

**STATEMENT  
OF  
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**BEFORE THE  
HOUSE COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS**

**REGARDING THE  
U.S. NUCLEAR LEGACY IN THE MARSHALL ISLANDS**

**October 21, 2021**

Madam Chair and members of the Committee, thank you for the opportunity to offer thoughts on the U.S. nuclear legacy in the Marshall Islands.

I am counsel for the Enewetak/Ujelang Local Government in the Marshall Islands. In the Bush Administration, I served as Deputy Assistant Secretary of the Interior. I headed the Office of Insular Affairs, which, among other things, administers the financial assistance to the Marshall Islands under their Compact of Free Association and other programs.

Since leaving government, I have taken a much deeper dive into the Marshallese perspective on the U.S. nuclear program. I have also recently learned things that neither I nor my current Marshallese clients had previously known. I'd like to make the following points from the perspective I have now:

1. Most Americans know nothing about our history with the Marshall Islands. And most Americans would be shocked and embarrassed if they were to learn about that history.
2. The United Nations appointed the U.S. as trustee of the Marshall Islands and other Pacific islands in 1947, giving the U.S. the responsibility to protect the islanders and promote their well-being. It was an abuse of America's role as trustee to pressure the Marshallese to allow their homeland to be desecrated by massive nuclear explosions for 12 years, exposing the islanders to deadly, horrific health and environmental hazards they were never warned about—and that continue to affect them to this day.
3. We have not come close to properly compensating the Marshallese people for the damage caused by the U.S. nuclear testing program. The Nuclear Claims Tribunal, established under the Compact to adjudicate and pay nuclear claims, was only able to pay a small fraction of the damages it awarded before it ran out

of funds. In current dollars, the total amount of unpaid damage awards issued by the tribunal is over \$3 billion.<sup>1</sup> Former U.S. Attorney General Dick Thornburgh reviewed the proceedings and procedures of the tribunal in great detail, found that they were proper, and concluded that the amount provided by the U.S. for Marshallese nuclear claims was “manifestly inadequate.”

4. The “full and final settlement” of nuclear claims agreed to by the Marshallese and the U.S. in 1986 was the result of a lopsided negotiation between a superpower and an impoverished island community. Besides holding an overwhelming advantage in bargaining power, the U.S. was the only party capable of assessing the risks that were being allocated from its own nuclear program. The U.S. clearly took advantage of this imbalance in power and information at a time when it was acting as the Marshall Islands’ trustee, supposedly the islanders’ protector and the guardian of their welfare.
5. The “full and final settlement” includes a supposed remedy in the event that the settlement proves to be manifestly inadequate. That remedy is a “changed circumstances petition,” which the Marshall Islands can submit to the U.S. Congress for claims that (a) arise or are discovered after the 1986 effective date of the settlement and (b) could not reasonably have been identified as of that date. But the remedy is illusory: it is merely a right to ask Congress for additional compensation, with no obligation by Congress to respond. But the Marshall Islands already had the right to ask Congress for more money. By restricting the circumstances under which the Marshall Islands can even ask Congress for additional compensation, the changed circumstances “remedy” actually takes away rights that the Marshall Islands previously had. And the so-called remedy of changed circumstances does not apply in cases where the claims reasonably could have been identified in 1986, even if they weren’t, or in cases where the claims

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<sup>1</sup> Present value of unpaid property awards = \$3,134,200,000  
 Present value of unpaid personal injury awards = \$31,199,000  
 Present value of all unpaid awards = \$3,165,399,000

The amount of unpaid personal injury awards is \$23,131,552. The Tribunal awarded \$96,658,250 and made payments totaling \$73,536,698. Cumulative payment levels ranged from 5% for awards made from November 2005 forward to 96% for awards made prior to October 1996. The Tribunal suspended payments in January 2009 due to lack of funds. (Source: Tribunal Annual Report to the Nitijela for the Calendar Years 2009 and 2010.)

present value = \$31,199,000 calculated using a average annual inflation rate of 2.02%

The amount of unpaid property awards is as follows:

Enewetak: 2000 award of \$385,894,500, less payments of \$1,647,482.65 = \$384,247,017

present value = \$587,751,000, calculated using an average inflation rate of 2.15%

Bikini: 2001 award of \$561,035,321 less payments of \$2,279,179.83 = 561,036,320.17

present value - \$834,582,000 calculated using an annual inflation rate of 2.12%

Utrik: 2006 award of \$307,356,398.91 with no payments.

present value - \$401,592,000 calculated using an annual inflation rate of 1.93%

Rongelap: 2007 award of \$1,031,468,700 (including April 2008 amendment adding \$237,500) with no payments

present value - \$1,310,275,000 calculated using an annual inflation rate of 1.86%

were known but their value was grossly underestimated (as occurred here). So as between the superpower and the poor island community, it was the poor island community, with an extremely limited pool of expertise, that was saddled with the risk that valid claims would be missed or underestimated. The U.S. was obviously in an enormously superior position to evaluate the risks arising from its own nuclear program. It was unconscionable to palm those risks off on the unsuspecting Marshallese.

6. The grant and program assistance that we have provided to the Marshall Islands under the Compact and other sources does not count as compensation for the damage caused by the nuclear testing program. That grant and program assistance has also been provided to Palau and the Federated States of Micronesia under their Compacts of Free Association, and it is in exchange for giving the U.S. the extremely important ability to maintain strategic and military primacy over a large swath of the Pacific. With our intensifying competition with China in the Pacific, the strategic value of the Compacts is arguably higher than ever.
7. The people of Enewetak Atoll, whom I represent, were pressured to evacuate their islands in 1947 so the U.S. could detonate nuclear bombs there. They were told they would be able to return in three to five years. They would actually spend 33 years in exile. The U.S., in the meantime, would detonate 43 nuclear bombs on Enewetak, plus one failed detonation that spewed deadly plutonium on the atoll.
8. The people of Enewetak were exiled to the remote, uninhabited atoll of Ujelang, which did not have the resources to sustain the population. Notwithstanding U.S. assurances that the people would be properly cared for on Ujelang, they suffered malnutrition, periods of near starvation, disease, lack of proper health care, and lack of education for the children.
9. The U.S. detonated the world's first hydrogen bomb on Enewetak in 1952, and Ujelang, almost 150 miles away, got covered in nuclear fallout. Fallout dust blanketed the islanders' water catchments and living areas and the people were not told it was dangerous. Many people became very ill after inhaling the dust and drinking or bathing in the water.
10. Sixteen months later, as the U.S. was preparing to conduct its largest nuclear test ever on the Marshallese atoll of Bikini, military officials learned that a change in wind patterns threatened to bring fallout to nearby inhabited atolls that had not been evacuated. The U.S. went ahead with the test anyway without warning the islanders, who were blanketed in radioactive fallout and had no idea what it was or that it was dangerous. Almost 70 percent of the children on Rongelap Atoll who were under 10 years old at the time of the blast eventually developed thyroid tumors. And many women from several atolls later gave birth to babies who resembled jellyfish, dead either on arrival or after a few hours of life. Rongelap was evacuated after the test, and two years later it was still "by far the most contaminated place on Earth" according to an Atomic Energy Agency official.

The official nonetheless suggested sending the people of Rongelap back home so we could use them as human guinea pigs. “It will be very interesting to get a measure of human uptake when people live in a contaminated environment,” he said. “While it is true that these people do not live the way Westerners do, civilized people, it is nevertheless also true that these people are more like us than the mice.”

11. The people of Enewetak, who had been told their exile would only last three to five years, were left forgotten on Ujelang by the U.S. for decades. The people finally staged a mini-revolt and demanded to return home. This triggered a chain of events which eventually led the U.S. to attempt to decontaminate Enewetak.
12. After a three-year cleanup, the people of Enewetak were allowed to resettle a small part of their atoll in 1980. But the Americans had left behind a menacing souvenir: Runit Dome, a massive nuclear waste dump that contains 110,000 cubic yards of radioactive waste gathered from around the atoll, including tons of plutonium-239 with a radioactive half-life of 24,100 years. The U.S. takes the position that the Compact ends the U.S. role and responsibility for Runit Dome, as if the Marshall Islands is in any position to manage and maintain a radioactive waste dump—that happens to be leaking. That is clearly a misreading of the Compact.
13. The people of Enewetak have lived in the shadow of this radioactive waste dump for over four decades. Under the Insular Areas Act of 2011, the U.S. is required, at least every four years, to conduct a visual study of the concrete exterior of Runit Dome and a radiochemical analysis of the groundwater in and around Runit Dome. In the decade since that Act went into effect, the U.S. has failed to perform any of the required radiochemical analyses and has completed only one of the required visual studies, eight years ago.
14. A 2013 Department of Energy study revealed that radioactive material is leaking from Runit Dome into Enewetak’s lagoon, but we were told not to worry because the radioactive material already in the lagoon dwarfs the amount of radioactive material buried under Runit Dome. That of course set off its own alarm bells: What are the health risks of living on the shores of a lagoon with a larger inventory of radionuclides than the infamous Runit Dome nuclear waste dump?
15. After consulting with military veterans and civilians who participated in the radiological cleanup of Enewetak Atoll, we have recently learned of several troubling facts, including the following:
  - a. Some of the highly radioactive waste that was supposed to have been buried under Runit Dome was actually dumped into the lagoon.
  - b. One of the lagoon dump sites was just offshore from the island where the people have since resettled.

- c. After Runit Dome was sealed, additional radioactive material was buried in concrete crypts that the Department of Energy appears to have been unaware of and is unable to vouch for their safety.
- d. Over 300 pounds of highly toxic beryllium was buried on Enjebi Island in soil that may have been dug up later and dumped into the lagoon.
- e. Over 130 tons of presumably contaminated soil was imported from the Nevada nuclear test site to Enewetak and spread on the land there.
- f. Enewetak was used as a base for tests of chemical and biological warfare agents.

Have any of these hazards affected the health of Enewetak residents, and do any of them pose threats that persist today? The Marshall Islands does not have the capacity to answer these questions. The U.S. must answer these questions.

16. The military veterans and civilians who participated in the Enewetak cleanup have become great allies of the Marshallese people. They were not properly warned of the risks they were facing and worked amidst radioactive material and toxins without masks or protective gear. Many of them are suffering from or have died young from some of the same cancers and other diseases that have afflicted the Marshallese people. The U.S. government refuses to recognize that they were exposed to excessive radiation, so they are not getting properly covered for the expensive medical care they need. The Mark Takai Atomic Veterans Healthcare Parity Act would provide help to the military veterans who served in Enewetak, and then separate legislation would be needed to take care of the 2,000 or so civilians who served alongside them. The Marshallese have acknowledged the debt of gratitude they owe to these people, and it's time for their own country to do the same.

Americans are a great and good people. But there are episodes in our history where we fell short of our ideals. Our treatment of the Marshallese is one such episode. The Marshallese have sacrificed a great deal, wittingly or not, to help us win the Cold War and protect our freedom. As a moral imperative, we must not take their sacrifices for granted. As a strategic imperative, we cannot afford to take their sacrifices for granted.

Thank you.