



CONGRESS OF MICRONESIA
SAIPAN, MARIANA ISLANDS 96950

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SPECIAL JOINT COMMITTEE
CONCERNING RONGELAP &
UTIRIK ATOLLS

Senator Olympia T. Jorge, Chairman
Representative Timothy Okerill
Representative Alan Bates

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BOX No. 6 of 6

FOLDER MARSHALLESE AGREEMENT
MARSHALLESE CURRENT WORK

February 14, 1974

TO : Deputy High Commissioner
FROM : Chairman, Joint Committee on Rongelap and Utirik
SUBJECT: Comments on Amendments to Summary of Proposed Draft Agreement

The Joint Committee Concerning Rongelap and Utirik appreciates this opportunity to suggest changes to, and comment on, the proposed Agreement. We hope that you will continue to communicate with us on this important matter. The following comments represent our considered opinion following discussions with Dr. Kumagai and Mr. Nakamura.

Although the Joint Committee is aware that this is only a summary of the proposed draft Agreement, it feels that certain substantive and technical changes will, if adopted by the Trust Territory and the AEC, more clearly spell out the intentions of the Congress (see P.L. 5-52). Our comments may be more useful and complete upon receipt of the full draft proposal.

1. The words "AND UTIRIK" were added to prevent a possible oversight.
2. The clause "BETWEEN THE TRUST TERRITORY OF THE PACIFIC ISLANDS AND THE U.S. ATOMIC ENERGY COMMISSION" was added for clarification.
3. In line 1 of Page 1, the words "FUNDS IN AN AMOUNT NOT TO EXCEED" were deleted so that the flexibility necessary in formulating a potential amendment would in no way be hindered. The amount of \$20,000 per annum at this time is, to a large extent, an arbitrary amount. Hopefully it will be adequate during this first year of the Agreement. Should it prove insufficient or excessive, both parties should be allowed latitude in proposing changes based on the actual cost of the program. The language "NOT TO EXCEED" is not in consonance with this fundamental concept. Extensions of the Agreement, without the possibility of amending the total allocation, would be bound to that \$20,000 figure.

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4. In lines 4 and 5 of page 1 "OR THEIR SUCCESSORS" was added. The Committee feels that there is a strong likelihood of new political status for the Trust Territory within the foreseeable future. The additional wording anticipates that potentiality.

5. In line 5 of page 1, the year "1984" was inserted in place of "1975." While it is true that the Congress of the United States (like the Congress of Micronesia) can not irrevocably bind its successor Congress to fund programs, projects, agencies, etc. beyond its own life, it is equally true that the interests of the people of Rongelap and Utirik, the Congress of Micronesia and the Trust Territory Administration will not be adequately protected by a one year term Agreement, extendable only upon bilateral reaffirmation.

6. In lines 7 through 11 on page 1 the words "AND PAYMENTS HEREUNDER SHALL NOT IN THE AGGREGATE AT ANY TIME EXCEED THIS AMOUNT" were deleted and the following proviso was added: "; PROVIDED, HOWEVER, THAT THE PARTIES SHALL REVIEW ANNUALLY THE AMOUNTS PROVIDED BY THE AEC UNDER THIS AGREEMENT AND SHALL, UPON THEIR MUTUAL CONSENT, AMEND THE AMOUNTS PROVIDED HEREIN". The reasons for this deletion and addition are similar to those expressed in item 3 of these Comments. Both parties should be afforded the opportunity "at any time" to demonstrate, to the other party's satisfaction, why the most recently stated amount per annum is improper. The deleted language would preclude any future adjustment of that \$20,000 figure assuming annual extensions under the original language of part 1.

7. Line 5 on page 2 has been changed, deleting the word "INCLUDES" and substituting the words "SHALL INCLUDE". The roster is incomplete at present, particularly in light of item 8 of these Comments.

8. In line 6 of page 2 the phrase ", DESCENDENTS OF EXPOSED PERSONS" was included. This change is in line with the expressed intent of the Congress of Micronesia through P.L. 5-52. As long as scientists debate the hereditary significance of radiation, the Committee feels that there is sufficient controversy to warrant the inclusion of "descendents of exposed persons" among the people benefitted by this program. The number of such persons is very small and will not substantially increase the financial considerations entering into this Agreement.

In any event, the Committee feels that AEC's obligations extending to exposed persons naturally and logically extend also to the descendents of the exposed persons.

Shirley A. AEC obligations

9. Lines 8 and 9 of page 2 were altered to include the words "UNRELATED TO IRRADIATION". Since it is both to assume that certain accidents may be directly or indirectly caused by the effects of residual irradiation, adequate safeguards should be extended to cover such accidents.

10. The amount "\$9.00" was added to line 12 of page 2 to avoid the possibility of erroneously combining the eligibility for per diem of both patient and escort.

11. In lines 13 through 16 of page 2 the words "AT LEAST 60 DAYS PRIOR TO THE RENEWAL DATE OR" and the year ", 1975" were deleted and the words "OF EACH YEAR DURING THE TERM OF THIS AGREEMENT AND ANY SUCCEEDING YEAR(S) PROVIDED FOR IN AN EXTENSION OF THIS AGREEMENT" were added. Changes in this part were made to 1) accommodate the amendments made in item 5 of these Comments, and 2) acknowledge the uselessness of a June 30, 1975 renewal date which would never have come into existence under the original draft proposed Agreement, without "the mutual consent of the parties".

12. The part concerning indemnification was deleted in its entirety. It is the Committee's opinion that there may be situations in which the AEC should assume liability where no causal relationship between a death or injury and the negligence of the AEC, its contractors, or employees can be shown, except for that original responsibility for the irradiation of the injured person(s).

Please be sure to send the Committee a copy of the full draft proposal as soon as it becomes available for further review and comment. Thank you for your attention to our interest.



Senator Olympio T. Borja

cc: Director, Health Services
Deputy Attorney General

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