



UNITED STATES  
 ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION  
 WASHINGTON, D.C. 20545

*Joe Seal*  
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December 2, 1975

Honorable Peter R. Taft  
 Assistant Attorney General  
 Land and Natural Resources Division  
 ATTN: Floyd L. France, Chief,  
 General Litigation Section  
 U. S. Department of Justice  
 Washington, D. C. 20530

US DOE ARCHIVES
326 U.S. ATOMIC ENERGY
RG _____ COMMISSION _____
Collection <u>DOS / Dept Files</u>
Box <u>13 Job 1326</u>
Folder <u>4 Bikini</u>

Dear Mr. Taft:

THE PEOPLE OF BIKINI, ET AL. V. SEAMANS, ET AL., Civil No. 75-348,  
 U.S.D.C., D. Hawaii (FLF: 90-1-4-1284)

This is in response to your October 20, 1975 request for a complete litigation report on this action insofar as the activities of the Energy Research and Development Administration (ERDA) are concerned. The principal thrust of this report is to provide information which may be used in the preparation of an answer to the amended complaint. We understand that the answer is to be filed on December 12, 1975.

We are not including, at this time, any affidavit for use in opposing the request for preliminary injunction (to be heard January 30, 1976) because of the likelihood that plaintiffs may again change the exact nature of their demand for relief. We will, of course, provide appropriate affidavits in advance of the January 30 hearing.

Department of the Interior and ERDA staff members are currently working on a joint presentation to be made to the Office of Management and Budget regarding the question of funding for the proposed aerial radiological survey. We will keep you informed of the status of this matter.

Enclosure 1 to this letter is a paragraph-by-paragraph statement of ERDA's position in response to the amended complaint. Where another defendant agency has a more direct concern, we have deferred to the views of that agency, even though we may have no reason to doubt the accuracy of the allegation. Similarly, we have recommended denial of several of the plaintiffs' allegations for lack of knowledge or information sufficient to form a belief as to the truth of the allegation, even though we have no reason to doubt that the particular allegations may be generally accurate. Wherever we are aware of



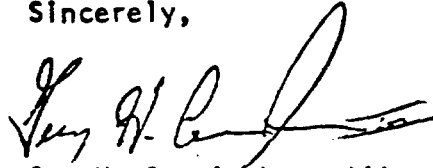
Honorable Peter R. Taft

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specific inaccuracies in the allegations, we have set them forth in detail. Additional enclosures, identified within the text of Enclosure 1, provide additional documentation and background for our responses.

If we can be of further assistance, please advise.

Sincerely,



Guy H. Cunningham, III  
Assistant General Counsel  
for Litigation and Legislation

Enclosures:

1. Response to Complaint
2. Excerpt - "The Bikini People"
3. Press Release & Ad Hoc  
Committee Report
4. WASH-1273
5. Correspondence - AEC/Barry

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Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS

1

Deny present existence of NEPA obligations, consistently with the position expressed at the informal conference with the Court on November 1. ERDA defers to the Department of the Interior (DOI) with respect to obligations under the Trusteeship Agreement.

2

ERDA denies NEPA obligations, but admits jurisdiction and venue.

3

Deny, for lack of knowledge.

4, 5, 6

The complaint has no paragraphs 4, 5, and 6.

7

Object on should probably be made to maintenance of the suit as a class action. Query whether members of the "class" are "so numerous as to make it impractical to bring them all before the Court." Our practical concern is that the lawsuit may, in fact, run counter to the true desires of some of the Bikinians.

8

Admit.

9

Admit. We note, however, that there appears to be no basis for naming Stanley as a defendant. He has no responsibility for Bikini-related activities, except to provide logistic support as directed. See also our response to Interrogatory No. 1, previously furnished.

10

ERDA defers to Department of Defense (DOD) (though we note the obvious, that Schlesinger is no longer Secretary).

11, 12, 13, 14

ERDA defers to DOI.

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Paragraph	ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)
15	Deleted.
16	Admit.
17	Admit.
18	Admit.
19	Admit existence of Trusteeship Agreement, which, however, speaks for itself.
20	ERDA believes this allegation is correct, but defers to DOD and DOI.
21	Enabling Act speaks for itself.
22 through 28	ERDA defers to DOI.
29	ERDA has no reason to deny what we believe to be the general thrust of the paragraph though we lack specific knowledge to admit the last two sentences. The use of the present tense in the first sentence is also troubling, in view of the "Release of Rights to Bikini Atoll," executed April 27, 1951 (reprinted in Enclosure 2 at 551-552). Out of an abundance of caution, the paragraph should be denied.
30	Admit the first sentence. Deny second sentence. (See discussion at pages 508-510 of Enclosure 2). We defer to DOD (particularly the Navy) as to the third sentence, though we doubt that any such promise was authoritatively made.

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Paragraph	ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)
31	Deny for lack of knowledge.
32	We defer to DOD, though we believe the allegation is accurate.
33	ERDA would deny for lack of knowledge, though we defer to DOD.
34	Deny for lack of knowledge.
35	Deny for lack of knowledge, particularly as to characterization of environment as alien. Defer to DOD.
36	Deny for lack of knowledge. Defer to DOD.
37	Deny for lack of knowledge. Defer to D01.
38	Deny for lack of knowledge. Defer to D01.
39.	Deny for lack of knowledge. Defer to D01.
40	Deny for lack of knowledge. Defer to D01.
41	Deny for lack of knowledge. Defer to D01.
42	Defer to DOD.
43	Admit last sentence. Defer to DOD on remainder. <b>DOE ARCHIVES</b>
44	As used in this paragraph, dates are a problem because of the international date line. They place shot "Bravo" as February 28, while we place it at March 1. With this caveat, our comments, sentence by sentence, are:  1st sentence - admit.  2d sentence - admit.

65

Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

44

3d sentence - deny, insofar as it alleges shot "Bravo" was dropped from an airplane. It was a ground shot.

4th sentence - admit.

5th sentence - ERDA admits that some land was destroyed but denies that an additional pass from the ocean to the lagoon was excavated. NOTE: The foregoing sentence is unclassified, and similar language should be used. All reports which go into much greater detail, insofar as we are presently aware, are classified. There seems to be no need to raise any classification issue.

6th sentence - admit.

7th sentence admit.

45

1st sentence - admit.

2d sentence - deny. In absence of references to quantity, cannot admit to "very dangerous" effect.

3d sentence - Admit that the named radionuclides were among those introduced into the Bikini environment by testing.

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4th sentence - Admit, since literally true, but be aware that many of these radionuclides have decayed to point where no longer detectable.

66

Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

- 45                   5th sentence - Admit that some of the dangerous radioactive materials will be taken up by pandanus and breadfruit trees, but deny that they will be concentrated in the fruit.
- 46                   Admit. Note, however, that an admission that certain effects "can" occur, is not an acknowledgment that they will. Note also, the complete absence of quantification in this paragraph.
- 47                   Admit.
- 48                   We defer to DOD, but think it pertinent to note the fact that a concern was remoteness from all population concentrations, not just U. S. citizens.
- 49                   Admit first sentence, deny last two. Accuracy of dollar figure in second sentence is speculative. Last sentence is argumentative and may well be untrue.
- 50                   1st sentence - defer to DOD. See also comments on Paragraph 30.
- 2d sentence - defer to DOI. Statement is probably true as to many Bikinians, but not necessarily all. See comments on propriety of class action (Paragraph 7).
- 51                   Deny for lack of knowledge. **DOE ARCHIVES**
- 52                   This paragraph is hard to respond to since we don't see the point of it. Therefore, we suggest that the first sentence (which is rather argumentative) and the last be denied for lack of knowledge and information sufficient to form a belief.

Paragraph	ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)
52	The middle two sentences are straightforward and could be admitted.
53	Defer to DOI.
54	Defer to DOI.
55	Though we defer to DOI, this paragraph should probably be denied for lack of knowledge.
56	We defer to DOI, though we note that we doubt that this allegation is accurate.
57	Admit.
58	Admit that survey was conducted, but deny that its purpose was "to determine whether [Bikinians] could safely return to [their] homeland." Actual purpose was to determine the radiological status of the atoll. Information acquired would, of course, be used in any decision (not AEC's to make) regarding return.
59	Admit first and last sentence. Deny second sentence. The statement in quotes, "it would be radiologically safe to allow the Bikini people to return to their home atoll," was not made by the AEC Ad Hoc Committee and does not appear in their report. It does, however, appear in an AEC press release describing the report, which we can't now disown. The language used by the Ad Hoc Committee, however, was " ... The exposures to radiation that would result from repatriation of the Bikini people do not offer a significant threat to their health and safety." Thus, radiation exposure is expected and while the risk is not zero, it was considered acceptable in light of benefits

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Paragraph ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

59 to be received. A copy of the Ad Hoc Committee's report (and accompanying press release) is enclosed as Enclosure 3. In view of the press release, we're in no shape to nit-pik, but the record should be kept straight.

60 Deny commencement of "a major federal program." Letter speaks for itself.

61 Admit.

62 We deny the existence of an "integrated, interagency program." We admit that the primary responsibilities of the three agencies have been accurately set forth. We deny, however, that the agencies "entered into an agreement" if that phrase is intended to describe a written agreement. (AEC has, in correspondence with Micronesian Legal Services, used the phrase "made an agreement." See Enclosure 5, letter to Barry, at 4.)

63 Admit.

64 Admit.

65 Defer to DOI.

66 Defer to DOI.

67 Defer to DOI.

68 Deny. Actual recommendation is set forth in paragraph 2f of Ad Hoc Committee report (Enclosure 3). Note that it recommended soil removal for pandanus only, not "crop trees," and did not recommend soil replacement at all. ERDA lacks knowledge as to whether the recommendation was followed.

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69

Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

69

1st sentence - admit recommendation that "immediate environs ... be covered by coral aggregate and sand" but deny that recommendation was that such be taken "from other less radioactive island or reef areas." No recommendation was made as to source.

2d sentence - deny. Recommendation is being followed, though not yet complete. Those houses which were occupied had the coral and there is no reason to believe others won't get it before occupancy. See generally, Enclosure 4, Exposure Rate Reduction on Bikini Island due to Concrete Dwellings (WASH-1273).

70

Deny. AEC recommended that for making concrete, sand from Bikini Island may be used and coral aggregate (already stockpiled and monitored) from the Peter-Oboe complex (nearby islands) would be acceptable for buildings on Bikini and Eneu Islands. The AEC recommendations were followed.

Results of radiological monitoring indicate that radiation levels inside the first houses constructed on Bikini Island is approximately 50 percent lower than outside the houses.

This was expected provided construction materials contained low levels of radioactivity. See generally, Enclosure 4.

71

Letter speaks for itself. ERDA does not admit that plaintiffs have accurately interpreted that letter, as set forth below:

By letter of January 14, 1971, High Commissioner, Edward Johnston, inquired of the Manager, AEC Honolulu

70

Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

71

Area Office, about the safety of work crews planting coconuts in the Peter-Oboe complex. Also, during a trip by Dr. Robert Conard of Brookhaven National Laboratory, he was asked whether work crews could drink well water on Bikini Island. The context of both the question and the answer provided in the letter from Dr. Biles of June 17, 1971, is use of well water by work crews. The answer does not apply to permanent residents wherein any radioactivity intake from use of well water would be added to intake from the rest of the diet consisting of locally grown foods. Except for fish and some coconut, the diet of a work crew would consist primarily of imported food. Use of well water by permanent residents of Bikini Island is a more complex question. ERDA is to provide additional guidance on use of well water on both Bikini and Eneu Islands when results of well water samples collected in June have been evaluated. This guidance will relate to radiological findings. Guidance on water quality considering its mineral or bacteriological content is more properly the responsibility of Trust Territory Health Officers and possibly Public Health Service.

72

1st sentence - admit.

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2d sentence - deny. There was no construction of housing underway at Bikini Atoll in 1974 or since that time.

71

Enclosure 1

Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

72

The DOI effort during the 1974-75 period has been development of a Bikini Master Plan that contains plans for Phase II housing construction to begin sometime in the future. This planning was stopped awaiting advice from ERDA.

At a meeting in January 1975, with DOI and Trust Territory representatives and others, ERDA staff agreed to evaluate preliminary plans for Phase II housing construction provided by Trust Territory. Additional field work at Bikini Atoll was needed to develop more precise information on external radiation in areas identified in the plan for additional housing construction and to update calculations of total radiation doses for future residents of Bikini and Eneu Islands. An important feature of these calculations would be forecast of doses received at future times when locally grown foods would come to be a major part of the diet. These foods, not yet available in any quantity, would include new items not known to have been grown in the atoll in the past.

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A detailed survey of external gamma radiation levels on Bikini and Eneu Islands was conducted by ERDA and ERDA contractor ground monitors in June 1975 after support for an aerial survey from DOD could not be obtained. Responding to pressures from DOI and Trust

72

Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

72

Territory representatives for early advice on location of the second group of houses, preliminary results of the June 1975 survey and draft conclusions and recommendations were presented at a meeting in August 1975. Dose estimates for external radiation for six options with residence on Bikini and Eneu Islands were presented. These were on a firm basis since results of the external radiation portion of the survey were available a few weeks after the survey. Dose estimates for internal exposures based on June 1975 results could not be made since laboratory analysis of collected samples would take many months. Rough estimates of internal dose were made using analogy with Enewetak findings. The tentative conclusion presented was that while houses already constructed on Bikini Island could be occupied with radiation doses held within prescribed guidelines, given a choice, any additional construction of houses should be on Eneu Islands where radiation exposures are known to be lower than Bikini Island. Trust Territory staff agreed to revise their plans. ERDA agreed to provide additional guidance in about six months when laboratory analysis of samples would be completed. The draft preliminary report reviewed at

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Enclosure 1

Paragraph ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

72 the January 15, 1975, planning meeting has previously been furnished to you.

73 1st sentence - admit.  
2d sentence deny. What Dr. Biles said was that Federal Regulations regarding radiological safety had become more stringent in their application since 1968 when the decision to return the Bikini people to their atoll was made, i.e., that more emphasis is being given to keeping exposures "as low as practicable." The basic numerical radiation standards for protection of the public are the same now as in 1968. See also general comments on paragraph 83.

74 Admit.

75 Admit.

76 Admit. (The letter speaks for itself. As will be seen in our comments on the next paragraph, we disagree with Plaintiffs' reading of portions of the letter).

**DOE ARCHIVE**

77 1st sentence - Admit. Second and third sentences, deny. This paragraph is very misleading and does not present all of the facts. We consider the statement of Mr. Hughes valid only as it pertains to a survey of the entire atoll. For the purpose intended -- dose estimation in connection with a decision about the location of the second group of houses --

Paragraph

77

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

the June 1975 survey of Bikini and Eneu Islands by ground monitors, using portable and vehicle mounted instruments, was most satisfactory for making such dose estimates.

The optimal technique referred to is the use of airborne instruments flown over the islands in helicopters. This method of radiological monitoring -- and our reasons for desiring it -- can be put into perspective as follows:

- a. The aerial survey will fill in the detailed fine structure of the specific radionuclide content of soil for all islands in the atoll, including Bikini and Eneu, the islands where the people will live. Also, this will provide information which is not now available on plutonium. The previous ground surveys did not have the equipment for measuring the plutonium content of soil directly. The data that are available from the analysis of a limited number of soil samples are not adequate.
- b. The shallow area of the ocean side reefs of Bikini and Eneu are accessible to the people at low tide. The previous surveys done on foot were unable to make any measurements on the reefs. Before the islands are inhabited, measurements of radiation on certain areas of the reefs should be made. The aerial survey is uniquely suited to do this job.
- c. Experience at Enewetak emphasized the need to carefully look at all islands. For example, the aerial survey

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75

Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

77

located sources of radiation on islands which were heretofore considered radiation free. At Bikini Atoll it is most important to ensure that the other islands do not contain radiation sources which were in unaccessible locations for the ground survey teams due to heavy vegetation cover. Even though people will not live on these other islands in the near future, they are expected to visit them for collection of certain foods.

78

Admit. (Note that list of attendees is not complete. George Allen, Micronesian Legal Services Corporation, was also among those attending.)

79

Admit. The two reports mentioned have previously been furnished to you.

80

1st sentence - deny. Reports do not say that Federal Radiation Council standards would be exceeded.

2d sentence - deny. See discussion of answer to Paragraph 71.

3d sentence - admit.

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81

Admit, except that sixth and last sentences should be denied. With respect to last sentence, ERDA commented on and contributed to the EIS, but denies that the statement was issued on its behalf and denies that the radiological survey was a part of the study of the environment impact



Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

81

of the Enewetek resettlement program (i.e., the EIS process). The commitment to do the radiological survey predated the initiation of the EIS and the decision to resettle.

With respect to the sixth sentence ("Members of our own community ..."), the following comments explain our reasons for denial:

This paragraph indicates that the Bikini people associate their expected radiation exposure, and possible effects with those of the Rongelap people exposed to fallout. When Dr. Conard visited Kili in 1969 the people expressed concern about radiation at Bikini, but were worried that they might have to be subjected on their return to Bikini to medical examinations and particularly blood sampling procedures as was being done on the Rongelap people. It was explained that their radiation exposure on Bikini would be far less than that received by the Rongelap and Utirik people and that, since their exposure would not be expected to result in any detectable radiation effects, medical examinations and blood sampling would not be necessary. **DOE ARCHIVES**

This paragraph also infers that medical examinations were done on the people who had returned to Bikini, by doctors under contract to the AEC. It is true that since 1970 the AEC medical team has visited Bikini periodically when personnel monitoring procedures such as urine collections for radioactive analyses and whole body radiation measurements

Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

81

on the people living there were done, usually by technicians accompanying the team. The doctors visited Bikini because it was logistically desirable following the Rongelap examinations to stop in transit at Bikini for airlift to Kwajalein. On these occasions and at the request of the health aide their talents were used to aid in general health care, i.e., for "sick calls." These visits in no way constituted periodic medical examinations for possible radiologically connected health effects, but were for humanitarian reasons. As was pointed out above, the radiation doses in the Bikini people are too low to expect detectable radiation effects and no examinations for this purpose were done.

82

1st sentence - deny for lack of knowledge.

2d sentence - admit.

Detailed comment: The apprehension and concern for health being expressed by members of the Bikini people and the demands for medical examinations and treatment of injuries for those who have lived for a time on Bikini Island is a new element in the rehabilitation of Bikini Atoll. Those experts who made the judgment in 1968 on whether or not to recommend that the Bikini people be returned to their atoll, were confronted with two types of information. On the one hand, there were the results of past radiological surveys of the atoll

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Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

82

and dose evaluations by Dr. Philip Gustafson indicating that radiation exposures near federal standards for the general public are to be expected. On the other hand, there was a report by James T. Hiyane, District Agriculturist, indicating that the Bikini people on Kili are resentful and dissatisfied with life on Kili, they want to go home, and they anticipate a return to Bikini and have no desire to exert energy in improving Kili. Also there was a report by Jack A. Tobin, Anthropologist, indicating the people have experienced difficulty adjusting to Kili, they have feelings of isolation and confinement, they refuse to accept the move to Kili as final, they say Kili is no good, it is like a prison, there is not enough food, and they have not made a whole-hearted attempt to adjust to Kili and want to return to Bikini.

The small risk associated with radiation exposures near the standards was found by the experts to be acceptable when viewed along side the great benefits to be received. The benefits overbalanced the risks to a considerable degree. In the seven years since the judgment on resettlement, the radiation standards have not changed although there is somewhat more conservative application. What has changed is the

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Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

82

benefit side of the equation. Considering the fear that has prompted demands for medical evaluation and treatment of any injuries for those who have lived a year or more on Bikini Island, it could be that the benefit-risk balance of 1968 is no longer valid. If the people will accept no risk at all, or control of exposures within the standards, then return to Bikini Atoll is not feasible.

83

1st sentence - defer to DOI and DOD as to what Bikinians were told.

2nd sentence - President Johnson's letter speaks for itself.

Detailed comment: The terms "safe" and "unsafe" are used in this paragraph without a precise definition or basis for common understanding. Using these terms as absolutes, i.e., safe means that the chance of injury must be zero and unsafe means the chance of injury is 100 percent, leads to the conclusion that Bikini Atoll is unsafe and will be for thousands of years to come. By the same definition, Kili and the rest of the entire earth are also unsafe due to worldwide fallout, cosmic rays from space, natural DOE ARCHIVE radioactivity in the body, and radiation from naturally occurring terrestrial radioactivity.

Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

83

A fundamental radiation protection assumption, and this is very conservative and theoretical, is that every amount of radiation exposure, no matter how small, carries with it some chance of effect or injury, however small. If one demands that potential risks of injury from radiation exposure be zero, then radiation exposures must be zero. The radiation standards themselves are not a dividing line between absolute safety and danger. The standards for protecting the public are exposure levels set sufficiently low "that associated risks would be found acceptable, by an informed society, when viewed along side expected benefits." NCRP 39. Risks of radiation exposure at levels within the standards are much less than other risks accepted in normal every day life.

We would be pleased to arrange an introductory briefing on the principles of radiation protection discussed here. We recommend such a briefing before the next Court appearance.

The AEC/ERDA effort has been to find a way to keep exposures of Bikini Atoll residents within the standards using feasible and practicable remedial measures. These measures have already been recommended. Short of removal and replacement of the land, which is not a feasible action, external radiation exposures for residents living in the new houses on Bikini Island will be a significant portion of the annual

Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

83

and 30-year standards. See comments on paragraph 80. Estimates of external exposures for residents of Eneu Island indicate values approximately half that for Bikini Island. See reports referenced in paragraph 79. This was the reason for the recommendation by the experts in 1968 that the first houses be built and food crops placed on Eneu Island.

84

The magazine article speaks for itself. We have no knowledge of facts alleged in last sentence.

85

Defer to DOI.

86

Deny.

Detailed comments: The statement that restrictions not previously disclosed to the people were released in preliminary report in August 1975 is untrue. As the plans for resettlement have been better defined through development of a "Master Plan," additional advice in the form of recommendations has been developed. From the very first reports and during the visit to Kili by the then High Commissioner Norwood in August 1968, the AEC/ERDA position presented was one of limited use of islands of the atoll with restrictions on which island could be used for permanent residents and restrictions regarding production and use of local foods. Only the island of Eneu was recommended for use free of restrictions. This is part b. of

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Paragraph

86

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

the second recommendation of the report of the Ad Hoc Committee (Enclosure 3): "Establish the first village and immediate food crops on Eneu. No radiological precautions will be needed on Eneu because of its very low contamination level." These recommendations were presented to the people through an interpreter during Mr. Norwood's visit.

It was recognized in 1968 that there would be a desire to plant certain food crops on Bikini Island that have a long time to maturity. A precaution for removal of two inches of topsoil was presented by the Ad Hoc Committee for planting pandanus based on the best information available at that time. It appears now, based on additional radiological survey results from Bikini and Enewetak Atolls, that this will not be sufficient to keep down levels of radionuclides in this plant since radioactivity in the soil where roots grow extends deep into the ground. Other food plants have been planted on Bikini Island that were never found there during the peoples' absence. These have been sampled and as information accumulates on their radioactive content, recommendations on their use are made. As new things are learned about ways to reduce radiation exposures, additional advice will be given the Department of the Interior for their use at Bikini Atoll.

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As for living patterns different from normal, estimates of external exposure presented in August 1975 were based on

83

Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

86

information developed for the Enewetak people as to time that may be spent in various locations in the atoll. These represent approximate values expected to apply to different age groups and for men and women. These are assumptions, not recommendations or restrictions, based on observations of people living in an atoll where there is non-intensive agriculture and copra production.

87

Admit.

Roger Ray has no exact recollection of what he said, but knows that Bikinians have tape recording of it, and believes this to be generally accurate.

The statement that AEC had not recommended construction of houses on Bikini Island is essentially correct. AEC did recommend that the first houses be constructed on Eneu. It is our understanding from Trust Territory representatives, who worked with the Bikini people on exact locations for houses, that the Bikini people rejected this advice and required that the houses be built on Bikini Island instead.

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Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

88

1st sentence - admit.

2d sentence - deny.

Bikinians have been provided with a great deal of information in understandable form, including the movie, "The Bikinians," with a Marshalese sound track. See also the exchange of correspondence between Mr. Barry, Micronesian Legal Services Corporation and the AEC, which is assembled as Enclosure 5.

89

1st sentence - admit.

2d sentence - deny.

This paragraph contains erroneous conclusions. The August 1975 reports referenced in paragraph 79 did not recommend against use of permanent residences on Bikini Island. Rather, the preliminary report entitled "Radiological Evaluation of Phase II Housing Construction, Bikini Atoll- August 1975," page 8, contains a summary of conclusions regarding six different cases of assumed living patterns and remedial measures. The report states, "Case 2 appears to offer the best compromise if the restrictions are acceptable to the people." Case 2 is defined in Table 1 of the report as follows:

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"Case 2 - Limited use of Bikini Island with residence in houses already constructed. No additional house construction on Bikini Island for the present. No use of food grown on Bikini Island for the present

Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

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except coconut. Unrestricted use of fish from all parts of the atoll. Production of land food crops on Eneu Island only, except coconut. Use of Bikini Island lens water for agriculture only. Build any additional houses on Eneu Island." (Emphasis added).

In the same report, page 9, recommendation 2 is stated as follows:

"2. No additional houses be constructed along the Lagoon Road (Fig. 1, Areas 1 and 2) on Bikini Island. Although the existing houses along the lagoon road may be occupied within prescribed guidelines, we feel that the construction of additional housing in this area is ill-advised as long as alternative locations exist which will result in significantly lower doses, (i.e., Eneu). This recommendation is consistent with earlier ERDA (AEC) pronouncements on the advisability of locating the first houses on Eneu." (Emphasis added).

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It is unclear as to why and what special considerations and attention are referred to. Based on environmental and bio-assay data ERDA has seen no reason to expect detectable radiation effects in the people living on Bikini and has therefore not believed that special consideration in the form of physical examinations was indicated. Continued assessment of the status of Bikini by radiological surveys would provide

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Paragraph	ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)
89	a base for reconsideration of this position in the unlikely event that this would be necessary.
90	1st, 2d, and 4th sentences - admit. 3d sentence - deny. ERDA does not say that Bikini houses should not be used for permanent residences. See also comments on Paragraph 89.
91	1st sentence is emphatically denied (as it was at November 1 conference with Court). Denial of existence of program logically calls for denial of rest of paragraph.
92	Deny.
93	Admit.
94	Deny existence of ongoing major federal action but admit the remainder, particularly the last sentence.
95, 96, 97	Defer to Department of Interior.
98	1st sentence - defer to DOI. Remainder should be denied. While ERDA would like to do the aerial radiological survey, and would welcome independent scrutiny, it denies any <u>obligation</u> to perform the survey, any <u>obligation</u> to fund the Independent scrutiny, and denies that the Enewetak survey establishes standards applicable to any Bikini survey. We reemphasize that while the aerial survey will provide a great deal of valuable data, such a

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Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

98                   degree of refinement is not needed to make decisions with respect to the resettlement of Bikini. See also answer to Paragraph 77.

99                   This conclusion of law does not require an answer.

100                  Deny. The medical examinations agreed to on November 1 (including ERDA's agreement to provide certain support) were voluntary. While we believe that DOI would agree that it has an obligation to protect the health of the Bikinians, the type of examination requested is beyond the scope of any such obligation.

See also comments on Paragraph 101.

101                  Deny. As previously stated, surveys to date have been adequate for purposes of estimating dose exposure. Therefore, we deny the need for further study of "health risk," and, more particularly, the notion that we should fund independent scientists to perform such a study.

If supporting a study of "health risks" means medical examinations are deemed necessary, then they would have to be done for reasons other than radiological since as stated above the radiation dose to the people living on Bikini is too low for such examinations to resolve any detectable effects.

It is important to point out that with respect to exposures below the federal guide of 500 mrem per year for individuals

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Paragraph

ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)

101

in the general population -- which we expect to be the case on Bikini (see Paragraph 80) -- no individual radiological medical surveillance is necessary and no medical, clinical, or laboratory procedures are required in connection with such exposure. Thus, if clinical or laboratory procedures are provided for the Bikinians, this would constitute taking measures that have not been considered necessary anywhere else in the world.

102

Deny.

The personnel monitoring procedures carried for the people living at Bikini are not considered "far too limited." On the contrary these examinations are considered to have been quite adequate to assess the radiological status of the people.

The examinations outlined for roentgenograms probably will expose the individuals to larger doses of radiation than they would receive by living on Bikini Island for a substantial period of time. In vivo measurements for plutonium at levels lower than maximum permissible body burdens are not practical at this time and still in the experimental stage.

See also agreement of November 1.

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Paragraph	ERDA's SUGGESTED RESPONSE AND/OR COMMENTS (Continued)
103	Deny.
104	Deny. Need for study already denied. If it were needed, ERDA could do it objectively. Plaintiffs' refusal or inability to concede that objectivity cannot justify retention of "independent" study group.
105	Conclusion of law which requires no answer.
106	Conclusion of law which requires no answer.
107	Conclusion of law which requires no answer.
108	Conclusion of law which requires no answer.
109	Conclusion of law which requires no answer.

In view of the foregoing responses to the numbered allegations of the complaint, ERDA denies each claim alleged in paragraphs 111 through 115, and opposes the grant of any relief sought in the prayer for relief. We do, of course, stick by the agreements voluntarily made in discussions in Honolulu on November 1, 1975, and will work with DOI on resolving the question of funding the aerial survey.

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Enclosure 1

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