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COMMITTEE TO BRIDGE THE GAP  
NUCLEAR INFORMATION AND RESOURCE SERVICE  
PUBLIC CITIZEN  
UNION OF CONCERNED SCIENTISTS

DOCKETED  
USNRC

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OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

11 December 2006

Chairman Dale E. Klein  
US Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Re: Design Basis Threat (DBT) Rulemaking**

Dear Chairman Klein:

The Nuclear Regulatory Commission staff has recently proposed that the Commissioners reject virtually all efforts to improve the security of the nation's nuclear power plants from terrorist attack.

In particular, staff proposes that the Commission require:

- NO protection against air attack
- NO protection against attacks by ground involving numbers of terrorists larger than a small fraction of the 19 attackers of 9/11

As to the decision to leave plants vulnerable to air attack, staff provides virtually no rationale. The staff asserts that active defenses against air attack, such as anti-aircraft guns, are the domain of the U.S. military and that passive protections are unnecessary because of mitigative measures that NRC has imposed. Although we agree that nuclear power plants should not be outfitted with anti-aircraft guns and have never advocated such measures, the staff fails to explain why mitigation measures and activation of emergency plans are sufficient and preferable to a passive defense, as proposed in the petition for rulemaking by the Committee to Bridge the Gap. Passive structures, such as steel I-beams and cabling called "Beamhenges," around sensitive parts of the reactor facility would reduce the impact of an incoming plane and protect critical components of the nuclear plant. [A short animation of the Beamhenge concept can be found at <http://www.committeetobridgethegap.org>]. The staff fails to explain why it is better to have an incoming plane crash into the reactor structures themselves, rather than a shield outside the sensitive reactor structures. Relying on undefined mitigation measures and the evacuation of large populations in the region around a nuclear plant instead of taking steps to prevent the reactor destruction in the first place would be irresponsible in the extreme, particularly given the era in which we now live.

As to leaving the plants unprotected against attacks involving more than a handful of terrorists, the staff provides no rationale whatsoever for this extraordinarily dangerous recommendation. It has been widely reported that the DBT has increased from 3 external

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attackers with the assistance of one insider to less than twice the original number of external foes. Yet 19 terrorists were involved in 9/11. Clearly NRC is proposing to take the absurd position that it should protect against the number of attackers on one plane (5), not the number involved in all four attacks on that fateful day (19). This unduly modest DBT level is troubling because the federal government is not positioned to protect the American public from attacks mounted by double or treble the "upgraded" DBT level – which remains significantly below the actual number used on 9/11.

Congress, in the Energy Policy Act of 2005, required the NRC to conduct a rulemaking that would address these and other security weaknesses in the present regulatory scheme. Staff proposes to essentially ignore the Congressional directive and intent. In so doing, the staff proposal makes clear that its driving factor in deciding the level of security at nuclear power plants is based on minimizing what is asked of the industry, rather than on requiring what is necessary to protect the public. But the statutory purpose of the NRC is to protect the public, not the industry it is supposed to regulate. Furthermore, the current post-9/11 security requirements were adopted via closed-door meetings between NRC and the regulated industry, with the affected public frozen out.<sup>1</sup>

Given such a critical matter, the Commissioners should not decide whether to adopt these proposals without first hearing from representatives of the public interest groups that have been deliberately and repeatedly shunted out of the process. Our concerns suffered harm because of our exclusion. Leaving nuclear plants vulnerable to air attack or to ground attacks involving more than a small fraction of the attackers seen on 9/11 would pose a grave risk to this country, and such a consequential step should not be taken without at least a hearing to listen to those who warn of its dangers.

We therefore request:

(1) That the Commission—before voting to leave the nation's nuclear plants unprotected from aerial attacks or from ground attacks by groups larger than a small fraction of the 19 involved in 9/11—should conduct a public meeting at which representatives of our organizations can present the case for protecting adequately these nuclear sites.

(2) That you meet with us personally prior to voting.<sup>2</sup>

(3) That you vote to reject staff's recommended do-nothing reactor security DBT ruling.

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<sup>1</sup> For example, non-public meetings were conducted by the NRC with industry representatives on November 14, 2001, November 16, 2001, December 4, 2001, December 11, 2001, February 6, 2002 (conducted at the Nuclear Energy Institute's international headquarters), February 21, 2002, February 27, 2002, March 7, 2002, March 14, 2002, May 7, 2002, October 1, 2002, and October 2, 2002. There were dozens of other non-public meetings, but we stopped collecting the non-public meeting notices, knowing that we could not exchange them for even one public meeting with the staff.

<sup>2</sup> Commissioner calendars obtained under the Freedom of Information Act indicate that Commissioner Merrifield met privately with NEI representatives on September 10, 2002, October 2, 2002, October 26, 2004, and June 14, 2005, and other Commissioners entertained numerous drop-in visits by industry representatives about security throughout the rulemaking process.

Sincerely,

Daniel Hirsch  
Committee to Bridge the Gap  
605 Waldeberg  
Ben Lomond, CA 95005  
[cbghirsh@aol.com](mailto:cbghirsh@aol.com)

Paul Gunter  
Nuclear Information & Resource Service  
6930 Carroll Ave, Suite 340  
Takoma Park, MD 20912  
[pgunter@nirs.org](mailto:pgunter@nirs.org)

Michele Boyd  
Public Citizen  
215 Pennsylvania Ave, SE  
Washington, DC 20003  
[mboyd@citizen.org](mailto:mboyd@citizen.org)

David Lochbaum  
Union of Concerned Scientists  
1707 H St NW, Suite 600  
Washington, DC 20006  
[dlochbaum@ucsusa.org](mailto:dlochbaum@ucsusa.org)