

NITIJELA OF THE MARSHALL ISLANDS

21<sup>st</sup> CONSTITUTIONAL REGULAR SESSION, 2000 BILL NO.17 N.D.2

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1 An Act

2 To establish the Jaluit Atoll Economic Development  
3 Authority and to provide all the powers necessary to plan  
4 for the development and implementation of all programs and  
5 projects for the social, economic and educational  
6 betterment of the people of Jaluit Atoll, with responsible  
7 and appropriate review by the Government of the Republic of  
8 the Marshall Islands to ensure fiscal responsibility and  
9 consistency with the development policies of the Government  
10 of the Republic.

11

12 BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS:

13 Section 1. Short Title.

14 This Act may be cited as Jaluit Atoll Economic  
15 Development Authority Act, 2000.

16 Section 2. Purpose.

17 It is the intent of this legislation to create a  
18 vehicle by which the people of Jaluit Atoll may themselves  
19 develop and implement programs and projects for the social,  
20 economic and educational betterment of the people of the  
21 Jaluit Atoll, with responsible and appropriate review by  
22 the Government of the Republic of the Marshall Islands to  
23 ensure fiscal responsibility and consistency with the  
24 development policies of the Government of the Republic.

25 Section 3. Interpretation.

26 In this Act, unless the context otherwise requires:

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1 (a) "Government" means the Government of the  
2 Republic of the Marshall Islands;

3 (b) "Authority" means the Jaluit Atoll Economic  
4 Development Authority established under Section  
5 of this Act;

6 (c) "Board" means the Board of directors  
7 established under Section 6 of this Act;

8 (d) "Government Agency" means any corporation or  
9 statutory body established by the Government  
10 for the purpose of development generally or  
11 with respect to any particular locality or  
12 subject;

13 (e) "a member of the Board" includes the  
14 chairman of the Board; and

15 (f) "the Republic of the Marshall Islands  
16 representative" (hereinafter referred as the  
17 "RMI Representative") means the official to  
18 whom the subject of Jaluit Atoll development  
19 has been delegated by the President of the  
20 Republic of the Marshall Islands.

21 Section 4. Application of Article VII of the Constitution.

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1 Article VII of the Constitution shall not apply or  
2 relate to the Authority, its Board or employees.

3 Section 5. Constitution of the Authority.

4 (1) There is hereby established the Jaluit Atoll  
5 Development Authority ("the Authority").

6 (2) The Authority:

7 (a) is a body corporate with perpetual  
8 succession;

9 (b) shall have a common seal;

10 (c) may acquire, hold, charge, and dispose of  
11 property; and

12 (d) may sue and be sued in its corporate name.

13 (3) Common Seal:

14 (a) all courts, judges and persons acting  
15 judicially shall take judicial notice of the  
16 common seal of the Authority affixed to any  
17 document and shall presume that it was duly  
18 affixed;

19 (b) the common seal of the Authority shall be in  
20 the custody of the Authority;

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(c) the common seal of the Authority may only be altered in such a manner as may be determined by the Authority;

(d) the common seal of the Authority shall not be affixed to any document except in the presence of (i) the chairman of Board, or (ii) a member of the board or an officer of the Authority authorized by the Board to act on behalf of the Chairman.

(4) The provisions of the Associations Law shall apply or relate to the Authority.

Section 6. Organization and Management.

(1) The powers and duties of the Authority are hereby vested in and shall be exercised by the Board. The Board shall consist of seven (7) members appointed by the President from the offices and nominations follows:

(a) the RMI Representative who shall be the official representative of the Government;

(b) one Senator representing Jaluit Atoll in the Nitijela;

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- 1 (c) the Mayor of the Jaluit Atoll Local  
 2 Government or a member of the Council [duly  
 3 authorized] nominated by the Mayor;
- 4 (d) the President of the Jaluit Atoll Chamber of  
 5 Commerce, and until the establishment or  
 6 formation of such Chamber of Commerce, a  
 7 representative nominated by consensus of the  
 8 Jaluit Atoll business community;
- 9 (e) one (1) landowner representative, who shall  
 10 be an Iroi, Lab or Senior Dri Jerbal,  
 11 nominated by the principal landowners of those  
 12 lands within Jaluit Atoll which are or are  
 13 likely to be affected by the powers, projects  
 14 or programs of the Authority;
- 15 (f) two (2) members to be nominated by a  
 16 majority of the Board appointed under  
 17 Subsection 1 (a), (b), (c), (d), and (e) above.  
 18 In the event the Board is unable to nominate  
 19 such two (2) members, the President of the  
 20 Marshall Islands shall appoint such members  
 21 from among those person considered for  
 22 nomination by the Board.

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1 Section 7. Compensation.

2 (1) Any member of the Board, other than a member  
3 appointed under Section 6 (1)(a), (b) and (c) of  
4 this Act, or a member who otherwise hold a  
5 salaried Government office, shall be entitled to  
6 receive such compensation for his services as the  
7 Board may determine.

8 (2) Any member of the Board shall be entitled to  
9 receive per diem and travel expense at such rates  
10 and upon such terms and conditions as may be  
11 determined by the Board; provided, however, that  
12 such rates shall in no event exceed the rare paid  
13 to Government employees.

14 (3) The duly elected and actin Chairman of the Board  
15 shall serve without any compensation; provided,  
16 however, that the exceptions of Subsection (1) of  
17 this Section shall apply.

18 Section 8. Vacation of Office.

19 (1) A member of the Board vacates his office;

20 (a) upon death;

21 (b) by submitting a letter of resignation as  
22 provided for in Subsection (2) of this Section;

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1 (c) by ceasing to hold that elective office

2 which was the basis for his appointment; or

3 (d) by being removed from office as provided for

4 in Subsection (3) of this Section.

5 (2) A resignation under Subsection 1(b) of this

6 Section shall take effect when it is received by the

7 President or on such later date as may be agreed by

8 the President and the member concerned.

9 (3) The Board may, for cause, remove any member of

10 the Board from office; provided, however, that in

11 the event good cause exists, and the Board fails to

12 take appropriate action, the President of the

13 Marshall Islands shall remove such members.

14 The Board, or President, in the event the Board does

15 not take appropriate action, may suspend any member

16 of the Board from office pending a decision for

17 removal as provided herein above.

18 (4) In the event of the vacation of office by any

19 member, the President may in accordance with Section

20 5(1) of this Section, appoint another person in his

21 place. Any person appointed in place of such member

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shall hold office during the period of the unexpired term of the member who he succeeds.

(5) If any member of the Board is temporarily unable to discharge the duties of his office on account of ill-health or absence from the country, or any other cause, the President may appoint another person to act in his place.

(6) Any appointment made by the President under this Section or Section 5 of this Act, whether permanent, temporary, or following a vacation of office, shall be published in any newspaper within the Marshall Islands, including public announcement through the Government owned V7AB radio station.

Section 9. Delegation by the Board.

The Board may, by written instrument, delegate any of its powers and functions except the power to make by-laws under Section 12 of this Act, to any person.

(2) A delegation under Subsection (1) of this Section may relate:

(a) to the whole or any part of the Jaluit Atoll specified in the instrument of delegation; or



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1 (b) to all activities conducted by the Authority  
2 or in which the Authority is concerned, or to  
3 such of them as are specified in the instrument  
4 of delegation.

5 (3) A delegation under Subsection (1) of this  
6 Section, may be made subject to limitations and  
7 conditions.

8 (4) A delegation under this Section shall be  
9 revocable at will by written instrument, and no such  
10 delegation shall prevent the exercise or performance  
11 or any power or function by the Board.

12 Section 10. Procedures of the Board.

13 Subject to this Act and to the by-laws made under  
14 Section 13 of this Act, the Board shall determines its own  
15 procedures.

16 Section 11. Disclosure of, and disqualification for,  
17 interest.

18 (1) If a member of the Board has any personal  
19 interest in the subject matter of any question  
20 before a meeting of the Board:

21 (a) he shall disclose such interest at the  
22 meeting; and

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(b) he shall not participate in the deliberations except as directed by the Board, or in the decision of the Board on the question.

(2) A disclosure under Subsection (1) of this Section shall be recorded in the minutes.

(3) Unless the RMI Representative for cause otherwise directs, failure to comply with the requirements of Subsection (1) or (2) of the Section shall not invalidate any act or proceeding of the Board.

Section 12. Misconduct in Public Office.

A failure to comply with Section 10 of this Act shall be deemed to be misconduct in public office within the meaning of 31 MIRC, Chapter 1, Part XX, Section 46.

Section 13. By-laws.

(1) Subject to this Act, the Board shall adopt by-laws to govern and regulate the operations of the Authority and the Board.

(2) The by-laws shall provide for:

(a) the quorum at, and the conduct of, meetings of the Board;

(b) the appointment and duties of officers of the Board; and

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1           (c)       any other matters relating to the Board and  
2                   the operations of the Authority which the Board  
3                   may deem appropriate.

4   Section 14.   Staff of the Authority.

5           (1)   The Authority:

6           (a)       shall employ an executive officer who shall  
7                   be a person with a sound knowledge and experience  
8                   of commerce, industry administration, or business  
9                   management;

10          (b)       may employ such other employees, agents,  
11                   consultants, attorneys, accountants or advisers  
12                   as may be necessary to carry out the purpose of  
13                   the Authority.

14          (2)   Persons referred to in Subsection (1) of this  
15                   Section shall be employed on such terms and  
16                   conditions as may be determined by the rules and  
17                   regulations of the Public Service Commission.

18   Section 15.   Application of Bribery Law.

19           Every member of the Board and employee of the  
20   Authority shall be subject to the provisions of 31 MIRC,  
21   Chapter 1, Part VI, section 18, read mutatis mutandis with  
22   8 MIRC, Chapter 4, Section 14, with respect to any act in

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1 the performance of his duties under the Authority, and any  
2 such act shall be deemed to be an official act within the  
3 meaning of the aforementioned provisions of the Marshall  
4 Islands Revised Code herein referred to.

5 Section 16. Immunity for Official Acts.

6 (1) No suit or prosecutions while lie:

7 (a) against the Authority for nay act which in  
8 good faith is done, or purported to be done, by  
9 the Authority under this Act, or any regulation  
10 made under this Act; or

11 (b) against any member of the Board, officer,  
12 servant, or agent of the Authority for any act  
13 which in good faith is done, or purported to be  
14 done, by him under this Act, or any regulations  
15 made under this Act, or on the direction of the  
16 Authority.

17 (2) Any expenses incurred by the Authority in any  
18 suit or prosecution brought by or against the  
19 Authority before any court shall be paid out of the  
20 Fund of the Authority, and any cost paid to or  
21 recovered by the Authority in any such suit or

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1 prosecution shall be credited to the Fund of the  
2 Authority.

3 (3) Any expenses incurred by any such person as  
4 referred to in Subsection 1(b) of this Section in  
5 any suit or prosecution brought against him before  
6 any court in respect of any act which is done or  
7 purported to be done by him under this Act, or any  
8 regulations made under this Act or on the direction  
9 of Authority shall, if the court holds that such act  
10 was done in good faith be paid out of the Fund of the  
11 Authority unless such expenses are recovered by him  
12 in such suit or prosecution.

13 (4) No writ against person or property shall be  
14 issued against a member of the Board in any action  
15 brought against the Authority.

16 Section 17. Policies of the Authority.

17 Subject to this Act, the Authority shall be  
18 responsible for determining its own policies for carrying  
19 out its functions; provided, however, that such policies  
20 shall be in conformity with the development policies of the  
21 Government.

22 Section 18. Functions of the Authority.

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1       (1) The primary functions of the Authority under this  
2       Act shall be:

3       (a)     to investigate, study, develop, implement,  
4       and aid in the financing of social, economic,  
5       cultural and educational development programs and  
6       projects for the betterment of the inhabitants of  
7       Jaluit Atoll by itself or jointly with other  
8       government or private organizations or agencies;  
9       and

10      (b)     to develop and implement a comprehensive  
11      Jaluit Atoll Development Plan and to develop and  
12      improve the quality of life on all the inhabited  
13      islands in Jaluit Atoll.

14      (2) For purposes stated in Subsection (1) of this  
15      Section, the Authority shall encourage or develop,  
16      and may conduct or manage activities of social,  
17      economic, cultural and educational importance to the  
18      inhabitants of the Jaluit Atoll.

19      (3) In the conduct of any activity under Subsection  
20      (2) of this Section, the Authority shall comply with  
21      sound business and accounting practices.

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In the conduct of any activity authorized by this Act, the Authority shall not compete with the Government except with the approval of the Cabinet.

(4) The Authority shall also perform any other functions as required by law.

Section 19. Powers of the Authority.

(1) Subject to this and any other law, the Authority shall have any powers as are necessary or convenient for carrying out its purposes.

(2) Without prejudice to the generality of the powers conferred by Subsection (1) of this Section, the Authority may:

(a) identify, promote, assist, or engage in any new or existing economic development projects designed to increase the economic welfare of the inhabitants of Jaluit Atoll.

(b) acquire by lease, sublease, easement, or as otherwise allowed by law, any improved or unimproved land or interest in land, within Jaluit Atoll, for purpose of development, conservation, or rehabilitation;

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- 1           (c)   acquire by purchase, lease sublease,
- 2                   easement, or as otherwise allowed by law,
- 3                   any improved or unimproved land or interest
- 4                   in land situated outside the Republic of the
- 5                   Marshall Islands for investment purposes;
- 6           (d)   erect any building or structure required by
- 7                   the purposes of this Act on land belonging
- 8                   to or administered by the Authority;
- 9           (e)   alter or reconstruct any building or
- 10                  property belonging to or administered by the
- 11                  Authority
- 12           (f)   construct any residential buildings on land
- 13                  belonging to or administered by the
- 14                  Authority;
- 15           (g)   dispose of by sale, lease, sublease, or
- 16                  easement, any building or interest therein;
- 17           (h)   dispose of by lease, sublease, or easement
- 18                  any land or interest therein;
- 19           (i)   acquire by purchase, lease, or sublease any
- 20                  personal property or license which the
- 21                  Authority considers necessary or convenient
- 22                  for carrying out its purposes;



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- (j) dispose of by sale, or any other manner allowed by law, any personal property or license of the Authority;
- (k) borrow money and accept advance, contributions, gifts, or other assistance in accordance with Section 21 of this Act;
- (l) lend money, invest or reinvest its finds from time to time and take and hold any property as security for the payment of funds loaned or invested;
- (m) insure or provide for the insurance of any property, project, or operation against any or all risks;
- (n) expend finds for the study and implementation of programs and projects determined by the Authority to be of social, economic, cultural and educational benefit to the inhabitants of the Jaluit Atoll;
- (o) appoint agents, attorneys or accountants in the Islands or abroad; and
- (p) make contracts and other instruments that the Board may consider necessary or

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1 convenient for the exercise and performance  
2 of the powers and duties of the Authority.

3 Section 20. Jaluit Atoll Economic Development Authority  
4 Fund.

5 (1) There shall be established the Jaluit Atoll  
6 Development Authority Fund (in this Act also  
7 referred to as "the Fund").

8 (2) The Fund shall be a fund other than the Marshall  
9 Islands General Fund, as same is defined in Article  
10 VII, Section 3, of the Constitution.

11 (3) The Fund shall be held in any bank or trust  
12 company as may be determined by the Board from time  
13 to time.

14 (4) Notwithstanding anything to the contrary, there  
15 shall be paid into the Fund:

16 (a) any money received by the Government in the  
17 form of foreign aid earmarked for economic,  
18 social, cultural and educational development  
19 at Jaluit Atoll;

20 (b) any money appropriated by the Nitijela for  
21 the purposes of the Authority, either

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1                   generally or relating to any particular  
2                   purpose;

3           (c)       any money received by the Authority through  
4                   loans, advances, contribution, gifts, or  
5                   assistance in accordance with Section 22 of  
6                   this Act;

7           (d)       any money received by the Authority as  
8                   profits, dividends or raised by the  
9                   Authority through sale, mortgage, lease,  
10                  sublease, easement, or otherwise from any  
11                  other source, including repayment of loans  
12                  and income from any business or other  
13                  enterprise; and

14          (e)       any other funding authorized by the Minister  
15                  of Finance.

16          (5)       The Authority shall separately account for each  
17                  of the sources of money referred to in Subsection  
18                  (4) of this Section.

19   Section 21.   Payments out of the Fund.

20          (1)       Payments may be made out of the Fund for the  
21                  following:

22          (a)       to carry out the purposes of the Authority;

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- 1 (b) to pay the costs of any expenses of the
- 2 Authority;
- 3 (c) to provide working capital, petty cash, and
- 4 similar purposes; and
- 5 (d) to pay the costs of administering this Act
- 6 and any other Act that confers any power or
- 7 duty on the Authority.

- 8 (2) No money shall be withdrawn from the Fund except:
- 9 (a) in accordance with the law and duly adopted
- 10 by-laws of the Authority; and
- 11 (b) with the approval of the Board which shall
- 12 satisfy itself that the withdrawal is made
- 13 in accordance with the law and the duly
- 14 adopted by-laws of the Authority.

15

16 Section 22. Borrowing, etc.

- 17 (1) With the approval of the Cabinet and subject to
- 18 such conditions and within such limits as the
- 19 Cabinet may impose, and subject to Subsections (3)
- 20 and (4) of this Section, the Authority may borrow
- 21 money from the government, a bank, or any other

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lending institution or individual necessary and  
convenient to carry out its purposes.

(2) Except as provided in Subsection (3) of this  
Section, the Authority may accept advances, grants,  
contributions, gifts, and other forms of financial  
assistance to carry out its purposes from any person  
or organization in the Marshall Islands and abroad.

(3) No money may be borrowed nor may any advance,  
grant, contributions, gift, and other assistance be  
accepted by the Authority from Government of the  
United States of the or any of its agencies, or from  
any other source outside the Marshall Islands except  
with he consent of the Government.

(4) Where any money is borrowed or any advance,  
grant, contribution, gift or assistance is received  
for a specific purpose, or subject to any conditions  
as to its use, it may be expended or used only for  
the purpose or subject to those conditions.

Section 23. Bank accounts.

(1) The Authority shall open an account, or accounts  
with a banking institution, which is a member of the  
United States Federal Deposit Insurance Corporation

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1           or the United States Federal Saving & Loan Insurance  
2           Corporation.

3           (2) Separate accounts shall be maintained for each of  
4           the following:

5           (a)       each business, enterprise, project , or  
6                      program in which the Authority is actively  
7                      engaged; and

8           (b)       any other function which the Authority may  
9                      perform and which involves expenditures by  
10                     the Authority.

11          (3) Subject ot Section 21 (1)(c) of this Act, any  
12           money (other than petty cash withdrawn from the Fund  
13           and not immediately expended, shall be deposited in  
14           an account opened under Subsection (1) of this  
15           Section.

16   Section 24. Accounts and Records.

17          (1) The Authority shall maintain proper accounts and  
18           records, in a form satisfactory to the Secretary of  
19           Finance, for the following:

20          (a)       the Fund;

21          (b)       the expenditures of money from the Fund; and

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(c) the property and financial transactions of  
the Authority.

(2) The accounts which shall be submitted to the  
Nitijela by the Minister of Finance pursuant to  
Article VIII, Section 5(4), of the Constitution,  
shall include all accounts relating to the  
Authority.

(3) The accounts and records referred to in Section  
23 of this Act and subsection (1) of this Section  
shall be audited by the Auditor-General as provided  
for in Article VII, Section 15 of the Constitution.

Section 25. Investment.

With the approval of the Board, money in the Fund, or  
withdrawn from the Fund in accordance with Section 21(2) of  
this Act, and not immediately expended, may be invested as  
follows:

(a) on deposits or on call with a bank or other  
financial institution as provided for in  
this Act; or

(b) in any other manner authorized by the  
Constitution or law for investment of the  
Marshall Islands General Fund.

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1 Section 26. Reports.

2 (1) The Board shall, as soon as practicable after  
 3 each thirtieth day of June occurring after the  
 4 commencement of this Act, prepare and furnish to the  
 5 Cabinet a report on the operations of the Authority  
 6 during the proceeding year, together with financial  
 7 statements for that year in such form as the  
 8 Secretary of Finance approves.

9 (2) The Authority shall also submit a copy of the  
 10 report, referred to in Subsection (1) of this  
 11 Section to the Auditor-General who shall report to  
 12 the Cabinet as to:

13 (a) whether the statements are based on proper  
 14 accounts and records;

15 (b) whether the statements are in agreement with  
 16 the accounts and record and show fairly the  
 17 financial operations and state of the  
 18 affairs of the Authority;

19 (c) whether the receipts, expenditures, and  
 20 investment of money, and the acquisition and  
 21 disposal of assets by the Authority during



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1           the previous year have been in accordance  
2           with this Act; and

3           (d)       such other matters as the Auditor-General  
4           considers appropriate.

5       (3)   The Cabinet shall cause the report and financial  
6       statements of the Board, together with the report of  
7       the Auditor-General, and its own comments to be  
8       submitted to the Nitijela within fifteen (15)  
9       session days of the Nitijela after receipt by the  
10      Cabinet.

11   Section 27.   Other Reports.

12       Notwithstanding Section 25 of this Act, the Cabinet  
13   may require the Authority to submit to it a report in such  
14   a form and as to such matter as the Cabinet deems  
15   appropriate.

16   Section 28.   Tax Exemption.

17       (1)   Subject to Subsection (2) of this Section, the  
18       income, property, and transactions of the Authority

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1 reasonably in proportion to the administrative  
2 expenses involved.

3 Section 29. Compliance with Other Laws.

4 The Authority, and any business or enterprise in which  
5 the authority is engaged, shall comply with all laws,  
6 including licensing, to be prescribed in the regulations  
7 for carrying this Act into effect.

8 Section 30. Effective Date.

9 This Act shall take effect on the date of  
10 certification in accordance with Article IV, Section 21 of  
11 the constitution.

12

13 Certificate

14 I hereby certify:

15 (1) that the Nitijela Bill No. 17 N.D.2 was  
16 passed by the Nitijela of the Marshall Islands on the 9<sup>th</sup>  
17 day of October, 2000; and

18 (2) that I am satisfied that Nitijela Bill No. 71  
19 N.D.2 was passed in accordance with the Constitution of the  
20 Marshall Islands and the Rules of Procedures of the  
21 Nitijela .

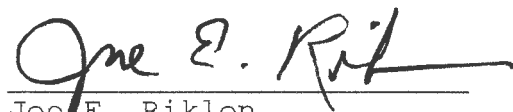
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1 I hereby place my signature before the Clerk of  
2 the Nitijela this 11<sup>th</sup> day of November, 2002.

3 Attest:

4  
5  
6  
7  
8 

9 Litokwa Tomeing,  
10 Speaker  
11 Nitijela of the Marshall Islands  
12  
13  
14  
15  
16

17 

18 Joe E. Riklon,  
19 Clerk  
20 Nitijela of the Marshall Islands  
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23  
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26