Resolution No. 26-GA-13

"REQUESTING THE UNITED STATES CONGRESS TO AMEND THE RADIATION EXPOSURE COMPENSATION ACT OF 1990, TO INCLUDE THE PEOPLE OF ALL THE ISLAND ENTITIES OF APIL, ONCE QUALIFIED AS 'DOWNWINDERS' CLAIMANTS AND THAT THE APIL SUPPORTS AND ENCOURAGES THE APIL ISLAND MEMBER ENTITIES TO CONDUCT AND COLLECT DATA OF NUCLEAR FALLOUT IN THEIR OWN REGION."

WHEREAS, the United States conducted testing of atomic nuclear weapons on Enewetak and Bikini Atolls in the Marshall Islands, from 1946 to 1962. A total of 67 atomic and thermonuclear bombs were detonated causing radiation fallout across a wide area of the Pacific, including Guam. Similarly, Continental United States residents were exposed to radiation resulting from the Nevada nuclear weapons testing sites. Many subsequently developed serious diseases, including various types of cancer. On October 1990, in order to establish a procedure to make partial restitution to radiation exposure victims for their suffering, President George H. Bush signed into law the Radiation Exposure Compensation Act (RECA).

RECA established the Radiation Exposure Compensation Program (RECP) with the Civil Division of the Department of Justice to administer its responsibilities under the Act. In April 1992, RECP began processing claims. The RECA, as amended on July 10 2000, broadened the scope of eligibility for benefits to include new victim categories and to modify the criteria for eligibility for compensation; and

WHEREAS, RECA established a procedure to make partial restitution to individuals who contracted serious diseases, such as certain types of cancers, presumably resulting from their exposure to radiation from aboveground nuclear tests or as a result of their employment in uranium mines. The law established five claimant categories: uranium miners, uranium miller, ore transporters, "DOWNWINDERS" (those who were located downwind from aboveground nuclear weapons tests conducted at the Nevada test sites), and onsite participants (those who actually participated onsite); and

WHEREAS, RECA, as amended, broadens coverage to authorize monetary compensation to individuals who were present or nearby when nuclear weapons tests were conducted at the Nevada test site, or who worked in uranium mines, and later developed certain diseases; adds more qualifying occupations relating to uranium production; increases the number of states covered and extends the time period considered for radiation exposure; adds more diseases which may qualify individuals for compensation; decreases the level of radiation exposure that is necessary to qualify; and establishes medical criteria that are less stringent for potential claimants; and

WHEREAS, nuclear tests conducted by the United States Government in the Marshall Islands from 1946 until 1962 have led to increased levels of radiation in some of the Micronesian Islands; and

WHEREAS, such increased levels of radiation have led to serious health and other environmental problems for life in such areas; and
WHEREAS, all islands of the membership of the APIL with the exception of the State of Hawaii and American Samoa come within the "DOWNWINDER" distance range of the nuclear test conducted in the Marshall Islands; and

WHEREAS, the Atomic Energy Commission detonated 67 nuclear devices with a total yield of 108,492.2 kilotons in or around the Marshall Islands; and

WHEREAS, the jet-stream travels generally westward from the Marshall Islands, and may carry radioactive material as fine as dust particles; these particles collected ice crystals at high altitudes and descended as cloud condensation. This process is known as the scavenging effect; and

WHEREAS, the material drops to land surfaces and enters the food and water supply of the local population; and

WHEREAS, there were no fewer than ten detonations that had a yield necessary five to ten megatons to project material from the center of the explosion to a height of twelve to fifty-five miles into the jet-stream; and

WHEREAS, on October 31, 1952, (GMT) the first true thermonuclear H-bomb, the Mike shot of operation Ivy was detonated at Elugelab ("Flora") Island, Enewetak Atoll. This 10.4 megaton device, the 4th largest device ever tested by the U.S. Eluglad (code named Flora) was destroyed in its entirety. The resulting crater was measured 6240 feet across and 164 feet deep; and

WHEREAS, the mushroom cloud at Elugelab climbed to 57,000 feet in only ninety seconds, entering the stratosphere. One minute later it reached 108,000 feet, eventually stabilizing at a ceiling of 120,000 feet. One half an hour after the test, the mushroom stretched sixty miles across, with the base of the mushroom head joining the stem at 45,000 feet; and

WHEREAS, the sworn testimony of Charles Bert Schreiber, Lt., USN-Ret, on the fallout of the First Hydrogen Bomb Test, the detonation of Ivy Mike, states that "I was the Radiological Safety Officer for the Headquarters Command Guam. On or about November 3, 1952, I was making my monthly check sitting at the desk in that office that was about five feet from the window screens that covered the wall all the way down to about a couple of inches from the floor. I took out the metal calibration rod (about as big as a normal soda straw and about six inches long) stored in the instrument that has a small radioactive source on its end. I put the counter on the low setting (it has three; low, medium, and high) and was ready to place the rod near the detection windows (two of them), but the dial needle was way over on the scale and the audible signal was clicking like mad, or almost a continuous sound; sounds like constant static on a radio. My original thought was that the counter was malfunctioning, but when I raised it up and put it near the screen window, the dial needle swung even further over and the sound increased still further. I then put it close to the screen near the floor and the needle went off the scale (as far as it could swing right). I knew it was not the counter, but that there was some radioactivity outside. I panicked. My first thought was that Guam had been subjected to some radioactive dust attack"; and

WHEREAS, the National Research Council’s committee’s analytical findings, as noted on page 328 of their report, corroborate, Mr. Schreiber’s testimony; and

WHEREAS, the United States Navy admits full knowledge of the test and there was no warning given to the local population; and

WHEREAS, according to the Department of Justice and in accordance with Code of Federal Regulation Title 28, Part 78 – Claims under the Radiation Exposure Compensation Act, Subpart E – Eligibility Criteria for Claims by Onsite Participants, Guam and all the “Downwinders” of the Marshall Island nuclear testing, now meet the eligibility criteria due to the wash down of military vessels/aircraft from the nuclear testing conducted at the Pacific Proving Grounds Marshall Islands; and
WHEREAS, in May 2004, Assistant Director Dianne Spellberg, for the Civil Division of the Radiation Exposure Compensation Program and Director Dr. Evan B. Double of the Board of Radiation Effects Research committee met with Guam leaders to discuss Guam’s eligibility as “Onsite participant/Downwinders”, Assistant Director Spellberg indicated that Guam meets the eligibility criteria as an “Onsite participant”, and suggested that Congresswoman Madeleine Z. Bordallo submit a bill to the U.S. Congress to amend Title 28 C.F.R. 79, Subpart E, Sec. 79.40, to include the population of Guam during that time period; and

WHEREAS, on March 2004, Ms. Isaf Al-Nabulsi Ph.D. (Senior Study Director) BRER invited W. Chris Perez, M.D., Dr. Wesley Youngberg M.P.H., Mr. Robert N. Celestial, and Delegate Madeleine Z. Bordallo to attend a BRER committee hearing in Washington D.C.; and

WHEREAS, on March 24, 2004, a Guam delegation of Delegate Madeleine Z. Bordallo, Guam Senator Carmen Fernandez and Mr. Robert N. Celestial presented oral testimony and documented evidence, gathered and prepared by Mr. Celestial and the doctors, to the BRER Committee to Assess the scientific information for the Radiation Exposure Screening and Education Program, under the auspices of the National Research Council as mandated by Congress. The aforementioned committee’s final report will be sent to Congress for action and in support of this request; and

WHEREAS, the fact that the numerous “DOWNWINDERS” are islands/ atolls which are part of the Marshall Islands speaks for itself on the effects the nuclear testing had on the people. It is a historical fact which continues to haunt the present for the entire APIL membership region (with the exception of the State of Hawaii and American Samoa); and

WHEREAS, sadly, this nuclear legacy is a part of the U.S. history and will continue to haunt the United States until the “same standards of care, safety, redress of grievance and justice” that Congress has adopted with respect to nuclear testing that was conducted in the U.S. mainland is applied to the membership island states of the APIL (with the exception of the State of Hawaii and American Samoa); and

WHEREAS, as previously stated, on October 15, 1990, President George H. Bush signed into law Public Law No. 101-426, the “Radiation Exposure Compensation Act.” This bill establishes new entitlement programs for persons physically present in areas near the Nevada Nuclear Test Site during atomic testing at the site. Atmospheric testing of atomic devices—important to national security during the darkest days of the “cold war”—ended in 1963 when, under President Kennedy, the United States signed and ratified the Limited Test Ban Treaty. Prior to the Treaty, the United States detonated over 200 atomic devices in the open air, in both the South Pacific and in Nevada. The bill provides compassionate payments to persons with specified diseases who fear that their health was harmed because of fallout from atmospheric atomic testing at the Nevada test site, regardless of whether causation can be scientifically established. The bill entitles each person meeting specific criteria to a payment of $50,000. Uranium miners meeting separate criteria will be entitled to compassionate payments in the amount of $100,000. These payments fairly resolve the claims of persons present at the test site and of downwind residents and uranium miners. The bill, which is fiscally responsible, establishes a trust fund, and $100,000,000 is authorized to be appropriated to be paid into the fund. H.R. 2372 is the result of close cooperation between the Administration and the Congress. As a result of the Administration’s initial concerns, many earlier objections have been addressed and the bill has been vastly improved. This legislation establishes a compensation system in the executive branch that can be administered efficiently and permit eligible claimants to receive compensation without the expense and delay of traditional litigation”; and

WHEREAS, the Assessment of the Scientific Information for the Radiation Exposure Screening and Education Program reports that: “As a result of its analysis, the committee concludes that Guam did receive measurable fallout from the atmospheric testing of nuclear weapons in the Pacific. Residents of Guam during that period should be eligible for compensation under RECA in a way similar to that of persons considered to be DOWNWINDERS”; and
WHEREAS, it therefore goes to show that all APIl island states (with the exception of the State of Hawaii and American Samoa) should be included under RECA as DOWNWINDERS if not onsite participants; and

WHEREAS, the people of the island states of the APIl staunchly request that they be included under RECA as DOWNWINDERS, as recommended by BRER committee, with eligibility criteria for the time period of exposure to nuclear fallout from 1946 through 1974 and under the current law (P.L. 101-426);

NOW THEREFORE, BE IT RESOLVED by the Association of Pacific Island Legislatures, 26th General Assembly Conference, June 21-23, 2007, American Samoa, that the Association of Pacific Island Legislatures does hereby, on behalf of the peoples, petition the United States Congress to amend the “Radiation Exposure Compensation Act of 1990”, Public Law 101-426, as amended by Public Law 101-510, 3139 (42 U.S.C. 2210) and Public Law 106-245, to include all the island states of the Association of Pacific Island Legislatures as DOWNWINDERS and/or onsite participants; and

BE IT FURTHER RESOLVED, that the population previously and currently residing in the island states of the Association of Pacific Island Legislatures with the exception of Hawaii and American Samoa who were exposed to radiation resulting from the Atomic Energy Commission tests in the Marshall Islands be recognized as "DOWNWINDERS" of such tests and therefore eligible for compensation from compassionate payments under the original intent of RECA regardless of whether causation can be scientifically established; and

BE IT FURTHER RESOLVED, that the APIl President shall certify, and the APIl Secretary shall attest to the adoption hereof and that copies of the same shall be thereafter transmitted to the to the Honorable Senator Daniel K. Akaka, United States Senate; to the Honorable Senator Daniel K. Inouye, Hawaii; to the Honorable Congressman Neil Abercrombie, United States House of Representative; to the Honorable Madeleine Z. Bordallo, Delegate to Congress, U.S. House of Representatives and to the Presiding Legislative Officers and the Chief Executive Officers of all members of the Association of Pacific Island Legislatures.


SABINO SAUCHOMAL
APIL PRESIDENT

JUDITH T. WON PAT, ED. D.
APIL ACTING SECRETARY