and DOE agreed to respond. We will be in touch with DOE on the subject, and will offer comments either jointly or separately.

Also on page 7 and thereafter you refer to work done by Dr. Reuben Merliss, of Beverly Hills, California, concerning Wotje Atoll. You also refer to his letter of July 15 to Gordon Stemple, a Beverly Hills attorney, a copy of which you enclosed, and you ask to meet with us concerning it. We will be glad to do so. I note that in his long letter Dr. Merliss does not mention Wotje, but the contents of his letter are such that it would be useful if DOE representatives could join us in such a meeting. If you will be in touch with my office, we will arrange a meeting at a mutually convenient time, with DOE representatives included.

Sincerely,

Wallace O. Green

Wallace O. Green
Assistant Secretary Designate
Territorial and International Affairs

Enclosures

bcc: Dr. Bruce Wachholz, DOE
cc: Hon. Phillip Burton
Hon. Henry M. Jackson
Amb. Peter R. Rosenblatt
Mr. Jeffrey Farrow
m. e. ...

You will recognize that a part of the document is derived from the discussion paper that was before us at the August 4 and 6 meetings. We have made some changes to reflect views then expressed.

We await whatever further suggestions you may wish to make to us by the close of business on August 18, as stated in our Discussion Paper. Following that date, we expect to issue a supplementary document, modifying the attached in light of the views submitted to us by that date.

I regret that time is so short, but we must adhere to our proposed schedule if we are to meet our January 1, 1961, statutory deadline.

Sincerely,

Wallace O. Green

Wallace O. Green
Assistant Secretary Designate
Territorial and International Affairs

Identical letter to Theodore Mitchell and Jonathan

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,

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

The Honorable Wallace O. Green
Acting Deputy Assistant Secretary
Territorial & International Affairs
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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,

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

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.

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.

The Honorable Wallace O. Green
Acting Deputy Assistant Secretary
Territorial & International Affairs
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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.

various models and frames, and the people were to
come in and choose whichever eyeglass seemed to

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?

The Honorable Wallace C. Green
Acting Deputy Assistant Secretary
Territorial & International Affairs
August 8, 1980
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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?

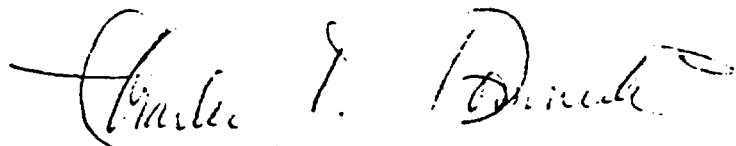
5. Given that primary, secondary and tertiary medical care must be made available at a minimum to the people of Bikini, Enewetak, Rongelap and Utirik wherever they may reside in the Marshall Islands, and given that hospital facilities, medical equipment, medicines, doctors and other personnel must be 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

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.

DOCUMENT DOES NOT CONTAIN ECI

Reviewed by DJ Kroher Date 5/1/97

REPOSITORY P. N. N. L.
COLLECTION Marshall Islands
BOX No. 5687
FOLDER Trip to Majuro & Kili