

COMMITTEE TO BRIDGE THE GAP

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Dear Friends,

Normally in our annual letter we report on work we have undertaken over the last year. We will do that in a moment, but first we want to ask you to take a moment to take an important action yourself.

For a quarter of a century, Bridge the Gap has pushed for improving security at the nation's nuclear facilities. Today, three years after the events of 9/11, commercial reactors still have NO protection against air attacks – even though the 9/11 Commission reported the terrorists who carried out the assaults on the World Trade Center and Pentagon had twice considered including atomic plants as targets. Reactors weren't designed to withstand such a crash, and massive radiation release could result.

Furthermore, for twenty-five years, the regulations of the Nuclear Regulatory Commission (NRC) have required protection against only THREE attackers on foot, acting as a single team, with minimal weaponry and the possible assistance of one insider. On September 11, 2001, of course, there were NINETEEN attackers, operating as four coordinated teams, with a high level of planning, sophistication, and ruthlessness. Three years later, our nuclear plants still are not required to protect against an attack involving the number and capabilities of terrorists evidenced on 9/11.

Bridge the Gap has submitted to the NRC a Petition for Rulemaking to rectify this situation. Our proposal would require rapid construction of "Beamhenge" shields at all reactors – protective barriers made of steel I-beams and cabling set at stand-off distances from sensitive reactor structures – so that an incoming plane crashes into the shield rather than the reactor. We also propose that the NRC's "design basis threat" regulations be upgraded to require protection against attacks by terrorists in the numbers and with the capabilities evidenced on 9/11.

THE NRC HAS ACCEPTED BRIDGE THE GAP'S PETITION FOR RULEMAKING AND PUBLISHED IT IN THE FEDERAL REGISTER FOR PUBLIC COMMENT. THE DEADLINE FOR COMMENT IS JANUARY 24. COULD YOU TAKE A MOMENT TO SEND IN LETTERS OR EMAILS IN SUPPORT?

We have enclosed the Federal Register notice with the information as to how to submit your comments. For additional information, you can also download our full Petition at http://ruleforum.llnl.gov/cgi-bin/library?source=*&library=ctbg_prm_lib&file=*&st=petitions-a. It makes poignant reading, particularly in its discussion of our decades of efforts to get the industry and regulators to face this problem. For additional background, see our articles in the *Bulletin of the Atomic Scientists* at <http://www.thebulletin.org/issues/2002/jf02/jf02hirsch.html>

and http://www.thebulletin.org/article.php?art_ofn=mj03hirsch. We've also enclosed here a copy of an article in the *Los Angeles Times* about our work on this issue.

Protections Against “Dirty” Bombs

One of the greatest risks in the current period is that of “dirty” bombs – conventional explosives wrapped around radioactive sources such as americium-241 or cesium-137. We have been working for several years to upgrade controls on such dangerous materials, the protections for which are woefully inadequate.

Bridge the Gap recently disclosed that the Department of Homeland Security (DHS) has prepared guidance that would dramatically relax cleanup standards for radioactive contamination after a dirty bomb. The DHS guidance would permit the government to walk away from cleaning up after such an event and leave behind radiation doses equivalent to 50,000 chest X-rays, which the government itself estimates would cause cancer in a quarter of the people exposed.

Working with the Nuclear Information & Resource Service, we got stories in the *New York Times*, *Associated Press*, *UPI*, *Reuters*, *Dow Jones*, and on *CNN* and *NPR*. The Times and AP stories are enclosed. Our disclosures hit just as the guidance sat on outgoing DHS Secretary Ridge's desk for his signature and have resulted, at least for now, in the guidance not being issued.

Bridge the Gap, City of LA, NRC Sue Department of Energy Over Nuclear Cleanup

At a press conference on City Hall steps in October, Los Angeles City Attorney Rocky Delgadillo, Bridge the Gap's Dan Hirsch, and NRDC's Joel Reynolds announced that we were jointly filing suit against the U.S. Department of Energy (DOE) over DOE's breach of longstanding commitments to cleanup radioactive contamination at its nuclear installations nationwide. The suit focuses on the Santa Susana Field Laboratory (SSFL) cleanup, but will have ramifications for the entire DOE nuclear weapons and energy complex across the country.

In 1995, DOE and EPA issued a Joint Policy committing that all these nuclear facilities would be cleaned up to EPA's Superfund standards. Last year, the Bush Administration broke these promises, saying it would leave in place 99% of the radioactively contaminated soil at SSFL and then release the site for unrestricted residential use. Children could thus end up living atop strontium and cesium from the 1959 meltdown at the site that CBG revealed in 1979. EPA says that without further cleanup the site isn't safe for anything other than day-hikes. Our suit attempts to enforce the promises made to clean up the radioactive mess the government made.

Bridge the Gap, Four Other Groups Sue NRC & DOT Over Radwaste Deregulation

The Bush Administration has been pushing ahead with plans to deregulate a significant portion of the radioactive waste stream. These plans would permit recycling of contaminated metals into consumer products and dumping of radwaste in unlicensed regular landfills. We have sued NRC and Dept. of Transportation over recently adopted rules deregulating nuclear waste from transport safety requirements.

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Another Letter to Help the Year End

“The court also finds [US] Ecology is barred by the doctrine of unclean hands. Promissory estoppel is an equitable remedy. The defense of unclean hands derives from the maxim that, ‘He who comes into Equity must come with clean hands.’”

Judge E. Mac Amos, Statement of Decision,
US Ecology v. State of California

It was the most delicious court decision it has ever been my good fortune to read. San Diego Superior Court Judge E. Mac Amos threw out the last remaining claims made by US Ecology, the company that had tried for fifteen years to open a radioactive waste dump at Ward Valley, California. Located less than twenty miles from the Colorado River, the main water source for much of the Southwest, we successfully helped fight that dangerous project for the same period.

The judge ruled that US Ecology was not entitled to damages from California for the dump never opening because the company’s own misconduct had contributed significantly to the failure of the project – i.e., its hands were dirty. A nuclear waste company with unclean hands!

The judge found that US Ecology had crossed the line when it threatened two scientists and the Lawrence Livermore National Laboratory with litigation if they carried out safety tests for the U.S. Department of Interior at the federal land in Ward Valley that US Ecology coveted for use as a nuclear waste facility. The threats had their intended effect – the lab backed out and the scientists declined to conduct the tests unless they could somehow be protected from the litigation threats. Judge Mac Amos ruled that US Ecology’s threats had resulted in its own dump project failing, because Interior wouldn’t transfer the land without the tests, and the scientists wouldn’t perform the tests because of US Ecology’s threats.

Bridge the Gap had earlier disclosed that US Ecology’s sister dump at Beatty, Nevada, had been leaking and that tritium, from atmosphere testing fallout, had been detected deep beneath the Ward Valley site. Both revelations called into question US Ecology’s claim that radioactive migration at the site would take tens of thousands of years. Based on the CBG findings, Interior had put the brakes on the dump project and insisted on new measurements for tritium at the site. US Ecology—apparently fearing, according to Senator Feinstein, that it would fail the tests—sent threatening letters to the two scientists with whom Interior had contracted to take the tritium samples and to the federal laboratory that would measure them. In essence, federal scientists were being threatened to not perform safety tests on federal land for the federal government.

Judge Mac Amos ruled that this conduct constituted “unclean hands” and that US Ecology accordingly was responsible for its own fate and therefore entitled to nothing. It was a remarkable ending to a long struggle, and an important lesson.

The Ward Valley fight was an epic battle, pitting powerful moneyed forces that would stoop at nothing, against regular folks who had little else except their commitment and dedication. But the project opponents had a secret weapon, and the proponents a secret weakness. Those who resisted the project tried mightily to be truthful, to use means that were ethical. The dump advocates, on the other hand, frequently did not mind distorting the truth, and, as Judge Mac Amos found, were not averse to descending to the tactics of threats and the suppression of scientific inquiry.

Sixty years ago, Aldous Huxley, in his seminal work *Ends and Means*, noted that ends and means are inseparable, because the means employed determine the ends obtained. For those of us who have tried to live by those principles, the short-term difficulties are often overpowering. We see lies prevail; we see them amplified by media that are controlled by powerful and ideologically extreme forces; we see the little guy crushed and the yearning for justice nearly snuffed out.

And yet, in the long run, lies come back to bring down the powerful, and the truth does come out, and those who struggled to be faithful to appropriate means wake up to find they have in the end won. The victories are rarely complete or permanent; the struggles continue. (Indeed, US Ecology has now appealed Judge Mac Amos’ decision.) But truth is a powerful weapon, and unclean hands only temporarily successful. At the end of the day, dirty hands bring down the powerful and clean hands empower the weak. And, frankly, there is no other way to live, if you want to be able to sleep at night.

When Gandhi died, George Orwell—a former student of Huxley’s but, because of his background as a colonial administrator in Burma, no fan of Gandhi’s—nonetheless concluded, “He left a sweet smell behind him.” That is all we can ask: that we live a life as close to our principles as possible, matching desired ends with appropriate means, striving to be truthful, so that it can be said of us: their hands were clean, their souls loving, their actions true.

In the rough times ahead, ‘tis important to remember that even the powerful fall, and as has been said of old, truth though crushed to ground will rise again.

For a more peaceful New Year,

A handwritten signature in black ink that reads "Daniel Hirsch". The signature is fluid and cursive, with a large initial 'D' and 'H'.

Daniel Hirsch

Bridge the Gap’s work is funded solely by donations and small grants. Any help you can provide is much appreciated; donations are tax-deductible.