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VIEQUES TODAY:

A SEA OF BROKEN PROMISES

July 16, 2009

VIEQUES IN BRIEF

Vieques is a small U.S. territorial island located eight miles from the main island of Puerto Rico. The people of Vieques are American citizens who have made tremendous sacrifices for our country's national security. For over 200 days per year from 1941-2003, the Navy used significant portions of the Island of Vieques for training exercises and munitions testing. During this period, the Navy tested nearly every kind of munitions employed by the military, dropping over *80 million pounds* of ordnance on Vieques from 1984-1998 alone. The Navy has refused to disclose the complete list and amounts of all materials sprayed, dropped, tested, or disposed of on the island and surrounding ocean during the 62-years of weapons testing.

The people of Vieques have a 25% higher infant mortality rate, 30% higher rate of cancer, a 381% higher rate of hypertension, a 95% higher rate of cirrhosis of the liver, and a 41% higher rate of diabetes than those on the main island of Puerto Rico a mere 8 miles away. Despite these facts, the Navy denies any culpability and refuses to help alleviate the suffering it has caused.

The health claims of the American citizens in Vieques have been supported by a multitude of groups and faith-based organizations, including the Congressional Hispanic Caucus (CHC), the League of United Latin American Citizens (LULAC), the National Association of Latino Elected and Appointed Officials (NALEO), the National Council of La Raza (NCLR), and the American Values Network, among others.

VIEQUES TODAY: ROUNDTABLE OVERVIEW

Supported by a broad coalition of national and local leaders Vieques Mayor Evelyn Delorme recently called on President Obama to fulfill his pledge to support the island during a roundtable discussion that took place during the 80th LULAC National Convention in San Juan, Puerto Rico. The mayor went one step further and asked the President to settle two lawsuits filed by the municipality and its residents against the U.S. Navy for health damages resulting from more than sixty two years of bombings and military exercises.

The Mayor noted that although the bombings ended, the health situation has shown no signs of improvement. She indicated that data from the Puerto Rico Department of Health clearly shows that the

vast majority of Vieques residents who seek medical assistance at state facilities complain of respiratory illnesses; a situation that cannot be attributed to any other causes since Vieques lacks an industrial park. This situation is dramatically aggravated since island residents are forced to travel to the main island of Puerto Rico for treatment given the lack of adequate medical facilities in Vieques. She placed a strong emphasis on the need to reinvigorate the local economy while fixing what has become an obsolete roads system that further prevents the sustainable development of the island. According to the Mayor, contamination has also been a major setback to economic development since the island-municipality's two main industries are fishing and tourism.

Former Mayor of Vieques Radames Tirado went one step further when he described some of the activities conducted by the U.S. Navy, which had a direct impact on the environment. He labeled them as borderline criminal and called for the immediate settlement of the lawsuits as the best way to address the health crisis in Vieques.

Georgia State Representative Pedro Marin, who is coordinating the launching of a national coalition of elected and appointed Puerto Rican officials, stressed the need for the Obama Administration to take immediate action and reiterated the support of mainland Puerto Rican and other Hispanic leaders to the Vieques cause.

Javier Cuebas in representation of American Values Network clarified that this type of compensation is nothing new and that in comparable instances where no liability was admitted or proven, the U.S. gave compensation to claimants, many of whom were not U.S. citizens. He reminded participants that groups like the Committee for the Rescue and Development of Vieques have worked tirelessly to raise awareness about this issue and that last year Committee members and other civic leaders met in Vieques with advisors and surrogates of then-Presidential Candidate Barrack Obama to address the health crisis on the island.

Roundtable participants also shared their experiences and opinions about the present and future of Vieques, and reached consensus about urging the Obama Administration to take immediate action to remedy the island's health crisis and to settle the lawsuits.

LEGAL FRAMEWORK: "THE KING CAN DO NO WRONG"

The Eaves Law Firm, an international plaintiffs' firm based in Jackson, Mississippi, is the legal representative of the more than 7,100 Viequenses in *Sanchez v. United States* (currently pending in Federal District Court in San Juan) as well of the Municipality of Vieques in its administrative claim currently pending before the Secretary of the Navy.

In its description of case, firm's representatives informed roundtable participants that the trial-level U.S. Justice Department attorneys, who are defending the government in *Sanchez v. United States*, have invoked the sovereign immunity defense. This legal device is in direct conflict with the promises made by then-candidate Obama since he committed in writing to address the health issues and development needs of Vieques that are the result of naval action on and around the island. For those not familiar with sovereign immunity, the concept comes from the medieval era and it implies that "the King can do no wrong." In this case it is used in an effort to avoid a trial on the merits of the claims. The government's motion to dismiss on those grounds is under consideration by the federal judge.

In response to questions from roundtable participants, Rickey Cole, the firm's Political Director, clarified that "the Obama Administration has the power to settle these claims immediately. The White House

could direct the Department of Justice to negotiate a settlement of the more than 7,100 individual claims, and instruct the Secretary of the Navy to settle the municipality of Vieques's claim as well". These settlements could be made without need of congressional action and without any admission of liability on the part of the government.

Absent the political will to settle the suit, the Obama Administration could withdraw its sovereign immunity claim, that if upheld would prevent any hearing or trial. At the very least, the U.S. citizens on Vieques deserve their day in court so their claims could be heard and considered.

RECOMMENDATIONS

1. Roundtable participants acknowledged that it would be in the best interest of the United States to affirmatively address the losses and ongoing medical and economic needs of the U.S. citizens on Vieques resulting from the U.S. Navy's long bombardment and contamination of the island.
2. Roundtable participants acknowledged that the legal device of sovereign immunity used by the U.S. Department of Justice to dismiss the lawsuit is contrary to the promises made by President Barack Obama and, if successful, will prevent the American citizens of Vieques from having their day in court.
3. Roundtable participants acknowledged that the fastest, fairest, and most efficient way to correct the injustice and health crisis is for the U.S. Government to resolve the claims pending in the US District Court in San Juan as well as those pending for the Municipality of Vieques before the Secretary of Navy.

OTHER RECENT ACTIONS

- 3/12/09: U.S. House of Representatives Committee on Science, Subcommittee on Oversight and Investigations conducted a hearing on the work of the Agency for Toxic Substances and Disease Registry (ATSDR), which included its health assessments in Vieques.
- 4/20/09: Congressman Alan Grayson and Puerto Rico Resident Commissioner Pedro Pierluisi sent a letter to Subcommittee Chairman Brad Miller asking for field hearings in Vieques.
- 5/27/09: American Values Network hosted a Virtual Briefing on Judicial Fairness for Vieques with the participation of national civil rights groups, religious leaders, and elected officials.
- 6/15/09: United Nations Special Committee on Decolonization Approves Text Calling on USA to Expedite Self-Determination for Puerto Rico (includes reference to Vieques.)
- 6/18/09: Puerto Rico Senate passed unanimous Resolution urging President Obama to address the situation in Vieques.
- 6/30/09: Puerto Rico House of Representatives passed unanimous Resolution urging President Obama to address the situation in Vieques.

- 7/15/09: EPA Administrator Lisa Jackson addressed the situation in Vieques during her keynote speech at the LULAC National Convention in Puerto Rico.
- 7/16/09: American Values Network hosted a roundtable with the Honorable Evelyn Delorme, Mayor of Vieques and national Hispanic and civil rights leaders on the present and future of Vieques.

ABOUT AMERICAN VALUES NETWORK

The American Values Network seeks to be the SALT of public and political discourse in America, preserving our values and heightening awareness of the key ingredients required for a prosperous society by:

Speaking Out for an Effective and Active Engagement of Faith in the Public Square
Activating Community Grassroots and Communications Networks
Learning How to Get Real Results in the Political and Public Policy Process
Tackling the most pressing moral issues of our time