

Kings Bay Plowshares 7 Update: Federal Court Considers Defense Motions

Editor's note: This update by defense attorney Bill Quigley has been edited for space.

Early on the morning of April 4, 2018, seven nuclear abolitionists were arrested inside the Kings Bay Naval Base in St. Mary's, Georgia. Kings Bay is the Atlantic homeport for six Trident nuclear ballistic missile submarines. The "Kings Bay Plowshares 7" were indicted on four felony charges: Conspiracy, Destruction of property on a naval station, Depredation of government property, and Trespass.

All seven were held without bail for six weeks. As of September, Liz McAlister and Fr. Steve Kelly remain in jail at the Brunswick County Detention Facility. Liz has decided not to bail out at this time, but will wait to see if the severely restrictive bail requirements can be reduced. Steve was not given the option of bail, because he has a pending case in Washington State for a protest at the Trident submarine base. Martha Hennessy, Patrick O'Neill, and Carmen Trotta raised bail and were released May 24. Clare Grady made bail July 11, and Mark Colville was released in Sept. The five all have to wear ankle bracelets and are confined to their homes.

On Aug. 2, 2018, the activists appeared before US Magistrate Stan Baker in federal court in Brunswick, Georgia to argue that all charges against them be dropped. They set out six reasons why the charges should be dismissed, and detailed arguments are available at kingsbayplowshares7.org.

The first argument is that Trident nuclear weapons are illegal under US domestic law. The weapons on one of the several Kings Bay submarines have destructive power 2,500 times greater than the US atomic weapons dropped on Hiroshima or Nagasaki. Any use or threat of use violates US criminal law prohibiting war crimes, violates the laws of war, and violates the legal requirements of the US Naval, Air Force and Army service manuals.

The Kings Bay Trident submarine's missiles cannot possibly be targeted to destroy only military targets,

California Sets a Trend, Tells Congress: Ratify Ban Treaty, 'No First Use'

On August 28, 2018 California's State Senate adopted both Assembly Joint Resolutions 30 and 33. AJR 30 urges Congress to pass legislation restricting the US President's power to launch a nuclear attack or to okay the first use of nuclear weapons without any consultation. AJR 33 calls for ratification of the new Treaty on the Prohibition of Nuclear Weapons, adopted by 122 countries at the United Nations in 2017. Both measures previously passed the State Assembly.

California is the first state to pass a bill like AJR 30 which specifically supports legislation introduced by Rep. Ted Lieu, D-Calif. and Senator Ed Markey, D-Mass., and the action is expected to embolden cities and other states to pass similar measures.

AJR 33 describes the catastrophic health and environmental consequences of detonating nuclear weapons, and calls on the US to undertake a series of key nuclear disarmament measures, such as signing and ratifying the new Ban Treaty, renouncing first use of nuclear weapons, ending the "alert status" for nuclear launch systems, and cancelling the planned 30-year, \$1.7 billion nuclear weapons infrastructure rebuild.

California's action helps assure that nuclear disarmament remains part of the national discussion. Support similar campaigning underway in your state.

so any launch will destroy tens if not hundreds of thousands of civilians within minutes—and millions more in the nuclear winter aftermath.

Second, these weapons of mass destruction are illegal under US/international law. The US constitution specifically incorporates international treaty law into



The Kings Bay Plowshares participants from left: Clare Grady, Patrick O'Neill, Elizabeth McAlister, Fr. Steve Kelly SJ, Martha Hennessy, Mark Colville, and Carmen Trotta.

US law and international treaties prohibit the use of weapons which will kill civilians. The Navy's *Commander's Handbook on the Law of Naval Operations* also requires command authorities to follow international law.

Third, the property protecting these illegal weapons, which was damaged in the symbolic disarmament,

Government Study of Cancer near Nuclear Reactors Cancelled

Continued from back page

study, published in 1990, had several shortcomings including the way the authors define and examine disease, assumptions about doses, location of cases, and who is examined.

The NAS was considering two study designs, one examining specifically children. This study type, dubbed by one expert as a case-control nested in a cohort, is very similar in basic design to studies conducted in France and Germany, which show increases in childhood leukemia around nuclear power facilities.

The NRC scuttled the NAS study in 2015, dubiously claiming it would have cost too much and taken too long. Upon examination, however, it is clear that the NAS study would have challenged the fundamentals of the NRC's health assessment regime.

To date, most radiation studies have routinely suffered from a host of improper methodologies, making it impossible to discern health impacts. The NAS was considering using new ways of examining the issue by implementing a more detailed, more thorough, publicly shared research protocol.

The protocol included:

- Making the study process and underlying assumptions public while the study was being conducted
- Allowing public comment during the study process
- Standardizing raw health data and making it available to researchers and the public
- Standardizing and verifying pollutant data
- Integrating independently collected pollutant and meteorological data
- Examining and redoing the current health models
- Tailoring health studies to local conditions
- Creating new health models, specifically for the radionuclide carbon 14, which concentrates in fetal tissue more than maternal tissue.

This detailed and accessible protocol could have opened the NRC's regulatory regime to exhaustive scrutiny, revealing just how inadequate it is for examining health impacts in the first place, never mind protecting public health. Further, with such careful research, NRC could have feared that the NAS study would point to an association between environmental radiation and cancer, as other studies have, although FOIA documents consisting mostly of internal emails did not specifically demonstrate this fear.

is not deserving of legal protection. Much like the pesticides used to murder millions under the Nazis, these weapons' only use is illegal and immoral and the fences which protect them are likewise illegal.

Fourth, the fact that government chooses only to prosecute those who seek to disarm nuclear weapons while turning a blind eye to presidential threats to use these illegal weapons demonstrates this prosecution is selective and vindictive.

Fifth, because the government charged people with two counts of felony damage to property and conspiracy to damage property, some of these charges must be dismissed because they allow the government to criminalise the same conduct several ways.

Sixth, the prosecution violates the Religious Freedom Restoration Act under which the government cannot interfere with religious faith or practices unless it shows compelling interest in doing so and proves that it has chosen the least restrictive way of doing it. Defendants pointed out that the government charged them to the maximum extent of the law when they could have sued them civilly or taken less punitive action.

The hearing also discussed discovery requests by the defendants and the government about how much it actually cost the military to replace the lock on the fence, repair the fence and clean and repaint the places on the base where defendants wrote biblical and peace statements. The Magistrate also heard objections to the electronic monitoring shackles which each of the people not in jail are required to wear 24/7.

—*Bill Quigley is a law professor and Director of the Law Clinic and the Gillis Long Poverty Law Center at Loyola University New Orleans*

Mothballed study could be revived, made better

While the NAS child study design and protocol had much to recommend it, what's unclear is whether it would have been free of all of the flaws that have historically plagued radiation health assessments. When the study was cancelled, independent experts still had concerns.

Historically, industry and radiation regulators have insisted that a causal link must be absolutely established between radiation and disease. For protection of the public, however, experts claim the standard should be a lower bar of association with disease. If this study moves forward under the NAS, it needs to relinquish concepts and methods that favor causation.

To date, researchers have started radiation health studies by presuming that there will be no impact because doses are too low—a contention that, in reality, remains scientifically unproven. Many studies reveal the opposite. Any new such research needs to ensure that the basis for health assessments is a focus on health outcomes, not dose models that are fraught with uncertainties.

While NRC licensees [like reactor operators] attempt to monitor environmental contamination, the NRC has never incorporated biological monitoring, which might prove useful after spike releases from various facility outages. There are several techniques that have been used in other health studies, which a revived cancer study could weave into any child or adult health assessment.

A truly independent and scientifically robust study would attempt to address these issues in addition to using the other enlightened protocols the NAS was considering. With the public process and protocol review suggested by the NAS for this now mothballed study, perhaps these remaining shortcomings would finally have been addressed as well. The NRC made sure that did not happen. However, according to Ourania Kosti, the NAS researcher coordinating the study, the NAS has left the door open to completing it. "I think it is important to update the findings of the 1990 study using better methodologies and information," Kosti said. "This is the reason the Academies agreed to carry out the update. The Academies remain willing to do the study, if asked to."

—*Cindy Folkers is the radiation and health specialist at Beyond Nuclear, in Takoma Park MD.*