

12 April 2010

Office of the High Commissioner for Human Rights
Palais Wilson
52 rue des Pâquis
CH-1201 Geneva, Switzerland

**Re: Universal Periodic Review of the Federated States of Micronesia (FSM),
2010 Submission of Earthjustice, Pohnpei Women Advisory Council (Federated States of
Micronesia), Many Strong Voices, Human Rights Advocates and Greenpeace International**

I. SUMMARY

1. Recalling the UN General Assembly Resolution 60/251, adopted on 15 March 2006, the UN Human Rights Council Resolution 5/1 adopted on 18 June 2007, and the Decision 6/102, adopted on 27 September 2007, and in accordance with the Information Note for NGOs regarding the Universal Periodic Review mechanism (8 October 2007), Earthjustice, Pohnpei Women Advisory Council (Federated States of Micronesia), Many Strong Voices, Human Rights Advocates and Greenpeace International respectfully submit to the Human Rights Council the following information regarding human rights in the Federated States of Micronesia (hereafter the FSM) as a result of anthropogenic climate change for its universal review.
2. Via this submission, we seek to contribute to the protection of human rights in the FSM, where acute environmental problems related to the extreme vulnerability of these islands to climate change threaten the realization of a standard of living adequate for the health and well-being of all persons. The changes in the physical environment causing these threats have been increasing in frequency and severity over the past several decades and are projected to increase significantly by the end of the century.¹ This will undermine many human rights recognized under international law.
3. In January 2009, the UN Office of the High Commissioner for Human Rights published a report on climate change and human rights concluding that 1) climate change threatens the enjoyment of a broad array of human rights; 2) human rights obligations provide important protections to individuals who are affected by climate change; and 3) states have legal obligations to those whose rights are affected by climate change, and that those obligations extend extraterritorially.² We seek to inform the Human Rights Council of the acute impacts that climate change is having and will have on the human rights of all citizens of the FSM. We urge the Human Rights Council to adopt an outcome recognizing that FSM can not be considered as bearing the main responsibility for human rights threats suffered by citizens of the FSM due to climate change. Significantly increased international cooperation will be fundamental to help protect the human rights of the citizens of the FSM. The responsibility for adaptation to and mitigation of climate change in the FSM should be shared by major greenhouse gas emitting states, relative to their share of historic and current emissions.

¹ IPCC Working Group I Report: *The Physical Science Basis: Summary for Policymakers* (2007), <http://www.ipcc.ch/pdf/assessment-report/ar4/wg1/ar4-wg1-spm.pdf>.

² OHCHR, *Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship Between Climate Change and Human Rights*, U.N. Doc. A/HRC/10/61 (Jan. 15, 2009), <http://www2.ohchr.org/english/issues/climatechange/index.htm>.

4. In its Fourth Assessment Report, the Intergovernmental Panel on Climate Change (IPCC) predicts that anthropogenic climate change will have significant adverse effects not only on the natural environment, but also on the human populations that inhabit that environment and rely on its processes and services.³ In the FSM, climate change will result in the direct threat to many of the human rights guaranteed by the FSM under international law:

- Rights to **be free from hunger, to health, and to the means of subsistence and ability to maintain an adequate standard of living** will be threatened by damage to agriculture and critical infrastructure through increased heat stress; salinification of groundwater; worsened typhoons; sea level rise resulting in flooding and overwash during tide surges; erosion of coastlines, low-lying areas, and steep slopes; and greater reliance on expensive imported foods;⁴
- Rights to **be free from hunger, to health, and subsistence livelihoods** will be jeopardized by damage to fisheries, coral reefs and mangrove forests through sea level rise, increased sea temperature, increased ocean acidification, and exacerbated typhoons; and
- Rights to **life, property, housing, self-determination, security of person, access to freshwater, sanitation and a healthy environment** will be at risk from increased tropical storms, droughts, flooding, and the spread of disease vectors.
- Rights to **culture and traditional knowledge, and to a healthy environment**, will also be threatened by changes resulting from climate change.

II. BACKGROUND

5. The FSM is an island nation in the western Pacific Ocean that occupies an archipelago of 607 low-lying atolls and higher islands, with a population of about 107,000.⁵ The majority of the population live in coastal areas vulnerable to sea level rise and storms. Micronesia's economy relies on agriculture and fishing for local markets and subsistence as well as fishing royalties for tuna and pelagic species. Over 26% of the population lives below the poverty line, and 22% of the population is unemployed.⁶ Although, the FSM enjoys "subsistence affluence" due to the abundance of coastal fish available to most households,⁷ the population is increasingly reliant on imports of food.

6. The FSM has been a party to the Convention on the Rights of the Child since 1993 and to the Convention on the Elimination of All Forms of Discrimination against Women since 2004. Other categories of international human rights in this document are covered by the 1948 Universal Declaration of Human Rights (UDHR).

III. THE IMPACTS OF CLIMATE CHANGE ON HUMAN RIGHTS IN FSM

7. As in many small nations, the FSM's **agricultural** sector is threatened by climate change that causes rising sea-levels, salinification of groundwater, extended droughts, flooding during rainy seasons, storm surges, and unusually high tides.⁸ Only 5.7% of the land area in FSM is arable,⁹ but agriculture

³ IPCC WG II Report: *Impacts, Adaptations, and Vulnerability* (2007), <http://www.ipcc.ch/ipccreports/ar4-wg2.htm>.

⁴ Government of the Federated States of Micronesia, *President Mori Gives Keynote Address at Pohnpei State's World Food Day Event* (2009), www.fsmgov.org/press/pr101609.htm.

⁵ Government of the Federated States of Micronesia, *Geography*, <http://www.fsmgov.org/info/geog.html>.

⁶ CIA World Factbook, *Micronesia, Federated States of*, <http://www.cia.gov/library/publications/the-world-factbook/geos/fm.html>. (last visited April 2, 2010).

⁷ Johann Bell *et al.*, *Planning the Use of Fish for Food Security in the Pacific*, 33 *Marine Policy* 64, 73 (2009).

⁸ Nobuo Mimura *et al.*, *Small islands. Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change*, M.L. Parry *et al.* Eds., Cambridge University Press, Cambridge, UK, 687, 16.4.3. (2007).

provides 60% of the nation's food and employs almost 50% of the labor force either seasonally or full time.¹⁰ Subsistence agriculture contributes 23% of household income and 22% of the GDP of the FSM.¹¹ Traditional diets of root crops, leaves, fish, coconuts and fruit are increasingly replaced by imported food, causing a problem for food security given significant volatility in commodity pricing and shipping costs to geographically isolated areas. Saltwater intrusion into the freshwater lens of low-lying atolls is damaging traditional agriculture and increasing reliance on imported food.¹² In December 2008, the President of the FSM declared a nationwide state of emergency when giant tides inundated atolls, scoured beaches and flooded crops.¹³ In some regions, only taro grown in experimental drained cement pits survived the inundation.¹⁴ El Niño-Southern Oscillation (ENSO) droughts periodically reduce groundwater supplies to emergency levels.¹⁵ **As climate change threatens FSM agriculture, it undermines FSM citizens' right to life, health, an adequate standard of living, right to be free from hunger, right to culture and traditional knowledge, and right to a means of subsistence.**

8. **Fisheries** in Micronesia are threatened by climate change-induced sea temperature rise, sea level rise, increasing acidity, and typhoons. There are over 250 species of inshore fish harvested for food in the FSM.¹⁶ Nationwide, 82% of consumed animal protein comes from fish, 74% of which is from subsistence fishing caught by someone in the household.¹⁷ The FSM government earns \$18-\$24 million per year in licensing fees by foreign vessels for tuna fishing alone; licensing for other deep-water species provides additional revenue.¹⁸ Coral reefs in the FSM are particularly vulnerable to climate change.¹⁹ Rising sea surface temperatures correlate with extensive coral bleaching.²⁰ This leads to mass mortality of coral reefs, which are then unable to shelter reef fishes, crustaceans and vital nurseries for pelagic fish stocks. Coral reefs also create sheltered regions in which mangrove colonies establish themselves. The country's mangroves are vulnerable to groundwater level changes during ENSO events.²¹ Without the protection of coral reefs, mangrove forests are threatened by increased exposure, and could follow coral reefs into local extinction. Mangroves provide wood for local construction, protect coral reefs by filtering fresh water discharges from land, prevent erosion and flooding from storm surges, and provide habitat and breeding grounds for wild food sources including fish, crustaceans, and birds. Climate change is predicted to reduce the diversity and abundance of reef-forming corals and the productivity of fish associated with these reefs.²² As fish become less abundant around the FSM, citizens will reduce the amount of fish (and thus protein) in their diets.²³ Reliance on imported food will rise, increasing

⁹ CIA World Factbook 2010 *supra* note 6.

¹⁰ Government of the Federated States of Micronesia, *Natural Resources*, <http://www.fsmgov.org/info/natres.html>.

¹¹ Andrew McGregor *et al.*, *Pacific Island Food Security: Situation, Challenges and Opportunities*, 24 Pacific Economic Bulletin 28 (2009).

¹² John Hay and Kerry McGregor, *Sea Level Rise Issues in the Federated States of Micronesia: Report on a Preparatory Mission*, South Pacific Regional Environment Programme (1994); Ben Namakin, *Micronesia and Climate Change: Our Islands At Risk*, Conservation Society of Pohnpei (last visited April 3, 2010), <http://www.nature.org.wherewework/asiapacific/micronesia/features/namakin.html>.

¹³ Justin Nobel, *Micronesia Atoll Grows Taro in Concrete To Hold Off Sea Surges*, AlertNet (2009); http://www.alertnet.org/db/an_art/60167/2009/11/10-172201-1.htm.

¹⁴ Nobel 2009 *supra* note 13.

¹⁵ Government of the Federated States of Micronesia, *Geography* <http://www.fsmgov.org/info/geog.html>.

¹⁶ Hay and McGregor *supra* note 12 at 8.

¹⁷ Bell 2009 *supra* note 7.

¹⁸ Government of the Federated States of Micronesia, *Economy*, <http://www.fsmgov.org/info/econ.html>.

¹⁹ Hay and McGregor *supra* note 12 at 31.

²⁰ National Oceanic and Atmospheric Administration, *Hazards to Coral Reefs* (2010), <http://coris.noaa.gov/about/hazards/>.

²¹ Robert Nicholls *et al.*, *Coastal systems and low-lying areas. Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change*, M.L. Parry *et al.*, Eds., Cambridge University Press, Cambridge, UK, 315, 319 (2007).

²² Bell 2009 *supra* note 7 at 72.

²³ Bell 2009 *supra* note 7.

vulnerability to global price shocks linked to climate change.²⁴ As the population of the FSM moves from rural to urban regions, the country will have difficulty transporting fish to population centers due to the high cost of infrastructure and large distances.²⁵ **Climate change threatens reefs, pelagic and mangrove-based fisheries, jeopardizing rights of FSM citizens to be free from hunger, means of subsistence, an adequate standard of living, and to culture and traditional knowledge.**

9. Although Micronesia historically has enjoyed a relative abundance of **fresh water**, climatic changes have contributed to acute water shortages in recent years.²⁶ Most people rely on rainwater collected from their own roofs, which needs regular replenishment as there is little storage capacity.²⁷ Citizens also rely on groundwater, which is vulnerable to salt contamination during droughts and storm surges.²⁸ **Climate change threatens FSM citizens' right to water.**

10. Increased heat events around the world are linked to increased cardiovascular mortality and respiratory illnesses, altered transmission of infection diseases, and malnutrition from crop failures.²⁹ **Climate change threatens FSM citizens' rights to sanitation, health, and a healthy environment.**

11. **Typhoons** and tropical storms threaten the lives of citizens of the FSM from June to December each year.³⁰ Climate science indicates that higher surface water temperatures intensify the destructive force of tropical storms.³¹ Rising sea levels raise the baseline for storm surges during these events, increasing the risk of catastrophic loss of life and infrastructure on the shore. Ocean acidification may further weaken the structure of coral atolls and cause damage during storms.³² **Climate change threatens rights of FSM citizens to life, housing, property, and security of person.**

12. In the traditional societies that still dominate much of the FSM, **land** is deeply linked to personal, family, and cultural identity.³³ Loss of lands due to sea level rise, storm surges and coastal erosion may force many thousands of FSM citizens to become climate migrants, moving from lower to higher elevations, from atolls to higher islands within the country, and potentially from higher islands of the FSM to other countries.³⁴ Such involuntary relocation would result in loss of the FSM's traditional cultural practices developed over thousands of years, and potential loss of its nine indigenous languages.³⁵ **Climate change threatens FSM citizens' rights to culture, traditional knowledge, and property, housing, and self-determination.**

IV. CONCLUSION AND RECOMMENDATIONS

13. One of the most serious threats to the human rights of the people of the FSM is the vulnerability of their environment to the impacts of climate change. The threats confronting the FSM illustrate how

²⁴ Namakin 2010 *supra* note 12.

²⁵ Bell 2009 *supra* note 7 at 70.

²⁶ Government of the Federated States of Micronesia, *Geography*, <http://www.fsmgov.org/info/geog.html>.

²⁷ Hay and McGregor 1994 *supra* note 12 at 5.

²⁸ Hay and McGregor 1994 *supra* note 12 at 8.

²⁹ Jonathan Patz *et al.*, *Impact of Regional Climate Change on Human Health*, 438 *Nature* 310, 2005.

³⁰ CIA World Factbook 2010 *supra* note 6.

³¹ Pew Center on Global Climate Change, *Hurricanes and Global Warming*, <http://www.pewclimate.org/hurricanes.cfm#change> (last visited April 2, 2010).

³² Government of the Federated States of Micronesia, *Address by H.E. Emanuel Mori, President of the FSM at the UN Climate Change Conference*, December 2009, <http://www.fsmgov.org/cop15.htm>.

³³ Hay and McGregor 1994 *supra* note 12 at 8.

³⁴ Bill Blakemore, *Micronesia: A Third Kind of Nation, Written Off?*, ABC News (2009), <http://abcnews.go.com/prin>.

³⁵ Namakin *supra* note 12.

the right to an ecologically healthy environment is fundamental to guaranteeing other rights, such as the rights to life, food, water, health, and a means of subsistence.³⁶

14. The primary responsibility for the protection of human rights for the citizens of the FSM lies in the hands of the state. However, the causes and impacts of climate change on the human rights of FSM citizens also lies with states that are major emitters of greenhouse gases. The international community—and particularly those nations historically and currently responsible for the greatest portion of greenhouse gas emissions—has a responsibility to prevent climate change from undermining the human rights of citizens of the FSM and, where particular circumstances makes that not possible, to mitigate the harms and assist the victims.

15. We commend the government of the FSM for its *Nationwide Climate Change Policy of 2009*, which aims to “mitigate climate change especially at the international level, and increase adaptation at the national, state and community levels to reduce the FSM’s vulnerability to climate change adverse impacts.”³⁷ The policy seeks to provide FSM citizens with information and education on the impacts of climate change, provide opportunities for public participation in decision-making addressing climate change, and increase mitigation and adaptation efforts to protect rights to an ecologically sustainable environment. Recognizing the role of other major emitting states in causing climate change, the government of the FSM is also advocating at international fora³⁸ for global reductions in emissions of greenhouse gas (GHG) and non-GHG climate pollutants so that global average surface temperature increase is limited to well below 1.5 degrees Celsius.³⁹

16. Article 22 of the Universal Declaration of Human Rights underscores that protection of human rights requires “national effort and international co-operation.” Every state has the obligation to do no harm either to its own citizens or to the citizens of another state. We therefore respectfully recommend that the Human Rights Council 1) welcome the efforts of FSM to include the protection of human rights in its national policies to combat climate change, 2) recognize the responsibility of major greenhouse gas-emitting states for the human rights violations suffered by the people of Micronesia, and for helping the FSM in protecting its citizens from the human rights threats caused by climate change, and 3) encourage the international community to take immediate action to decrease global greenhouse gas emissions and to assist the government of Micronesia in its commendable efforts to mitigate and adapt to the effects of climate change.

Respectfully Submitted,

Earthjustice

Many Strong Voices

Pohnpei Women Advisory Council (Federated States of Micronesia)

Human Rights Advocates

Greenpeace International

For further information, please contact:

Martin Wagner, c/o Earthjustice, 426 17th Street, 6th Floor, Oakland, CA 94612, USA

+1-510-550-6700, mwagner@earthjustice.org

³⁶ See, e.g., *Human rights and the Environment: Final Report by Mrs. Fatma Zohra Ksentini, Special Rapporteur, U.N. ESCOR, Hum. Rts. Comm., U.N. doc. E/CN.4/Sub.2/1994/9* (1994).

³⁷ FSM, *Nationwide Climate Change Policy 2009*, http://www.fsmpio.fm/Nationwide_Climate_Change_policy.pdf.

³⁸ Government of the Federated States of Micronesia, *Address by H.E. Emanuel Mori, President of the FSM at the UN Climate Change Conference*, December 2009, <http://www.fsmgov.org/cop15.htm>.

³⁹ Federated States of Micronesia 2009 *supra* note 38.