

Subject: Documentation of Rita Conn's Comments on July 23



July 26, 2015

Dear Dr. David Victor and Members of the CEP,

Attached please find the comments that I addressed to Dr. Singh, CEO and President of Holtec International at the CEP meeting on July 23, 2015 in Oceanside. Please enter into public record.

I am including documentation that supports the statements I made that evening:

1. In 2010, Holtec lost its status as a U.S. Contractor and was fined \$2,000,000 (in the form of an administrative fee).

(See attachment "TVA Office of Inspector General")

2. 2007, Tennessee Valley Authority Nuclear power plant operators plead guilty to accepting a bribe from Holtec.

(See attachment "Department of Justice")

3. Dr. Ross Landsman, NRC Dry Cask Storage Inspector's statement:

"As far as I am concerned Holtec has no quality assurance.

This is the same kind of thinking led to the NASA

Space Shuttle disaster."

(See attachment "Holtec comments by Dr. Ross Landsman")

4. Dr. Landsman and whistleblower Oscar Shiranti statements:

Holtec Nuclear Spent Fuel Dry casks, “Are nothing except garbage cans with design flaws, welding flaws and manufacturing flaws and dangerous to public safety in our backyards.”

(See attachment “Holtec, Notice of Violation by NRC”)

This is a watershed moment; the decisions that are made regarding storage of 1632 tons of dangerous nuclear waste will affect Southern California lives and property for centuries.

I hope you agree that this is not the time to experiment with underground, unproven nuclear dry cask storage made by Holtec International.

Sincerely,

Rita Conn
Chairwoman, Let Laguna Vote

[Redacted signature block]

CC:

Tim Brown, Mayor of San Clemente
Daniel T. Stetson, Secretary
Ted Quinn, American Nuclear Society, San Diego Chapter
Rich Haydon, California State Parks
Tom Caughian, Camp Pendleton

President John Alpay, Capistrano Unified School District Board of Trustees
Carlos Olvera, Mayor of Dana Point
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Valentine Macedo, Laborers International Union of North America Local 89
Garry Brown, Orange County Coastkeeper
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Glenn Pascall, Sierra Club
Jim Leach, South Orange County Economic Coalition
Dr. William Parker, University of California Irvine
Bob Whalen, Mayor of Laguna Beach
Coastal Commission
California Energy Commission
California Public Utilities Commission
Governor Jerry Brown
Ken Alex, Assistant to Governor Jerry Brown

MAKING TVVA *Better*

Office of the Inspector General
TENNESSEE VALLEY AUTHORITY
Semiannual Report
April 1, 2013 - September 30, 2013



risk exposure because the program had been consistently underfunded and identified risks excluded underutilized properties, which posed additional risk of liability from potential contamination or compromises to public safety. This resulted in additional focus on those properties and improvements to the system which will provide better management of TVA's portfolio of properties.

> **Cost and schedule**

performance on the WBN Unit 2 construction project – This 2012 review identified serious weaknesses in oversight of the project that were hampering construction performance. The OIG recommendations resulted in better estimates of cost and schedule and better project oversight. This work was significant because it identified serious problems much earlier than they would have otherwise been discovered, thereby allowing the company to save money by getting the project on track and addressing the construction delays identified.

> **TVA's counterparty credit**

risk-We found the process lacked a consistent, risk-based approach to managing credit and performance risk. Proper management of this risk is

important to reducing TVA's exposure to possible financial and operational losses.

Deterrent to Misconduct and Fraud-Another important way our office helps TVA is to provide deterrence to employee misconduct and potential fraud, including third party fraud by contractors. One deterrent can be the prosecution of those that defraud TVA. In the past five years, our investigations have resulted in 35 indictments, 37 convictions, and 6 pre-trial diversions. Other activities that also help deter or identify misconduct or fraud earlier include:

> **Debarments** – In 2010, TVA and the OIG worked collaboratively to develop a suspension and debarment process for contractors that defraud TVA. That same year, Holtec (Holtec), a dry cask storage system supplier for TVA nuclear plants, was the first contractor to be debarred from TVA history. Holtec's debarment lasted sixty days.

Also, Holtec agreed to pay a \$2 million administrative fee and submit to a year-long monitoring program for its operations.

> **Fraud Risk Assessments** – In 2004, the OIG kicked off a TVA-wide initiative to help groups identify fraud risks for their

area. The assessments which are performed in conjunction with TVA business organizations identify (1) types of fraud that can occur, (2) the likelihood and significance of fraud occurring, (3) controls in place to prevent fraud, and (4) remediation needed to improve fraud prevention controls. While the primary purpose of the assessments is to reduce risks for TVA, the collateral benefit is the trust that is built between the OIG staff and TVA employees. Since the program inception, our office has performed more than 30 assessments.

> **Fraud Awareness Briefings** –

Our agents conduct briefings of individuals and groups to educate them on what type of fraud schemes they may encounter, what to look for, and how to report it. An increased awareness can lead to earlier reporting of potential fraud.

> **EmPowerline**-Our hotline

provides a mechanism for people to anonymously report misconduct and fraud to the OIG. Over the past five years, we have received 1,429 reports. Addressing the information received can lead to an investigation, audit, or management action which results in saving TVA money or identifying misconduct or fraud.



Department of Justice

United States Attorney James R. Dedrick
Eastern District of Tennessee

FOR IMMEDIATE RELEASE
Friday, August 3, 2007

CONTACT: SHARRY DEDMAN-BEARD
PHONE: 865-545-4167
FAX: 865-545-4176

FORMER TVA-BFN MANAGER PLEADS GUILTY TO MAKING FALSE STATEMENT IN CONNECTION WITH FINANCIAL DISCLOSURE FORM

KNOXVILLE, TENNESSEE — James R. Dedrick, United States Attorney for the Eastern District of Tennessee, and Richard W. Moore, Inspector General, Tennessee Valley Authority, announce that John L. Symonds, 57, of Muscle Shoals, Alabama, pleaded guilty in federal court today before the Honorable Thomas W. Phillips, United States District Judge, to making a false statement in a matter within the jurisdiction of the Tennessee Valley Authority, in violation of Title 18, United States Code, Section 1001.

On July 2, 2007, United States Attorney James R. Dedrick filed an Information in the United States District Court charging Symonds with knowingly and willfully make a false material statement to the Tennessee Valley Authority by executing and submitting a financial disclosure certification, OGE Form 450-A, in which he knowingly and willfully failed to disclose his receipt of \$54,212.77, through Krohn Enterprises, LLC.

According to court documents, from November 13, 2000 through December 31, 2002, Symonds, was employed as a manager at the Tennessee Valley Authority's Brown's Ferry Nuclear Plant (TVA-BFN). As a TVA-BFN manager, Symonds was required to complete and submit to TVA an OGE Form 450, entitled "Executive Branch Confidential Financial Disclosure Report." As a TVA-BFN manager, Symonds was required annually to update the financial disclosures set forth in OGE Form 450, which could be accomplished through the completion and submission to TVA of the OGE Optional Form 450-A, in lieu of filing a new OGE Form 450 each year.

On or about November 13, 2000, Symonds executed and submitted an OGE Form 450 that was forwarded to TVA headquarters in Knoxville, Tennessee. On that form, Symonds answered "None" to the question that asked him to: "Identify for you, your spouse, and dependent children: 1) assets with a fair market value greater than \$1,000 at the close of the reporting period or producing income over \$200; and 2) sources of earned income such as salaries, fees, honoraria (other than U.S. Government salary or retirement benefits, such as the Thrift Savings Plan) which generated over \$200 in income during the reporting period." On his November 13, 2000 OGE Form 450, Symonds certified that his statements were "true, complete, and correct to the best of [his] knowledge."

On or about October 16, 2001, Symonds executed and submitted an OGE Form 450-A that was forwarded to TVA headquarters in Knoxville, Tennessee. On that form Symonds certified that "[a]fter examining a copy of [his] last confidential financial disclosure report (OGE Form 450)", which was his November 13, 2000 OGE Form 450, that (1) he had "no new reportable assets or sources of income, for [himself], [his] spouse or [his] dependent children." and that (2) "neither [his] spouse nor [he] [had] new reportable sources of income from non-Federal employment."

On or about October 21, 2002, Symonds executed and submitted an OGE Form 450-A that was forwarded to TVA headquarters in Knoxville, Tennessee (hereinafter the "October 21, 2002 OGE Form 450-A"). On that form Symonds certified that "[a]fter examining a copy of [his] last confidential financial disclosure report (OGE Form 450)," which was his November 13, 2000 OGE Form 450, that (1) he had "no new reportable assets or sources of income, for [himself], [his] spouse or [his] dependent children." and that (2) "neither [his] spouse nor [he] [had] new reportable sources of income from non-Federal employment."

However, on or about February 7, 2002, during the reporting period for his October 21, 2002 OGE Form 450-A, Symonds co-owned Krohn Enterprises, LLC ("Krohn") with his former spouse, and on or about February 7, 2002, Krohn was paid \$29,212.77 by Check No. 31738 drawn on the Mellon Bank account of U.S. Tool & Die Inc. ("USTD"). That \$29,212.77 check was deposited into the Krohn Heritage Bank account, and the proceeds of that check were used to pay the personal expenses of Symonds and his former spouse. On or about February 7, 2002, Symonds knew that USTD had been directed to send that \$29,212.77 check to Krohn by Holtec International (Holtec) — a company that Symonds knew as of that time (1) had contracted with TVA in November 2001 to design and construct a dry cask storage system for spent nuclear fuel rods at TVA BFN and (2) had contracted with USTB to fabricate some of the construction materials for the TVA BFN dry cask storage system.

Additionally, on or about February 27, 2002, during the reporting period for his October 21, 2002 OGE Form 450-A, Symonds co-owned Krohn Enterprises, LLC with his former spouse, and on or about February 27, 2002, Krohn Enterprises, LLC, was paid \$25,000 by Check No. 31970 drawn on the Mellon Bank account of USTD. That \$25,000 check was deposited into the Krohn Enterprises, LLC, Heritage Bank account, and the proceeds of that check were used to pay the personal expenses of Symonds and his former spouse. On or about February 27, 2002, Symonds knew that USTB had been directed to send that \$25,000 check to Krohn by Holtec — a company that Symonds knew as of that time (1) had contracted with TVA in November 2001 to design and construct a dry cask storage system for spent nuclear fuel rods at TVA BFN and (2) had contracted with USTB to fabricate some of the construction materials for the TVA BFN dry cask storage system.

Symonds knowingly and willfully failed to disclose his receipt, through Krohn Enterprises, LLC, of either Check No. 31738 in the amount of \$29,212.77 or Check No. 31970 in the amount of \$25,000 on the OGE Form 450-A that he executed and submitted to TVA on or about October 21, 2002.

Judge Phillips has scheduled Symonds' sentencing for November 29, 2007. Symonds could receive a sentence of up to five (5) years imprisonment and a \$250,000 fine. This investigation was conducted by the Tennessee Valley Authority, Office of Inspector General. Assistant U.S. Attorney F. M. (Trey) Hamilton III represented the government.

For further information, contact U.S. Attorney James R. Dedrick, Assistant U.S. Attorney F. M. Hamilton III, or Public Information Officer Sharry Dedman-Beard, at 865-545-4167.



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Radiation

Summary of Oscar Shirani's Allegations of Quality Assurance Violations Against Holtec Storage/Transport Casks.

Holtec storage/transport casks are the first dual purpose container for irradiated nuclear fuel certified by the U.S. Nuclear Regulatory Commission (NRC). According to Holtec International's website (<http://www.holtecinternational.com>), Holtec casks are already deployed at 33 U.S. nuclear power plants. Up to 4,000 rail-sized Holtec storage/transport casks would also be used at the proposed Private Fuel Storage interim storage facility in Utah. Given the U.S. Department of Energy's (DOE) recent decision to use "mostly rail" transport to the proposed Yucca Mountain repository, Holtec casks could very well become among the most used shipping containers for highly radioactive waste.

Exelon, the largest nuclear utility in U.S., uses Holtec casks for Irradiated fuel storage at its reactor sites. In 1999 and 2000, Oscar Shirani, as a lead quality assurance (QA) auditor for Exelon, identified numerous "major design and fabrication issues" during a QA inspection of Holtec International (the cask designer), Omni Fabrication, and U.S. Tool & Die (the subcontractors responsible for manufacturing the casks). In fact, he identified a "major breakdown" in the QA program itself. The problems were so severe that Shirani sought a Stop Work Order against the manufacturer of the casks until the problems were addressed. Instead, he was run out of Exelon. According to Shirani, these design and manufacturing flaws mean that the structural integrity of the Holtec casks is indeterminate and unreliable/ especially under heat-related stress such as during a severe transportation accident.

Although NRC has dismissed Shirani's concerns, NRC Region III (Chicago office) dry cask inspector Ross Landsman refused to sign and approve the NRC's resolution of Shirani's concerns, concluding that this same kind of thinking led to NASA's Space Shuttle disasters.[1] He stated in September 2003, "Holtec, as far as I'm concerned, has a non-effective QA program, and U.S. Tool & Die has no QA program whatsoever." [2] Landsman added that NRC's Nuclear Reactor Regulation division did a poor follow-up on the significant issues identified, and pre-maturely closed them.

Shirani alleges that all existing Holtec casks, some of which are already loaded with highly radioactive waste, as well as the casks under construction now, still flagrantly violate engineering codes (such as those of the American Society of Mechanical Engineers (ASME) and American National Standards Institute [ANSI]), as well as NRC regulations. He concludes that the Holtec casks are "nothing but garbage cans" if they are not made in accordance with government specifications. [3]

Specific examples of the QA violations and related problems alleged by Shirani include:

- Welding problems, such as improper "fast cooling" of hot cask welds and metal using fans and air conditioning equipment, which are in violation of ASME and ANSI codes and risk tearing and cracking of the unevenly cooling welds and metal, in order to meet production goals. Welds on the casks were also performed by unqualified welders. Even NRC has acknowledged that "weld quality records are not in agreement with the code requirements." [4]
- Inadequate controls on the quality of materials used in the manufacturing process, risking brittleness and weakness in the casks.
- Holtec's failure to report holes in neutron shielding material (neutrons are especially hazardous emissions from highly radioactive waste).
- US Tool & Die's failure to use coupon (a small physical sample of metal) testing, and Post Weld Heat Treatment on a regular basis, as required by ASME code and in violation of the codes that were part of the license agreement with NRC.
- Holtec and U.S. Tool & Die quality control inspectors' bypass of hundreds of non-conforming conditions, departures from the original design during cask manufacture. The departures from the original design amount to design changes that require revised analysis to guarantee that manufactured casks actually live up to the structural integrity

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of the original design. The fact that this revised analysis was never done is in violation of ASME and ANSI codes, and thus NRC regulations, and means the actual manufactured casks' structural integrity is questionable, according to Shirani.

- Holtec's consent to allow U.S. Tool & Die to make design decisions and changes, despite the fact that U.S. Tool & Die does not have design control capability under its QA program.
- Failure to conduct a "root cause investigation" of Holtec's QA program, even though root causes are the main reason for repeated deficiencies.
- Exelon's obstruction of Shirani from performing any follow-up of the audit to confirm that problems had been solved, despite knowing that the fabrication issues identified would have a detrimental impact on the design.
- Exelon's falsified quality-assurance documents and the misleading of the NRC investigation, stating that Shirani's allegations of QA violations were resolved when in fact they were not.
- Lack of understanding in the NRC of the design control process and Holtec's QA program, relating to flaws in welding, design, manufacturing, and materials procurement control. NRC lacks a corrective action mechanism for repeated findings. Shirani alleges his audit findings embarrassed NRC because it had also audited the Holtec casks just a few months previously but found no problems whatsoever.

Shirani concludes that these numerous design and manufacturing flaws call into question the structural integrity of the Holtec casks, especially under heat-related stress such as during severe transportation accidents. He also warns that his eight-day audit showed him only a snapshot of problems, and that there could in fact be additional ones yet to be identified.

[1] Elizabeth Brackett, "Nuclear Controversy," "Chicago Tonight," WTTW Channel 11 Television, Chicago, Illinois, January 29, 2004.

[2] J.A. Savage, "Whistleblower Alleges PG&E Proposed Dry Casks Slipshod," California Energy Circuit, Vol. 1, No. 1, Berkeley, California, September 5, 2003.

[3] *Ibid.*

[4] April 2002 NRC review panel memo, cited in J.A. Savage, "Whistleblower Alleges PG&E Proposed Dry Casks Slipshod," California Energy Circuit, Vol. 1, No. 1, Berkeley, California, September 5, 2003.

* This summary was prepared by Kevin Kamps (202-328-0002 ext. 14; kevin@nirs.org), Nuclear Waste Specialist at Nuclear Information and Resource Service in Washington, D.C. July 22, 2004.

India's known to be defective Russian nuclear reactor at Koodankulam. Holtec, which is private, is also the "American" company who got contracts for a spent fuel storage in the Ukraine: <http://www.mfa.gov.pl/en/news-feeds/foreign-offices-news/32398-shhodo-ukladenny-a-ugodi-mizh-najek-j-atom-ta-amerikansy-koj-y-kor-p-oracij-ju-holtec-international> We don't even know for certain if Singh is an American or India National. Mittal Jives in the UK and has kept his India citizenship. Tellingly, Wikipedia says that Holtec is "based" in the USA. We don't know where it is registered. The proposed nuclear insurance pool is paid into after an accident. Will anyone be able to find Holtec to pay into the insurance pool? This sort of thing is why we are certain that the US taxpayer will pay some and perhaps most of the 1/3rd which the US promises to pay India, under this Convention, in the event of an accident. Probably Japan will pay 1/3rd and the remaining 1/3rd will be paid by a combo of India, Argentina, Romania, UAE and Morocco. Fukushima is estimated at \$110 billion thus far, even though they aren't even cleaning it up and are using the homeless.

Oscar Shirani and others expressed concerns about Holtec spent nuclear fuel dry casks, and the NRC. Some of his concerns appear supported by a more recent (2011) NRC Notice of Violations. Holtec's dry casks are sold around the world, and will be in our midst for some time. They are also used for transportation. With apparently lax railroad track upkeep in the US and UK, the ability of spent fuel transportation canisters to resist impacts is serious.

The late Oscar Shirani wrote a comment to the NRC on Mon, Oct 30, 2006 11:18 AM Subject: "Exelon's Clinton. Early Site perllit EIS". In his comments he noted that "In Dec. 4, 2002, NRC wrote to Shirani: we substantiated that a stop work issued by Exelon's QA program to GE-NE was lifted based on a vendor's promises rather than verification that the underlying problems had been corrected..." In the NRC inspection documents, which we have read, we have also noticed this thing repeatedly. They simply say what's wrong and make the supplier write a letter saying what they will change. These are often serious and even deadly issues and the NRC doesn't appear to care at all. The NRC attitude to nuclear suppliers appears to be "It's alright darling baby doll!" In his comment to the NRC e interestino-ly states that "Dr. Ross LaHdsman and Oscar Shirani both believe thnt the Holtec's Nuclear Spent Fuel Dr ask are noth? iJcA garbage cans with desig!!!; Jaws, welding flaws, and manufacturing jaws and dan erous to ublic
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This is a 2011 Holtec Inspection Report Summary:

NOTICE OF VIOLATION

Holtec International
Morristown NJ

Docket # 72-1014

Based on the results of a U.S. Nuclear Regulatory Commission (NRC) inspection conducted from October 25 through February 10, 2011. Violations of NRC requirements were identified in accordance with the General Statement of Policy and Procedure for NRC Enforcement Actions. NUREG 1600 requirements are listed below.

A. Holtec International is a certificate holder of Certificate of Compliance No. 72-1014

10 CFR 17.48(c)(2) (vi) states that a certificate holder shall be in compliance with the requirements of the certificate of compliance. The certificate holder shall be in compliance with the requirements of the certificate of compliance. The certificate holder shall be in compliance with the requirements of the certificate of compliance.

Contrary to the above, Holtec failed to obtain a certificate of compliance (CoC) for the proposed change in the design of the fuel rod cladding during a vertical end drop test. The certificate holder shall be in compliance with the requirements of the certificate of compliance.

This is a Severe Level IV violation of NRC Policy 6.21

8. Holtec International is a Certificate holder of Certificate of Compliance No. 72-1014.

10 CFR 72.14 - Design Control - states in part - The certificate holder shall apply design control measures to the design of the fuel rod cladding.

Contrary to the above, Holtec failed to apply design control measures to the thermal hydraulic design. Specifically, Holtec's design control measures were not adequate for the following examples:

- 1) Measures did not ensure thermal evaluations during vacuum drying conditions. The design did not ensure adequate thermal evaluations during vacuum drying conditions. The design did not ensure adequate thermal evaluations during vacuum drying conditions.
- 2) The thermal analysis did not specify vacuum drying time for the load history. The thermal analysis did not specify vacuum drying time for the load history. The thermal analysis did not specify vacuum drying time for the load history.
- 3) The measures did not provide required margins with support of the design. The measures did not provide required margins with support of the design. The measures did not provide required margins with support of the design.
- 4) The measures did not include either in the FSAR or the CoC, a description of the design. The measures did not include either in the FSAR or the CoC, a description of the design. The measures did not include either in the FSAR or the CoC, a description of the design.

This is a Severe Level IV violation of NRC Policy 6.21

Enclosure 2

This part looks very damning:

"The NRC noted that the 72.48 change: a) introduced a completely new method as the basis for demonstrating the integrity of the fuel rod cladding during a vertical end drop of the HI-STORM 100 while being transported to the ISFSI pad; b) endorsed a Lawrence Livermore National Laboratory (LLNL) report (No. UCID-21246) for the axial buckling of fuel rods as the basis for demonstrating the integrity of the fuel rod cladding even though NRC technical staff determined that the LLNL report was inaccurate and therefore unacceptable and that the correct guidance is provided in ISG-12, Revision 1, published in 1999; and c) justified a g-load limit of 45gs for the HI-STORM 100 System based on information provided in NUREG-1864 to predict cladding failure even though the information to support a 45g limit does not exist in the NUREG." Take another look. They justified based on a regulation, even though the information isn't in that regulation "JUSTIFIED... BASED ON INFORMATION... DOES NOT EXIST"! From: "NRC INSPECTION REPORT NO. 72-1014/10-201 AND NOTICE OF VIOLATIONS Read the entire report

Mining Awareness Plus- Critical Information & Awareness

Nuclear Supplier Holtec – "Notice of Violation" by NRC & the India-US Nuclear "Deal"

!M. _ Wednesd«v. _ FEB 2015

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 5. 1 :- - - - JJ US India Nuclear Deal. US NRC. US-India Bwiness Council. llS.d., USIBC

Holtec, privately owned and founded by its India born and educated, President and CEO, Krishna P. Singh (1), is one of the big bad "American" nuclear companies, which will probably benefit from the India-America nuclear deal. Singh also serves on the board of the Nuclear Energy Institute. Holtec International is a global nuclear supplier based in New Jersey, USA; designs and makes parts for nuclear reactors; sells equipment to manage spent nuclear fuel; makes dry cask storage containers for spent fuel. It is also apparently trying to foist an underground modular reactor, S:MR-160, a 160 MWe pressurized water reactor (PWR), upon the world. In July 2014, the State of New Jersey gave it a \$260 million tax incentive (tax break) to expand operations at the Port of Camden.

http://en.wikipedia.org/wiki/Holtec_International An underground nuclear reactor was already tried in Switzerland, melted down and contaminated the cavern and drainage water still has radionuclides.[2]

This is one more piece to this "nuclear deal", which was apparently brought to America and India by India's very own. The new US Ambassador to India, Richard Verma, was born in Edmonton, Canada of parents from the Punjab area of India. Moreover, he worked as a Steptoe & Johnson lobbyist for the US-India Business Council to push the "U.S. India Civil Nuclear Agreement and ratification of the 123 Agreement in compliance with the Henry Hyde Act," along with "US-India Civil Nuclear Agreement's 123 Bilateral Agreement in 2008." [3] Tejpreet Singh Chopra served as President and CEO of GE India from June 1, 2007, and was on the Board of the US-India Business Council from ca November 2007. A press release from Nov. 25, 2008 announced that the Nuclear Energy Institute was partnering with the US-India Business Council for the "largest trade mission of US commercial nuclear executives ever to visit India". That just so happens to be the year that Richard Verma was their lobbyist. And, it just so happens that when Verma got appointed Ambassador that this Convention came under discussion again. See more here: <http://www.miningawareness.wordpress.com/2015/01/28/lewestinghouse-js-japanese-toshiba-not-american-for-16-> The CEO and President of GE India, Banmali Agrawala, since April 1, 2013, serves on the US-India Business Council Board.

Oh, my goodness, those terrible big, bad bully Americans who are foisting nuclear on helpless India! Let's not forget that the construction companies for any nuclear reactors will be largely local. And, Jindal Steel and Arcelor Mittal will probably provide the steel. And, with this deal, the American taxpayer will become partially liable for