

**Oral Statement of Bill Graham, Public Advocate (retired)
Marshall Islands Nuclear Claims Tribunal
to the House Committee on Foreign Affairs
Subcommittee on Asia, the Pacific, and the Global Environment
May 20, 2010**

Chairman Faleomaveaga, Ranking Member Manzullo,
Distinguished Members of the Committee:

Bill Graham could not be here today but he sends his highest regards and thanks you deeply for holding this hearing and for recognizing that many nuclear issues remain unresolved for the people of the Republic of the Marshall Islands. At his request, I will briefly summarize his written testimony...

The Section 177 Agreement provided that there be a Nuclear Claims Tribunal to render final determination on all claims arising from the Nuclear Testing Program conducted by the U.S. from 1946 to 1958 in the Marshall Islands. The Agreement directed the Tribunal to have reference to Marshall Islands law, to international law, and to the laws of the United States in determining issues before it.

In addressing personal injury claims, the Tribunal looked to U.S. law and found relevant precedent in the Radiation-Exposed

Veterans Compensation Act of 1988 (Public Law 100-321) and the Radiation Exposure Compensation Act of 1990 (Public Law 101-426). Both of those laws recognized that people were exposed to radiation from nuclear testing but that their levels of exposure could not be determined with any reasonable accuracy. That was certainly also true for the Marshall Islands, where the big bombs were tested and where the exposure levels were high.

The U.S. programs established under those laws presume that certain specific illnesses affecting those eligible veterans and civilians were a result of their exposures.

In 1991 the Tribunal created a personal injury program patterned after those in the U.S. and began to award compensation to individuals who suffered various cancers and thyroid conditions. After 17 years, it had awarded a total of about \$96 million to 2,127 people. But more than \$23 million of that total has not been paid because the Nuclear Claims Fund turned out to be inadequate.

For property damage claims, the Tribunal again followed U.S. precedents both for determining cleanup standards and for

establishing its hearing procedures and methodologies for assessing damage. Contamination levels in Bikini, Enewetak, Rongelap and Utrik remain so high that the awards just for cleanup in those atolls exceed \$500 million, even after deducting the full value of the resettlement funds provided by the U.S.

The loss of use of those atolls and the pain and suffering experienced by their people resulted in an additional \$1.75 billion in awards. But because the settlement fund was inadequate, less than \$4 million --- one-fifth of one percent --- has been paid on those awards.

The inadequacy of the Fund has also forced the Tribunal to begin phasing out its operation. It has made no new awards since 2008 and although it continues to receive new claims, the lack of funds will force it to close its doors before this year ends.

The Preamble to the 177 Agreement recognizes that the settlement was supposed “to create and maintain, in perpetuity, a means to address past, present and future consequences of the Nuclear Testing Program.” But the Fund’s failure to generate the expected 12.5% annual rate of return destroyed the promise

of a perpetual resolution of the damages caused by the nuclear testing program.

The United States benefitted greatly from the knowledge gained by its nuclear testing program and those benefits continue on an enduring basis for the world at large. But for the people of the Marshall Islands who were affected by the testing, there is no sense of fairness and justice in the present situation.

Rather, there is a distinct feeling that a promise has not been kept. I most respectfully urge this Committee not to let that be the enduring and perpetual legacy of the nuclear testing program.

Thank you.