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DC hearing productive

At a Congressional hearing last week Wednesday on the US nuclear testing program bipartisan agreement emerged among members of Congress in attendance that the RMI's ongoing needs must be addressed, said the RMI's Embassy in Washington.

The hearing centered on the RMI's Changed Circumstances Petition (CCP).

The hearing was jointly convened by the House Resources Committee and the House Subcommittee on Asia and the Pacific. Through their comments and questions to witnesses, it was evident that many members believe that the US government should do more to assist Marshall Islanders, the embassy said.

Foreign Minister Gerald Zackios spent several days in Washington to meet with key members of Congress and testified at the hearing. "I was extremely pleased to see the broad support from both sides of the aisle and from both committees," said Zackios. "I came away from the hearing feeling assured that every member present wants to examine and address the needs of the RMI."

"The tone and substance of the Member of Congress at the hearing was extremely positive," said Banny deBrum, the RMI's ambassador to the U.S."

The Senate has signaled that it will conduct a similar hearing.

The first hearing on the Marshall Islands 'changed circumstances petition' for additional nuclear test compensation was held in Washington last Thursday (Majuro date).

The hearing was sponsored by the House Resources Committee. More than 10 Congresspeople attended during the four hour session. "It's the most I've ever seen in a hearing, and I've been going to Washington hearings for 20 years," said Bikini liaison

Jack Niedenthal. Some excerpts of the testimony follow.

DOE has committed itself to be responsive to the questions, concerns, and needs of the Marshall Islands people. DOE has worked toward this goal by actively listening to the central and local governments and their communities and giving them a voice in determining the future direction of the Marshall Islands program.

Since 1990, DOE has engaged the local leadership and community members from Bikini, Enewetak, Rongelap, and Utrik in more than 40 community meetings to discuss the results of scientific reports as they were completed.

—Steven V. Cary
Deputy Assistant Secretary U.S. Department of Energy

If the Marshall Islands were a state within the US, there is little doubt that cleanup of the northern atolls would be required to meet the same criteria that are used to clean up sites contaminated with radioactive material in the US...There is absolutely no doubt that the regulations governing radiation protection of the public and the criteria for cleanup of sites contaminated with radioactive material in the United States have changed dramatically since the Section 177 Settlement Agreement was established.

—John Mauro, PhD,
S. Cohen & Associates (Consultants to Nuclear Claims Tribunal)

The determinations of the Tribunal have shown damages far in excess of those contemplated under the (Compact's Section 177), rendering it manifestly inadequate. More than \$15 million is owed on personal injury awards and nearly \$1.1 billion remains unpaid on property damage awards...The "Changed Circumstances" provisions of the Section 177 Agreement may not require the Congress to make additional funding available to the Marshallese victims of the testing program, but it is clear that there remain significant unaddressed and uncompensated damages that were not and could not have been known at the time of the Agreement.

—James H. Plasmán, Chairman, Nuclear Claims Tribunal

The Congressional Research Service report identified four possible policy options in considering whether to provide additional financial compensation to the Marshall Islands. These options include:

- Grant or reject the Changed Circumstances Petition's requests, in whole or in part, on the basis of the changed circumstances rationale;
- Continue congressional ad hoc, ex gratia payments through appropriations measures;
- Enact legislation that would provide for a "full and final settlement" of claims; or
- Through an amendment to the Compact of Free Association, allow federal courts to review the judgments of the Nuclear Claims Tribunal and to decide whether to order the United States to pay these awards, in whole or in part.

—David Bearden
US Congressional Research Service

Regarding three other categories — personal injury, loss of land use and hardship, and atoll rehabilitation — the RMI claims as "changed circumstances" the fact that the

Nuclear Claims Fund has had a mixed earnings record and that the Nuclear Claims Tribunal, set up and run by the Marshall Islands, has chosen to award more funds than generated by the Nuclear Claims Fund.

The Tribunal's decisions to set award amounts well above the amount of funds available in the Nuclear Claims Fund do not constitute 'changed circumstances' under Article IX of the Section 177 Settlement Agreement.

—**Howard M. Krawitz, Acting Deputy Assistant Secretary for East Asian and Pacific Affairs, Department of State**