

The Downey Toxic Hell Hole: Injured Workers, Liability And The Business Of Stuart Lichter

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Under Democratic and Republican administrations, the pressure has been on by developers in the last thirty years to privatize Federal toxic sites around the country. Arguing that they could be cleaned up quicker and cheaper for development if it was done by private investors, these developers with the support of both Democrat and Republican Congresses have passed legislation that allowed these transfers of highly toxic sites throughout the country.

One of these bills was the CERCLA law, which was passed in 1997 as part of the Defense Appropriation bill. Under this federal privatization law, NASA and Air Force toxic sites were allowed to be Early Transfer Authority (ETA) projects that speeded up the privatization and development on the sites. According to the government's own publicity, it allowed the privatization of remediation responsibilities. In other words, putting the developers in charge of making sure that these toxic sites around the country were properly cleaned up before the developer invited industry to come in.

They have also deregulated the oversight of these sites and left it more and more up to state agencies to make sure that they were properly cleaned up. A law was also passed in 2002 that identified these sites as brownfield sites and provided Federal money also to help clean up the sites.

Downey: The "Test" Site

One of the first these highly toxic sites to be privatized was the Downey site in the Los Angeles area, which was privatized by former Federal GSA employee Stuart Lichter.

http://www.irgco.com/pr_nasa_120403.htm

Through a company he collaborates with the International Risk Group IRG, politically connected Lichter promised to indemnify NASA, the United States General Service Administration (GSA), the City of Downey, Kaiser Foundation Hospitals, Downey Landing, LLC. Stuart Lichter does not formally own International Risk Group but this company functions as a critical vehicle for Lichter's privatization operation.

The International Risk Group is an offshoot of Cherokee Environmental Risk Management. The IRAD, which oversees the Downey property, is a subdivision of International Risk Group - International Risk Assumption of Downey. Although it is registered in California as an insurance broker, it is not registered as an insurance company in either California or Colorado where it has offices.

http://www.irgco.com/pr_nasa_120403.htm

<http://www.irgco.com/management.htm>

Injured workers have reported this information to the California Fraud Assessment Commission but the insurance controlled commission has a record of refused to investigate insurance company fraud. This agreement which was the first of it's kind by NASA has also led Lichter on a national path of similar privatizations and billions of dollars in privatization schemes. Through his company Industrial Reality Group Lichter bought government toxic sites throughout the country.

<http://www.industrialrealitygroup.com/>

At the same time, even a liability-laundering plan was patented on how to make money off these toxic sites.

<http://www.irgco.com/liability.htm>

The Downey site has been a toxic and radioactive dump for more than

70 years. Nuclear weapons products including neutron bombs were manufactured there as late as 1997 as a US Air Force site and Boeing as well as NASA have dumped large amounts of dangerous toxic chemicals, asbestos and pollutants into the soil for decades.

As part of the Downey privatization scheme, responsibility for the oversight and protection of the workers and communities was turned over to California state and local agencies such as California Department of Toxic Substances and California EPA Department. These state agencies could more easily be manipulated and controlled by local and state politicians and developers who were profiting off of the rapid development of the sites. The US Agency For Toxic Substance and Disease Registry also began to get grants for health studies investigations at these sites. This was precisely the case in fact at the Downey site. Documents now show that the EPA allowed for the development of these sights without making sure that the developer had properly cleaned it up.

Making A Killing In The Movie Industry

Stuart Lichter also realized that cheap property in the Los Angeles area could be used in the movie industry for sets that could make a financial killing for him. He built the Downey Studios and leased out the facilities to other movie production companies such as Dreamworks and Paramount Pictures. Unfortunately for the movie industry, workers and the community, the site in fact had not been properly cleaned up and the workers began getting rashes, headaches and had severe health reactions. Studio workers also began to discover extensive mold and fungus as they crawled in the dirt at the massive hangar to put up giant sets in major studio films like "The Island" "GI Joe", "Transformer" and "Santa Claus 1, 2 & 3."

These toxic reactions in fact got so bad that initially one of the unions IATSE Local 44 even put out a letter to their members that if they experienced health problems at the site including headaches and rashes, they should not go to the site. IATSE Local 44 business agent Ronnie Cunningham was one official according to the injured movie industry workers who supported warning them about the conditions at the site. Also the Dreamworks studio put out a notice about health problems at the site. This obviously had a severe affect on the Lichter business and any further development of the site. Lichter in retaliation sued IATSE Local 44 for causing financial harm to his business and in a suspicious and possible secret illegal agreement, the union local paid \$775,000 to Lichter and agreed not to put out any further information to the members of any health and safety problems.

One of the IATSE Local 44 executive board members Leonard Martin began to challenge these deals that protected employers and worked to get the union to stand up and fight for workers who had been treated unfairly. When he learned of the agreement he also told his fellow members that this was improper. He and other injured workers are now suing Stuart Lichter for his injuries on the site. The secret agreement sought to shield Lichter and his companies from any further exposure by the union and put workers on notice that their union would no longer defend them if they got in a battle over their healthcare with this employer.

<http://downey.kaiserpapers.info/injured/downeyvslocal44.html>

Approving the settlement in all likelihood was Tom Short, the past president of this powerful international union. Short had a well-deserved reputation of being friends with the industry. Suddenly resigning this year, Short is known as a company man offering the bosses that his workers will be willing to cross other union picket lines and also he is a friend of the industry.

Not surprisingly, despite the agreement, IATSE workers, LIUNA laborers and other movie workers continued to get sick and they and their families began to become terrified when they could not find out what they had. Workers were getting serious ailments and no proper healthcare to discover what was really wrong with them. Workers also noticed some very strange things at the site. Some workers noticed glowing green soil on the site and others noticed that plastic tarps were

being put over the toxic material were actually melting the tarps due to the highly dangerous material that management were seeking to cover-up.

At the same time, IATSE nurses who were also supposed to check on the health of the set building and other IATSE workers were themselves getting sick from these sites. Workers began to have severe headaches, nose bleeds, outbreaks of temper, and shedding of skin on their hands on a regular basis. Steve Basile, a master movie set worker called it snake shedding as his skin began to peel off on a regular basis after working in the mold and toxic material in the giant hanger studio buildings.

<http://www.workersmemorialday.org/documents/SteveBasileStory.htm>

Movie workers also ended up bringing the mold and toxins back to their families. Their families began to get symptoms as well from the site.

No Protection From Ca-OSHA

Workers also filed Ca-OSHA complaints during the Lemony Snickets Paramount production that workers were getting sick from contaminants on the site. Ca-OSHA made an inspection but no serious clean-up or stop work orders were ever issued. Instead, Lichter received a slap on the hand.

<http://downey.kaiserpapers.info/injured/osha.html>

At the same time, under privatization of the sites, Federal OSHA has turned over responsibility for safety at the sites to state agencies like Ca-OSHA. Under both Democratic and Republican California governors, Ca-OSHA has eliminated doctors on the staff and today there is not one doctor working for the agency which is responsible for the health and safety of 17 million workers in California. In cases like sickness from mold and fungus, industrial hygienists are not qualified to make a serious epistemological investigation as to the causes of workers illnesses at these sites. The last doctor at Ca-OSHA Dr. Larry Rose has written about the destruction of this agency and the complete failure of the agency and it's leadership to take responsibility for these problems.

<http://www.workersmemorialday.org/documents/Rose.htm>

The net result is that workers are left on their own to fend the best way they can without real health and safety protection on the job and are forced to continue to work in unsafe environments in order to keep their jobs.

The Kaiser Connection

Vicki Travis was a family member whose father was killed by the malpractice of Kaiser Permanente Hospital doctors. This is the largest HMO in the country with over 7 million members. In an effort to inform others about the Kaiser operation, she began a web site to expose the role of the largest non-profit HMO in the country.

It is called www.kaiserpapers.org and Vicki through her web portal was able to come into contact with injured Kaiser senior orthopedic technician Gail Shephard. Shephard, a Kaiser SEIU UHW member who put casts on patients had begun to get serious infections at the Bell Flower hospital site which contained fungus in her workspace and a toilet that was constantly overflowing and was later closed off. When Gail was transferred to the Downey Hospital complex, the toxins materials including chromium, arsenic, asbestos, thallium, mercury, radioactive TCP and dioxin at the new site created even greater health and safety problems for her as a result of decreased immune resistance.

Kasier Builds Large Hospital Complex On Toxic Dump In Downey

Kaiser management although aware that the site was seriously contaminated had decided to disregard this information and invest over \$700 million to build one of the largest hospital complexes in Southern California on this toxic dump. Gail Shephard was one of the first victims that went public about the illnesses she was getting at this site. Searching for an attorney, Gail found the Kaiserpapers.org and the connection to other Kaiser workers and patients.

Gail also tried to contact SEIU UHW stewards and even the president of the local Sal Rosselli to address her health and safety concerns, which

were not only affecting her but other fellow workers. His secretary told Gail they were not interested in hearing from her. She had also fallen three times due to her illnesses. One of the reasons for his reticence might have been the long-standing labor-management partnership at Kaiser. This agreement with Kaiser bosses and the union was aimed at creating a collaborative relationship between the workers and managers. In return for agreeing to this, the union won the right to organize without opposition many other classifications at Kaiser including social workers and other skilled workers. Another crucial element in understanding the conditions of Kaiser workers is that Kaiser is a self-insured employer, which means that Gail like other injured Kaiser workers needed to go to a Kaiser doctor for their healthcare.

Gail also called Ca-OSHA in June 2007 when she had moved to the Downey site because she and other workers were getting dizzy spells, migraines, kidney pains, stiff necks, breathing problems. Many of these same health problems were similar to those being faced by workers at the Downey and Dreamworks site. Ca-OSHA violating their own rules did not make an investigation and instead notified Kaiser according to Shephard to look at the problem. Kaiser then did their own "air study" and they determined that the air study came out ok but refused to provide a copy of the study to Gail.

In September 2007, after visiting Dr. Leonard Patrice, chair of the Hematology Department, she was told that she had fibromyalgia. In her case, the Kaiser doctor Dr. Alberto Garcia, an epidemiology and infectious diseases specialist after looking at Gail's swollen infected leg on February 2, 2008 told her nothing was wrong with her. Garcia said that her feet looked normal despite massive swelling. Another Kaiser doctor who Gail saw was Dr. Sangarapilla Manoharan who is an Occupational Medicine Specialist. He said he would have to look into it and later she received a letter saying that she was required to go back to work with no restrictions. Gail who at this point was walking with a cane and had a severe nerve disease in her elbows was in no shape to go back to work with no restrictions. She now has also developed head and shoulder syndrome and necrotic tissue. On August 20, 2008, Gail received a letter from Kaiser that she could not be provided a job and was being turned over to the worker's comp system on total disability with a payment of \$264.50 a week. This after Kaiser doctors had told her that she had no health problems and should go back to work without restrictions.

Schwarzenegger's Workers Compensation Fiasco

Kaiser, which is a self-insured employer, is a beneficiary of the deregulation of workers compensation. California Senate Bill 899 introduced by Schwarzenegger and passed by the California Democratic legislature almost unanimously allowed insurance companies to cut permanent disability 50% and to set up Medical Review Boards that put more roadblocks for workers seeking to get medical care for their injuries. The bill forced workers to go to company doctors for reviews of their health injuries and even allowed Doctors unlicensed in California to make medical decisions about their injuries and treatment.

<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/08/28/EDMD12I96G.DTL>

The deregulation of workers compensation has also included self-insured employers like Kaiser. These self-insured employers are supposed to be regulated by the Department of Industrial Relations John C. Duncan and the director of California's Managed-Care Department but for all intents and purposes there is no real regulation. The DIR and Duncan are also presently being sued by injured 7th Day Adventist Nurse Barbara Clark for failure to regulate these HMO and self-insured companies. www.barbclark.org

This was precisely the case in Gail's treatment at Kaiser. The doctors were apparently more interested in protecting the financial liability of Kaiser than protecting workers who faced serious and deadly contamination at the toxic site. The likelihood is that not only will they be legally responsible for these many injured workers but the entire Downey Kaiser hospital site will be shutdown due to the deadly toxic contaminants at the site as the site loses its license to do business.

In fact, one of the likely reasons of inaction by the Los Angeles Health Department on this toxic site is that a Kaiser doctor Cyrus Rangan M.D. is in fact Director of Toxic Epidemiology Program of the Department of Health Services of LA County. His specialty is debunking "Mold Myths and Fungal Fallacies" so he obviously would have little interest in exposing such mold and fungal problems at the Kaiser site in Downey.

http://www.kplearning.com/10_national_site/symp_courses.php

At the same time the issue of liability is one of the factors that has helped expose this whole corrupt operation. Injured workers at the site in fact begged the good doctor in charge of LA Health services to look at their growing health care problems but were turned away.

Role of California AFL-CIO and State SEIU Legislative Director

Unfortunately, the California AFL-CIO's Art Pulaski and Angie Wei, the CA AFL-CIO's Legislative Director along with the SEIU's California Legislative Director Allen Davenport are pushing for injured workers to be pushed into HMO's rather than be able to go to the doctor of their choice. They argue that this would this scheme "offers employers the potential for substantial savings" according to flyer advertising a September 9th, 2008 meeting to push these schemes. These unions and officials have also refused to fight and publicize the elimination of all medical doctors at Ca-OSHA. Both Wei and Davenport are on the board of the California Commission On Health And Safety and Workers Compensation.

Art Pulaski and the State AFL-CIO also took a neutral position on the deregulation of Governor Schwarzenegger's SB899 which deregulated workers compensation and cut permanent disability payments by more than 50%. It also set up an obstacle course of "medical review boards" and company doctors to prevent seriously injured workers from getting treatment. At the same time, the California AFL-CIO and the State SEIU have also refused to support any campaign for single payer that would eliminate the insurance industry from control of healthcare despite the actions of many of their locals and councils in the state. Their main political effort has been to make it more profitable to allow unions by "constraining" healthcare costs. Wei in the past has also attacked workers compensation doctors for creating the crisis in workers compensation.

Busting Lichter, Who's Liable For The Damages?

The issue of financial liability for workers who have been injured on the site is probably one of the straws that broke the camel's back. On Tuesday June 24, 2008 Stuart Lichter and his company Industrial Reality Group IRG sued Dreamworks and International Risk Group for refusing to cover \$300,000 in legal expenses arising for lawsuits by injured workers at the Downey site. For a property that was supposed to have been properly being cleaned up before being developed, it was now clear that something was seriously wrong and someone had to pay for it. "Downey Studios executives previously have dismissed the workers' complaints as spurious, citing extensive environmental testing that concluded that the former aerospace manufacturing facility was a "healthy and safe environment."

http://www.latimes.com/entertainment/news/business/la-fi-downey262008jun26.0.2356057_story

The growing battle over who would pay for the liabilities of fighting the cases of injured workers claims was now in the news and raising public questions about what was really going on at this toxic site.

Local, State and Federal Politicians Refuse To Investigate Lichter

Injured workers at the Downey site also sought to inform not only local, state and federal agencies including the EPA, but also powerful Congressional representatives in Southern California and other politicians. Governor Schwarzenegger, himself a former movie industry worker was notified but never responded. Lucille Roybal-Allard, a Congresswoman from representing the district where the Downey site was located also never responded. In fact, she like many other Congress people had received political contributions from Lichter and his companies. Her husband previously had been employed by the GSA. Also contacted were US Senators Feinstein and Senator Boxer.

After hearing of the US Congressional hearings on steroids by US Congressman Henry Waxman, the IATSE members contacted the Congressman and asked for him to have a meeting with him and have Congressional governmental oversight hearings in Southern California, yet he has still not set up a meeting with the workers. Also the California Coalition For Workers Memorial met with Lynn Downey, the subcommittee chair on the workplace under Congressman George Miller chair of this key Congressional committee. www.workersmemorialday.org

Even Presidential candidates McCain and Obama were contacted but no responses have been heard from yet. Only Ralph Nader and Matt Gonzalez have invited the Downey injured workers to their recent Santa Monica press conference where the workers were able to speak about their struggle.

Shutting It Down: Desperate Tactics By Developer Lichter

The great fear of Lichter was that the exposure of one of his development sites would lead to the collapse of his toxic site industry. Some of his other sites includes McClellan Air Force Base (McClellan Park), Alameda Naval Air Station (Alameda Point) and the Letterkenny Army Depot (Letterkenny Business Park) and in Uniontown, Ohio. He is traveling constantly as he manages dozens of these toxic sites around the country so a chink in the armor of his operation could bring down the entire empire.

In an effort, in part, to stop the growing campaign of the Downey injured workers and supporters Vicki Travis and Dina Padilla, Lichter on August 5, 2008 sued injured workers Leonard Martin, Bruce Norrbom, Dina Padilla and Vicky Travis charging that they had defamed him and harmed him financially. At the same time in an inexplicable move, Lichter and his lawyers had actually included the documents he wanted to keep secret. They included the secret agreement between himself and IATSE Local 44 and even a deposition of the injured workers testifying that they indeed were getting sick as a result of working on the site. This lawsuit now is itself part of the same record they want to keep from the public.

<http://dinapadillaforcongress.com/pdfs/DINA%20A%20VICKI%20page%202.pdf>

Despite the efforts to shutdown the Kaiser papers website and silence the injured workers and their supporters, this Slapp type action will not stop them from speaking out. They have already linked up with workers and community activists from throughout the US who themselves are facing the same battles.

This case is just the tip of an iceberg as the deregulation and privatization of these toxic sites brings a bitter backlash of those who are paying the costs of this fiasco and the massive financial scam.