

February 13, 2007

Honorable Condoleezza Rice  
Secretary of State  
U.S. Department of State  
2201 C Street NW  
Washington D.C. 20520

URGENT via fax: 202-647-2283

**RE: request for U.S. introduction and support of a Resolution at the United Nations Security Council condemning excessive military force used by Israel in 2006 Lebanon war, condemning Israel's attack at Jiyeh as a war crime for deliberately causing the massive eastern Mediterranean oil spill, and demand for full compensation for damages and Restoration of environmental injury.**

Madam Secretary,

I am a professor and conservation specialist at the University of Alaska in the U.S., and advised the government of Lebanon on the major oil spill caused by Israeli air strikes on the Jiyeh power station in Lebanon during the 2006 war with Hezbollah. The report on my Lebanon mission entitled: "*Lebanon Oil Spill Rapid Assessment and Response Mission – Final Report, September 11, 2006*" - which included a preliminary assessment of environmental damage, recommendations for a *Natural Resource Damage Assessment and Restoration* program, and recommended policy solutions - was circulated broadly within the U.S. State Department at that time.

I write today as an American citizen, with an urgent request that the United States draft and immediately introduce a binding United Nations Security Council Resolution that will accomplish the following:

1. condemn the asymmetric, excessive military force used by Israel in the 2006 war with Hezbollah in Lebanon
2. denounce as a war crime Israel's attacks on the fuel tanks at the Jiyeh power station that caused the massive oil spill in the eastern Mediterranean Sea, and
3. establish a mechanism (either through the International Court of Justice or a Compensation Commission) for full compensation and restoration of all environmental damages from the war, on both sides of the border. At a minimum, this should include a demand for Israel to establish a \$1 billion *Eastern Mediterranean Oil Spill Restoration Fund* to compensate commercial losses of private citizens due to the spill, reimburse government response and cleanup costs, and to fund a comprehensive Restoration program to aid the recovery of all environmental injuries caused by the spill

Be assured that my efforts are not to take sides in this conflict, but solely to help build a constructive resolution of this unfortunate environmental tragedy in the eastern Mediterranean Sea. This is an important opportunity in the Middle East.

For your information, I have attached here some correspondence between myself and the Government of Israel on these issues. I suggested in my August 29, 2006 letter to Prime Minister Olmert (enclosed) that the IDF attack on the Jiyeh power station clearly constituted a war crime, and that Israel should submit to an independent legal inquiry of the incident and establish the \$1 billion (USD) Restoration fund.

I visited Tel Aviv last November to present my final report and brief authorities with the Government of Israel's Ministry of Foreign Affairs and Ministry of Environment on the oil spill, as well as the U.S. Embassy in Tel Aviv. The Israeli government representatives I met with were not inclined to accept responsibility for the oil spill on behalf of their government, nor offer any constructive steps to resolve the contentious issue of oil spill damages.

Subsequent to my Tel Aviv visit, a draft resolution of the second committee of the UN General Assembly, approved on November 22, 2006, expressed:

*...deep concern over the destruction by Israeli Air Force, particularly for its adverse impacts on sustainable development...and would call on Israel to assume responsibility for prompt and adequate compensation to the government of Lebanon for the costs of repairing the environmental damage caused by the destruction.*

The December 6, 2006 letter from Israel's Ministry of Justice to me (enclosed) clarifies to some extent the military intent of the Jiyeh attack (in contradiction to earlier statements from their Ministry of Foreign Affairs), and asserts the government's position that the attack conformed to internationally accepted laws and regulations of war. My January 9, 2007 reply to the Ministry of Justice (enclosed), which as of this writing remains uncontested, confirms that the Israeli Defense Force (IDF) intentionally attacked the tank farm and that it is the Government of Israel's position that the resulting massive oil spill was "proportional to the military advantage desired" by the attack, and thus, in the view of the Government of Israel, consistent with international laws of warfare.

It is my perspective, as well as many independent observers, that the position of Israel with regard to the Jiyeh attack and oil spill is clearly in error. That is, the Jiyeh attack clearly constitutes a deliberate violation of the laws of war. It is clear that intentionally inflicting large-scale, long-term environmental harm in warfare is illegal (see citation in my 8/29/06 letter to Prime Minister Olmert), and Israel has essentially stipulated that this was precisely what they intended with the Jiyeh attack.

I would underscore here that the Jiyeh attack and subsequent oil spill damaged natural resources in sovereign jurisdiction of the state of Lebanon (and Syria), not Hezbollah. Further in error in the 12/6/06 MOJ reply, but secondary to issue at hand, is that the Government of Israel did prohibit our access to the oil spill during August 2006, as my request through the French Embassy in Beirut to survey the coast with a French helicopter was denied by the IDF at that time.

The just released U.N. Development Program (UNDP) report (Feb. 2007) entitled "*Lebanon: Rapid Environmental Assessment*" (to which I was a special contributor) agreed with my August 29, 2006 conclusion that the Jiyeh attack constituted a war crime as follows:

*...the deliberate attack of Israel on the Jiyeh power plant on July 13 can be interpreted as a war crime. Therefore, the person or persons responsible for the decision of bombing the power plant could be subject to the International Criminal Court.*

However, as neither Israel nor Lebanon has ratified the ICC treaty, the ICC will likely not represent a possible resolution of this case. Similarly, all but one of the traditional dispute resolution mechanisms were judged by the UNDP report as either not realistic or impossible in this particular case. These include such methods as negotiation, mediation, arbitration, International Criminal Court, International Court of Justice, etc. The UNDP report concludes that the only possible resolution of the Lebanon case would be a UN Security Council Resolution (such as that proposed here).

Clearly this malicious behavior – inflicting large-scale, unnecessary environmental harm in the act of war - cannot stand uncontested by the international community. The Jiyeh attack and subsequent oil spill needs strong censure by the international community, particularly by the United States, as we are viewed by many in the Middle East as complicit in the attack, the oil spill, and virtually all Israeli actions in the region.

The last time I can recall that oil was used illegally as a weapon of war was after the 1991 Gulf War, when Saddam Hussein intentionally spilled hundreds of millions of gallons of oil as Iraq retreated from Kuwait. The U.S. and the international community rightfully condemned that malicious incident. On April 3, 1991, the UN Security Council confirmed in Resolution 687 that Iraq was responsible for any loss and damage - including the impact on the environment and the destruction of natural resources - and any other direct harm suffered by foreign states and individuals resulting from its invasion and occupation of Kuwait. The Iraq Resolution established the U.N. Compensation Commission which has been presented 170 environmental claims valued at \$1.8 billion (out of 2.6 million claims for a total of \$250 billion) of which more than 135 have already been processed and \$954 million approved for payment (UNDP, 2007). This

was the first time that compensating damage to the environment and natural resources has been expressly allowed.

The U.S. and the international community now must do so as well for the 2006 Lebanon war, in particular the Jiyeh attack by Israel that caused the largest oil spill in the history of the eastern Mediterranean Sea.

U.N. Security Council Resolution 1701 adopted August 11, 2006 condemned Hezbollah for its July 12, 2006 attack on Israel, yet, as the recent UNDP report stated of this resolution:

*...not even one article condemns Israel for its disproportionate counter-attack or a fortiori for the purpose of some of its operations such as the bombing of the power plant in Jiyeh. However, the right for defence is well defined in the international law and it seems very obvious that Israel has exceeded its right.*

This is an important opportunity to demonstrate that the United States government can exercise critical judgment on a case-by-case basis in the Middle East, and if the U.S. judges its allies to be in error, our government has the integrity and sense of justice to say so and to help remedy the error.

Thus, I respectfully request immediate drafting, introduction and support by the United States of a Resolution as I have proposed above. I would be glad to assist you and your staff in further developing such a Resolution if you so desire. Such an initiative would bring greater credibility and legitimacy to U.S. efforts to secure a lasting peace in the Middle East, as well as to our leadership in international law and environment issues.

I look forward to hearing from you at your earliest convenience.

Sincerely,

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enclosures

cc: Honorable Ban ki-Moon, UN Secretary General  
Honorable Lisa Murkowski, US Senator from Alaska