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MEMORANDUM FOR: Dr. Zbigniew Brzezinski
The White House

FROM: Rozanne L. Ridgway, Chairman
Micronesia Interagency Group

SUBJECT: Micronesian Nuclear Claims

In response to the President's request, ~~contained in Presidential Directive NSC 49 of June 6, 1979,~~ this paper incorporates the views of the agencies concerned with regard to claims arising from the U.S. nuclear weapons testing program in the Northern Marshall Islands.

In Section 177 of the Compact of Free Association, initialed by Ambassador Peter Rosenblatt and Marshall Islands President Amata Kabua on January 14, 1980 in Kona, Hawaii, the United States Government (USG) accepts the responsibility for compensation for loss or damage to property and person owing to citizens of the Marshall Islands, the Federated States of Micronesia (FSM), or Palau as a result of the USG nuclear testing program in the Northern Marshall Islands between 1946 and 1958. See Appendix A.

All known past and present claims should be resolved in a separate agreement subordinate to the Compact. This agreement should be negotiated on a government-to-government basis with the Marshall Islands Government (MIG) on behalf of its citizens. Representatives of the affected peoples shall be allowed to participate in the negotiations. The separate agreement should include procedures whereby the MIG shall present to the USG any future claims of its citizens deriving from presently unknown effects of exposure to radiation. A Nuclear Claims Delegation (NCD) composed of single members from the Office for Micronesian Status Negotiations (OMSN) (chair) and the Departments of State, Defense, Interior, Energy and Justice would be established to negotiate this agreement with the MIG on behalf of its affected citizens. The NCD will be disestablished after the formal ratification of this agreement.

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AUTHORITY: DCR/SA-20 BY H.R. SCHMIDT, DATE:

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In this agreement the USG should provide compensation for: 1) radiation damage to land; 2) personal injury compensation and direct medical surveillance and treatment for persons who have contracted or shall in the future contract radiation-related illnesses and direct radiological monitoring of people and land for an agreed time; and 3) appropriate settlement of displaced Marshallese.

1. Land Claims. The United States should be prepared to pay a value comparable to outright purchase price for radiation-damaged land. Ten million dollars would appear to be a reasonable negotiating ceiling for land claims settlement based on a total of 2,500 acres subject to damage claim at approximately \$4,000 per acre (current estimated fee value of land per acre in the subject area.) Due to the fact that no claims have yet been advanced, the above figure could be subject to modification, especially in light of the political context of the settlement, ~~that is, termination of the U.S. trusteeship in the Marshall Islands and establishment of Free Association.~~ It should be noted that none of the past payments and expenditures related to the testing program are considered by the agencies as compensation for land damage claims. See Appendix B. Funding for the land claims settlement would be provided through the Department of Defense.

2. Compensation for Personal Injury, Costs of Medical Surveillance and Treatment, and Radiological Monitoring.

A. Personal Injury Compensation

Sec. 104 of Public Law 95-134 of October 15, 1977 provides for personal injury compensation payments to residents of Rongelap and Utirik Atolls in the Marshall Islands who were exposed to radiation from the March 1, 1954 thermonuclear detonation at Bikini Atoll. See Appendix C. ~~The United States should be prepared to support an amendment to Sec. 104 to extend personal injury compensation payments to all residents of the Marshall Islands, FSM, or Palau who suffered from radiation exposure from the USG nuclear testing program in the Northern Marshall Islands between 1946 and 1958.~~ A ceiling money figure cannot be defined accurately for USG liability under this program, but total program costs to date have been \$1.4 million.

B. Medical Surveillance and Treatment and Radiological Monitoring

Sec. 102 of Public Law 96-205 of March 12, 1980 directs the Secretary of Interior, after consultations with the

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affected peoples, the MIG, and appropriate USG agencies, to devise a plan that will provide the affected people with:

- 1) an integrated, comprehensive health care program with special emphasis on the effects of radiation;
- 2) periodic radiological surveys of affected land; and
- 3) a nuclear radiation education and information program. See Appendix D.

~~The United States should include the FSM and Palau Governments in the consultation process.~~ The periodic radiological survey program will be conducted until such time as the USG decides, after consultation with the MIG and the affected peoples, that normal use of an area would not result in "unacceptable radiation doses."

It is anticipated the vast majority, if not the entire sum, of effort and expense included in these programs will be directed towards the people and government of the Marshall Islands. The estimated recurring costs for the programs enumerated in P.L. 96-205 will probably be between \$12 and \$15 million per year for the foreseeable future, depending on inflation and the expansion of program participation.

3. Bikini Settlement. The USG should be prepared to pay for a suitable community reconstruction for displaced Bikinians until such time as Bikini Atoll may be ready for habitation, estimated to be at least 60 years from now, and to fund a subsistence program for a period of years based on an agreed estimated time needed to reach self-sufficiency. The present subsistence program for the people of Bikini, costing \$250,000 to \$350,000 per year, should continue until otherwise provided for in the settlement agreement. The full cost of community resettlement including development of infrastructure, for which there is already an unfunded \$9 million authorization, is estimated at roughly \$25 million. Of this amount, \$15 million will fund infrastructure and a \$10 million trust fund will provide compensation for loss of copra export revenue from Bikini Atoll.

4. Enewetak Settlement. An expanded subsistence program costing \$200,000 to \$250,000 per year will be required for the people of Enewetak, the majority of whom returned to the southern islands of Enewetak Atoll in April 1980. It will also be necessary to finance construction of a community on Engebi Island when radiation levels permit habitation, ~~estimated to be at least 30 years from now.~~

Comprehensive study of costs and feasible locations for settlement must precede final negotiations on the issue. The USG should, in consultation with the MIG and affected peoples or their representatives, complete the study being undertaken by the Department of the Interior regarding settlement possibilities.

5 action The Marshall Islands Government should assume exclusive jurisdiction over access and habitation on Bikini and Enewetak Atolls, and responsibility for enforcing controls on access and habitation. The MIG should assume responsibility for any decision to permit access or habitation unless the USG has specifically concurred in that decision. The MIG should assume exclusive liability for any injuries resulting from any access or ~~habitation~~ ^{settlement} permitted without USG concurrence.

Summary

Recommend authorization of the following:

1. Establishment of a Nuclear Claims Delegation.
2. Approval of a \$10 million ceiling for the negotiation on land claims.
3. Extension of the personal injury compensation program cited in P.L. 95-134, at an unspecified cost; in conjunction with the health care, radiological monitoring, and education programs cited in Public Law 96-205, at an estimated yearly cost of \$12 to \$15 million.
4. Approval of suitable settlement for displaced Marshallese and funding of appropriate subsistence and settlement programs.