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MEMORANDUM

TO: Mr. John M. Niedenthal  
Mr. Earl P. Gilmore  
Mr. Tom Bell

FROM: Jonathan M. Weisgall

DATE: August 12, 1996

RE: Memorandum of Understanding

I have made some small changes in the draft Memorandum of Understanding:

- Section 1.6 contains a more detailed listing of improvements.
- Section 3.3 clarifies that the S&Q charges charged to Livermore will be during Livermore missions.
- A new Section 3.4 requires DOE to inform the Council at least one year in advance of the dates of its missions.
- Section 4.1 has been shortened.

Please call me with any comments that you have.

JMW:jj  
Attachment

**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE UNITED STATES DEPARTMENT OF ENERGY  
AND THE KILI/BIKINI/EJIT LOCAL  
GOVERNMENT COUNCIL**

This Memorandum of Understanding is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1996, between the United States Department of Energy ("DOE") and the Kili/Bikini/Ejit Local Government Council ("Council").

**Article I. Background and Recitals**

1.1 Between 1946 and 1958, the government of the United States detonated twenty-three (23) nuclear devices at Bikini Atoll.

1.2 As part of its ongoing responsibilities under the Compact of Free Association Act (Public Law 99-239), the U.S. Department of Energy, working through Lawrence Livermore National Laboratory ("Lawrence Livermore") and Bechtel Nevada ("BN"), is conducting an ongoing environmental monitoring program at Bikini Atoll, with approximately two field missions at Bikini Atoll annually.

1.3 The people of Bikini, using their financial resources established under the Resettlement Trust Fund for the People of Bikini pursuant to Public Laws 97-257 and 100-446, intend to conduct a radiological cleanup, resettlement and rehabilitation of Bikini Atoll. Because of the residual radioactivity present in the environment at Bikini Atoll, it will be necessary to conduct periodic radiological monitoring of the resettled population to ensure the inhabitants that any internal body burdens of radioactivity remain within acceptable standards.

1.4 As part of the radiological cleanup, resettlement and rehabilitation of Bikini Atoll, the people of Bikini are constructing the King Juda Health Physics

Laboratory, which will house a whole-body counter, to be supplied by DOE, to measure and estimate body burdens of cesium-137, potassium-40 and cobalt-60. The Council requests DOE assistance in certain aspects of whole-body counter calibration and monitoring.

1.5 As part of the cleanup, resettlement and rehabilitation at Bikini Atoll, the Council on January 17, 1996 entered into a contract with Marshalls Dive Adventures, Inc. ("MDA") to operate a commercial dive program at Bikini Atoll.

1.6 In order to accommodate the ongoing needs of Lawrence Livermore's environmental monitoring missions and MDA's operation of a commercial dive program at Bikini, the Council, in agreement with MDA and at the request of DOE and BN, has made and is continuing to make numerous improvements in the Bikini field station complex, including: new power generators to accommodate Lawrence Livermore's walk-in freezer and all future electricity needs; relocation of reverse osmosis unit from Eneu Island; salt water well and pumping system; new water distribution system; renovation and repainting of the main building; renovation and repainting of the dive shop; conversion of the Council House to four bedrooms with individual baths; construction of new recreation building; conversion of building number 27 to the Crossroads General Store; and establishment of sanitary landfill and scrap storage areas at south end of island.

NOW, THEREFORE, in consideration of the mutual covenants set forth below, DOE and the Council agree as follows:

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**Article II. Purpose**

2.1 The purpose of this Memorandum of Understanding is to set forth the respective duties and responsibilities of DOE and the Council in connection with (a) DOE's ongoing environmental missions at Bikini; (b) the Council's efforts to conduct a radiological cleanup, resettlement and rehabilitation of Bikini Atoll; and (c) the ongoing commercial, dive program at Bikini Atoll.

**Article III. DOE Duties and Responsibilities**

3.1 In connection with the ongoing Lawrence Livermore environmental monitoring missions at Bikini, DOE shall pay to the Council annual lease payments for land used by DOE and Lawrence Livermore at Bikini. Such lease payments, which shall be set forth in an annual Scope of Work to be negotiated between the parties ("Scope of Work"), shall be based upon the rental values set forth in Cowell and Co., Inc.'s "Third Supplement to Appraisal Report Regarding Bikini Atoll, Republic of the Marshall Islands," dated July 1990, a copy of which is attached to the FY 1997 Scope of Work.

3.2 DOE shall pay to the Council for logistical support at the Bikini field station a utility fee for electricity and water as set forth in each year's Scope of Work. Such annual fee shall take into account, among other factors, the cost of capital improvements to provide power and water at the field station, pro rata use by DOE, amortization of capital improvements, cost of fuel and ongoing operations and maintenance costs.

3.3 In connection with the ongoing Lawrence Livermore environmental monitoring missions at Bikini, DOE shall pay to the Council a daily subsistence and

quartering ("S&Q") charge for the use of the Bikini field station during Lawrence Livermore missions, as set forth in the annual Scope of Work.

3.4 In order to permit the Council to book dive reservations at Bikini more than a year in advance, DOE shall advise the Council at least twelve (12) months in advance of the exact dates of proposed Lawrence Livermore missions at Bikini.

3.5 Any certified paramedic based at the Bikini field station during Lawrence Livermore's environmental monitoring missions shall provide whatever assistance he or she can to divers participating in the commercial dive tourism program at Bikini, provided the Council and MDA amend their Liability Release and Waiver and Express Assumption of Risk form to add a provision expressly holding harmless such paramedic, Lawrence Livermore and DOE for any damage or injury such diver may suffer.

3.6 At such point as Bikinians begin to live permanently on Bikini Atoll, DOE shall conduct radiological monitoring of the resettled population through whole-body counting to estimate total body burdens of cesium-137, potassium-40 and cobalt-60, urinalysis for the detection of plutonium and/or any other methods mutually agreed to by DOE and the Council. The annual Scope of Work shall define the level of support to be provided by both parties, provided, however, that DOE shall be responsible for the use, operation and maintenance of the whole-body counting chair, electronics, computers, low-level radiological material and other material and equipment used for urinalysis. DOE shall establish and follow protocols for the use of the whole-body counter, shall describe such protocols in writing to the Council and shall, upon request, make data related to radiological monitoring available to the individuals undergoing such

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monitoring and shall present such data in a meaningful and understandable form to the individuals undergoing monitoring.

3.7 DOE shall provide such other logistical support assistance to the Council as may be mutually agreed to in each annual Scope of Work.

3.8 DOE shall work and coordinate with the Council in obtaining any licenses or other approvals from the Republic of the Marshall Islands for any material and equipment required for radiological monitoring, including equipment that emits low levels of ionizing radiation.

Article IV. Council Duties and Responsibilities

4.1 The Council shall be responsible for the building facilities and utilities at the King Juda Health Physics Laboratory.

4.2 The Council shall work and coordinate with DOE in obtaining any licenses or other approvals from the Republic of the Marshall Islands for any material and equipment required for the radiological monitoring at the King Juda Health Physics Laboratory, including equipment that emits low levels of ionizing radiation.

4.3 The Council shall assist DOE with respect to the control and custody of any equipment that is a radioactive source.

4.4 The Council shall provide such other logistical support assistance to DOE as may be mutually agreed to in each annual Scope of Work.

**Article V. General Condition**

5.1 This Memorandum of Understanding may be modified only in writing by both parties. This Memorandum of Understanding will remain in effect for five (5) years, until \_\_\_\_\_, 200 \_\_, or earlier if mutually terminated by the parties.

5.2 Any notice or other communication in connection with this Memorandum of Understanding shall be in writing. All notices, requests, demands and other communications under this Memorandum of Understanding shall be given to or made upon the respective parties as follows:

If to the Council:

Kili/Bikini/Ejit Local Government Council  
Attention: Office of the Mayor  
P. O. Box 1096  
Majuro, MH 96960  
telephone: 011-692-625-3177  
facsimile: 011-692-625-3177

with a copy to:

Law Offices of Jonathan M. Weisgall  
2101 L Street, N.W.  
Washington, DC 20037  
telephone: 202-828-1378  
facsimile: 202-828-1380

If to DOE:

U.S. Department of Energy  
Office of International Health Programs  
Attention: Office of R. Thomas Bell, III  
19901 Germantown Road  
Germantown, MD 20874-1290  
telephone: 301-903-5728  
facsimile: 301-903-1413

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5.3 **Governing law:** The laws of the Republic of the Marshall Islands shall govern this agreement.

5.4 **Counterparts:** This agreement may be executed in counterparts, each of which shall constitute an original, and all of which, when taken together, shall constitute one agreement, and any party hereto may execute this agreement by signing one or more counterparts hereof.

**ACCEPTANCE:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Paul J. Seligman  
Deputy Assistant Secretary for International  
Health Studies  
U.S. Department of Energy

Dated: \_\_\_\_\_

\_\_\_\_\_  
Tomaki Juda  
Mayor  
Kili/Bikini/Ejit Local Government Council

**ACKNOWLEDGED BY:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Phillip Muller  
Foreign Minister  
Republic of the Marshall Islands

**SCOPE OF WORK AT  
BIKINI ATOLL FOR FY 1997  
PURSUANT TO \_\_\_\_\_, 1996  
MEMORANDUM OF UNDERSTANDING**

This scope of work is prepared pursuant to the \_\_\_\_\_, 1996 Memorandum of Understanding ("MOU") Between the United States Department of Energy ("DOE") and the Kili/Bikini/Ejit Local Government Council ("Council").

1. Pursuant to Article 3.1 of the MOU, DOE, on or about October 1, 1996, shall pay to the Council the sum of \$ \_\_\_\_\_ as a lease payment for the use of \_\_\_\_\_ acres of land Bikini Island, at the lease rate of \$ \_\_\_\_\_ per acre annually.

2. Pursuant to Article 3.2 of the MOU, DOE, on or about October 1, 1996, shall pay to the Council the sum of \$ \_\_\_\_\_, representing a utility fee for electricity and water at the Bikini field station covering the period October 1, 1996 - September 30, 1997.

3. Pursuant to Article 3.3 of the MOU, DOE, on or about October 1, 1996, shall pay to the Council the sum of \$ \_\_\_\_\_ as a daily subsistence and quartering charge for the use of the Bikini field station for the period October 1, 1996 - September 30, 1997, representing \_\_\_\_\_ person days of use of the field station by DOE at the rate of \$ \_\_\_\_\_ per day. The parties recognize that this sum is based on a good faith estimate by DOE and that the scope of work for FY 1998 will provide a credit or charge to DOE to reflect any change in the number of person days' use of the field station for the previous fiscal year.

**ACCEPTANCE:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Paul J. Seligman  
Deputy Assistant Secretary for International  
Health Studies  
U.S. Department of Energy

Dated: \_\_\_\_\_

\_\_\_\_\_  
Tomaki Juda  
Mayor  
Kili/Bikini/Ejit Local Government Council