

EDO Principal Correspondence Control

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FINAL REPLY:

Danielle Brian
Project on Government Oversight (POGO)

TO:

Chairman Diaz

FOR SIGNATURE OF : ** GRN ** CRC NO: 04-0486

Reyes, EDO

DESC:

ROUTING:

NEI's Hiring of Wackenhut Corp. to Supply/Manage
Adversary Teams for the Force-on-Force Program

Reyes
Norry
Virgilio
Kane
Merschhoff
Dean
Burns
Dyer, NRR
Cyr, OGC

DATE: 08/03/04

ASSIGNED TO: CONTACT:

NSIR

Zimmerman

SPECIAL INSTRUCTIONS OR REMARKS:

Add Commission on for concurrence. Commission to
review response prior to dispatch.

**OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET**

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ACTION OFFICE: EDO

AUTHOR: Danielle Brian (POGO)
AFFILIATION:
ADDRESSEE: CHRM Nils Diaz
SUBJECT: Expresses concern of NEI's hiring of Wackenhut Corp. to supply/manage adversary teams for force-on-force program

ACTION: Signature of EDO
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LETTER DATE: 07/30/2004
ACKNOWLEDGED No
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EDO --G20040522

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Project On Government Oversight

Wackenhut dog since 1981

July 30, 2004

Chairman Niles J. Diaz
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Via facsimile: (301) 415-1757

Dear Chairman Diaz,

We have been encouraged by and supportive of the NRC's recent efforts to develop a credible force-on-force program to test the effectiveness of guard forces and defensive strategies at nuclear power plants. We were led to believe that the NRC would develop its own adversary teams for these tests. Credible adversary teams are essential for these performance tests.

Therefore, we were shocked to learn that Nuclear Energy Institute (NEI), the lobbying arm of the nuclear industry, has hired Wackenhut Corporation to supply and manage these adversary teams. This is more than a case of the proverbial fox guarding the henhouse. It is not an apparent conflict of interest -- but a blatant conflict of interest. As you know, Wackenhut guard forces protect 30 of the nation's 64 nuclear power plants. At nearly 50 percent of the nuclear plants, then, Wackenhut guard forces would be tested by Wackenhut adversaries. Under these conditions no one would have any confidence in the results of these force-on-force tests, regardless of whatever oversight the NRC might provide. The NRC should not abdicate its responsibility to run security preparedness tests to the nuclear industry, much less hand over authority to the very entity being tested. (Appendix A).

Having a trained full-time adversary force is a good idea, but any benefit gained is lost by the current arrangement. Oversight of critical infrastructure security is an inherently governmental function and must not be entrusted to a private company, particularly one with an obvious self-interest and poor track record, like Wackenhut.

If this inappropriate arrangement were not enough for the commission to reclaim the force-on-force program, Wackenhut's dubious past performance should. Some examples of Wackenhut's performance:

As recently as last January, DOE inspector general reported that Wackenhut personnel had cheated during a force-on-force exercise of June 2003 at the Y-12 plant in Oak Ridge, Tenn. This facility houses hundreds of tons of highly enriched uranium. The inspector general, Greg Friedman, said the test results were "tainted and unreliable." Moreover, Friedman gleaned from

more than 30 testimonies that this was part of "a pattern of actions" dating back almost two decades. (Appendix B)

A stunning case study of Wackenhut's incompetence with nuclear security: Between 1986 and 2003, Wackenhut provided security at Indian Point #2 Nuclear Power plant, which is less than 35 miles north of Manhattan. The utility, Entergy, that had recently acquired the plant, hired a consultant to conduct an internal probe of security at the facility; and found:

- "Only 19 percent of the security officers stated that they could adequately defend the plant."
- Some officers believed that as many as "50 per cent of the force may not be physically able to meet the demands of defending the plant";
- Wackenhut allowed guards to take their weapons qualifying tests over and over again until they passed;
- Citing officers' fears of retaliation for raising concerns, the report said, "The security officers stated that a chilled environment existed among security officers... as a result of issues related to Wackenhut site management;"
- Guards told of minimal training, of other guards reporting for duty drunk, of security drills that were carefully staged by Wackenhut to insure that mock attackers would be repelled, and of out of shape guards forced to work 70 to 80 hours or more per week.

Entergy subsequently terminated Wackenhut's contract as a result of the investigation. (Appendix C)

The vast majority of the almost 200 guards at both NRC and Energy department sites that have complained to POGO about security problems have been Wackenhut employees.

Another of Wackenhut's most notorious cases came in the 1990s, and involved Wackenhut's work on the Alaskan pipeline. Chuck Hamel coordinated a number of whistleblowers who testified about serious structural problems before Congress (Hamel is currently a member of POGO's board of directors but was not at the time of this case). Wackenhut then fired most of the whistleblowers, and mounted a massive undercover surveillance operation against Mr. Hamel. The undercover private investigators acquired the Hamel family private phone records - to identify and fire pipeline whistleblowers. Wackenhut also used clandestine and malicious tactics such as stealing his garbage, creating a phony environmental front-organization, employing hidden cameras in hotel rooms in an attempt to compromise him with women, and stationing, for several months, an eavesdropping electronics van beside his Alexandria, Va., home. Federal Judge Stanley Sporkin, during the 1993 U.S. District Court proceedings, described the details of Wackenhut's operation on Mr. Hamel as "horrendous" and "reminiscent of Nazi Germany." Judge Sporkin further observed, "no one should be subjected to the kind of treatment the Hamels were." (Appendix D)

We have another major concern about the NRC's reliance on Wackenhut to provide security - and now the testing of security - at our nation's nuclear power plants. As you probably know, the Department of Homeland Security has a pilot program to evaluate the possibility of private contractors taking over passenger and checked bag screening from the federal government at some U.S. airports. The legislation authorizing the pilot program - the Aviation and Transportation Security Act of 2001 - specifically prohibits foreign firms from being hired to handle screening. Congress wanted to preserve the security of such critical infrastructure for domestic companies.

Why is the NRC, a federal regulatory agency with responsibility for security of nuclear power plants, increasing rather than decreasing reliance on a foreign owned corporation - Wackenhut - to manage security at the majority of U.S. nuclear power plants? Why would the United States government want a foreign corporation to know the defensive strategies, vulnerabilities, targets, timelines, and protective weapons of nuclear power plants, some of which are close to U.S. cities?

Wackenhut is owned by Group 4 Falck A/S, a Danish company, which has just merged with a British firm, Securicor, PLC. Securicor is the parent company of Cognisa - the same company that was in charge of airport security on Sept. 11, 2001 when terrorists with weapons passed through checkpoints at Washington-Dulles and Newark International Airports (back then the company called itself Argenbright). We now have one mega-foreign owned corporation with an abysmal record inside the U.S. operating security at many of our nuclear power plants.¹

We are not suggesting that Group 4 Falck-Securicor would disseminate this information to a terrorist group or foreign power. The point is that the U.S. government and the nuclear power utilities should keep this critical information in as few hands as possible, or the risk increases.

Security of nuclear power plants is a fundamental homeland security issue. If the NRC does not have the resources to support this effort, then it is imperative that you ask the Department of Homeland Security to provide this funding.

As always, we would be happy to meet with you to discuss our concerns.

Sincerely,


Danielle Brian
Executive Director

¹ We are aware of the procedures of the Foreign Ownership, Control and Influence (FOCI) programs. We are not confident that the oversight of the foreign corporation is adequate to ensure that the so-called firewall between the domestic subsidiary and the foreign owner is effective.

Appendix A



Nuclear Energy Institute Selects Contractor For Adversary Team in Security Exercises



N E I
N U C L E A R
E N E R G Y
I N S T I T U T E

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WASHINGTON, D.C., June 9, 2004—The Nuclear Energy Institute (NEI) has selected Wackenhut Corp. to train and manage elite adversary teams that will be used when the Nuclear Regulatory Commission (NRC) evaluates nuclear power plants' security strategies and tactics.

The adversary teams used in these government-required and -evaluated "force on force" exercises will test each nuclear power plant in the nation every three years, increasing the frequency of the evaluated exercises from the eight-year rotation that previously was in place. The exercises are used to identify what steps, if any, nuclear power plant security forces can take to improve their ability to repel attackers.

The nuclear energy industry is the only private sector entity that undergoes such government-required force-on-force exercises. Mock adversary exercises for many years have been one of the ways that the industry and the NRC evaluate nuclear plant security.

The formation of a dedicated adversary force skilled in the tactics that potential attackers might use will further enhance the robust security programs that the industry has in place to protect nuclear power facilities. Nuclear power plants already are widely acknowledged to be the best-defended facilities in the nation's industrial infrastructure.

Wackenhut is one of the world's largest and most diversified security organizations. Wackenhut's Nuclear Services Division provides security services at about one-half of U.S. nuclear power plant sites as well as many nuclear facilities internationally.

"The formation of this adversary team program is one example of how the industry works to achieve excellence and to ensure that all NRC security requirements are met," said Stephen Floyd, NEI vice president of regulatory affairs.

The Wackenhut contract employees selected for the exercises must meet NRC requirements. The NRC has the authority to determine and ensure that the force-on-force exercises meet the level of attack against which the industry must defend.

The adversary team members will be thoroughly trained and must meet rigorous industry and NRC-mandated physical fitness requirements and weapons proficiency standards, including expertise in the use of state-of-the-art laser-based weaponry.

Beginning in November, the independent adversary teams will participate in approximately 24 NRC-evaluated exercises each year, such that all nuclear

power plants receive an exercise over a three-year period. Members of the two adversary teams must commit for at least two years, but serve no more than three.

The industry is taking the initiative to develop separate adversary teams skilled in offensive tactics at the same time that plant security forces – much like reactor operators – enter a new NRC-required training regimen that improves their readiness against potential attack. As part of the new regimen, security forces will conduct mock adversary training exercises regularly, with the expectation that they will train and perform to the same level at which they will be tested during the NRC-evaluated exercises every three years.

Last year, the NRC expanded the design basis threat, which is the scenario against which the industry's security forces must defend, and increased requirements for security officer training and qualifications and for the conduct of force-on-force exercises.

Since Sept. 11, 2001, additional security measures include extending plant security perimeters, increasing patrols within plant security zones, installing additional physical barriers, and conducting vehicle checks at greater stand-off distances.

Security forces at 64 nuclear power plant sites also have been increased by about one-third to more than 7,000 well-armed, highly trained officers. The industry has enhanced coordination with law enforcement and military authorities, and put in place more restrictive site access controls for personnel. Additional measures have been put in place to provide greater protection against land attacks, including the use of a substantial vehicle bomb, and against water-borne attacks.

In addition to regular NRC inspection of industry security programs at each nuclear power plant, the agency conducts force-on-force exercises to assess and improve, as necessary, the performance of the industry's security strategy and its implementation.

"Using an adversary team that is trained in attacking a facility will make the force-on-force drills as realistic as possible, and provide the industry with the best possible ongoing training in security," Floyd said.

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Appendix B



Department of Energy
Washington, DC 20585

January 2, 2004

MEMORANDUM FOR THE SECRETARY

FROM:

Gregory H. Friedman
Gregory H. Friedman
Inspector General

SUBJECT:

INFORMATION: Inspection Report on "Protective Force
Performance Test Improperities"

BACKGROUND

On June 26, 2003, a protective force performance test was conducted at the Department of Energy's Y-12 National Security Complex, which is a component of the National Nuclear Security Administration (NNSA). The purpose of the test was to obtain realistic data for developing the Y-12 Site Safeguards and Security Plan. The mission at the site includes a number of sensitive activities, such as enriched uranium material warehousing, and weapon dismantlement and storage. These activities necessitate that the site have a protective force capable of responding to potential security incidents such as a terrorist attack.

Computer simulations conducted prior to the June 2003 performance test had predicted that the responder (defending) protective forces would decisively lose two of the four scenarios that comprised the test. When the responder protective forces won all four of the scenarios, the Y-12 Site Manager became concerned that the test may have been compromised. The Manager initiated an inquiry, which identified issues regarding responder protective force personnel having had access to the computer simulations of the four scenarios prior to the performance test. Subsequently, at the Y-12 Site Manager's request, the Office of Inspector General initiated a review to address these issues.

Based on information developed during the course of the review, the scope of the inspection was expanded to examine whether there had been a pattern over time of site security personnel compromising protective force performance tests.

RESULTS OF INSPECTION

Our inspection confirmed that the results of the June 26, 2003, performance test may have been compromised. We found that shortly before the test, two protective force personnel were inappropriately permitted to view the computer simulations of the four scenarios. This action compromised controlled (test-sensitive) information. As a consequence, the test results were, in our judgment, tainted and unreliable.

During the Office of Inspector General review, several current and former protective force personnel provided us with compelling testimony that there has been a pattern of actions by site

security personnel going back to the mid-1980's that may have negatively affected the reliability of site performance testing. We were told, for example, that controlled information had been shared with protective force personnel prior to their participation in a given performance test. This included such important data as:

The specific building and wall to be attacked by the test adversary;

The specific target of the test adversary; and

Whether or not a diversionary tactic would be employed by the test adversary

Two other protective force contractor employees who were identified as having some level of involvement in these actions denied any such involvement. However, it was clear that if controlled information was, in fact, disclosed prior to the performance tests, the reliability of the information used to evaluate the efficacy of the protective force at the Oak Ridge complex was in question.

The report includes several recommendations to Department management designed to enhance the integrity of future performance tests.

MANAGEMENT REACTION

NNSA concurred with our findings and recommendations and provided a series of corrective actions that either had been initiated or were planned as a result of direction from the NNSA Administrator and the Y-12 Site Office Manager. NNSA's comments, which are provided in their entirety in an appendix to this report, also represent the position of the Oak Ridge Operations Office. The Office of Independent Oversight and Performance Assurance, whose comments are also appended to this report, concurred with our recommendation to that Office.

We found management's comments to be responsive to our recommendations.

Attachment

cc Deputy Secretary
Administrator, National Nuclear Security Administration
Under Secretary for Energy, Science and Environment
Director, Office of Security and Safety Performance Assurance
Director, Office of Science
Manager, Y-12 Site Office
Manager, Oak Ridge Operations Office
Director, Policy and Internal Controls Management

Appendix C

Report of Investigation

Entergy Nuclear Northeast

Indian Point #2

Security Services (IP2-431)


Keith G. Logan

January 25, 2002
Date

A. Executive Summary

In early November 2001, several concerns regarding security services at Indian Point #2 were brought to the attention of the Employee Concerns Program (ECP), Entergy Nuclear Northeast, Buchanan, NY. On November 13, 2001, [REDACTED] the ECP Manager, commissioned an independent investigation of the concerns by Mr. [REDACTED] is a former investigator with the NRC, Office of Investigations, and a licensed attorney.

The investigation focused on whether the security officers at Indian Point #2 believed they could adequately defend the plant on the day of their interview and if they believed that a chilled environment existed among the security force. In addition, there are other issues such as: security officer requalification, the security of safeguards information, and the accuracy of Wackenhut's Report (01-CED-011-02) on a chilling effect at Indian Point #2. A total of 59 security officers, including sergeants and lieutenants, were interviewed and, as a minimum, they were each asked a series of standard questions during the interviews.

The results of the investigation indicate that only 19% of those security officers stated that they could adequately defend the plant after the terrorist event of September 11th. The general feeling is that the standard "design basis threat" no longer applies and more security is needed. Each of the officers provided a list of improvements he/she thinks is necessary in order to "adequately" defend the plant. Some of their suggested improvements have already been made; other improvements are in the process of being made, and still other changes are under review by the Entergy Security Manager at Indian Point and consultants. The suggested improvements include new and updated security systems, weapons, defensive positions and equipment, additional training, and more security officers. Of particular concern to many of the officers is the belief that they should be carrying their weapons with a chambered round, as is the practice at Indian Point #3; they feel this would enable them to be better prepared to defend against an attack.

When asked, 59% of the security officers stated that they believe that a chilled environment exists among the security force. However, they stated that this does not apply to nuclear safety issues, which they believe would always be raised. Thirty-one percent of the officers stated that they have raised nuclear safety issues and 95% stated that they have raised concerns. Their belief is that the chilled environment exists as a result of issues related to Wackenhut site management, in areas such as administration, promotions, discipline, and general program management. Of those officers who raised issues with management, only 42% stated that those issues were adequately addressed. At the same time, 93% of the officers stated that they are willing to provide both positive and negative feedback to management. While 90% stated that they would raise issues during Guard Mount meetings, others have been

told it was appropriate to raise them after the meeting.

Several issues were raised regarding the requalification of the security officers. During the course of this investigation, there was also an ongoing Quality Assurance (Q/A) audit of the Wackenhut security officer training. There are five parts to an officers' annual requalification and each part is completed at different times of the year. It is the responsibility of the Training Coordinator to ensure that the security officers requalify within twelve months. Only 69% of the officers stated that they had completed what they believe to be the requalification process. The officers generally believed that the Simulation training was part of the Training and Qualification Plan (T&Q) required for requalification. While it was included in the Wackenhut training program, it was not part of the official T&Q standard. Seventy-nine percent of the officers stated that they had completed the Simulation training by the time of their interviews; this did not reflect a failure to complete training as alleged to the BCP. While 98% of the officers who carry the Glock believe that their training was adequate, most believe that they should qualify more than once each year. They would also like to see additional time at the range to improve their skills.

In response to a concern about the security of Safeguards information, 5 (~8%) security officers identified a problem in this area. One problem dated back to 2000 and related to the security of training modules and exams, and the handling of those documents by one person. When the problem was reported to management in October 2000, it was not perceived as a Safeguards issue and no action was taken. There was a new Training Coordinator in the following year and none of the comments reflected any concerns with the security of the modules during 2001. Another officer indicated that he saw unprotected Safeguards material and then secured it.

Most of the security officers were critical of the results of the report conducted in March 2001 by Wackenhut (TWC) to "evaluate if a 'chilling effect' existed, or resulted from...the termination of a security officer" at Indian Point #2. Over an eight day period, two auditors interviewed 80 TWC personnel from each of the functional work groups. They concluded that "No chilling effect was indicated from the candid responses received during the interview process, nor a hesitation to report any concern or safety issue in the past, or future." During this investigation, several officers recalled telling TWC auditors that they thought that a chilled environment did exist as a result of that termination. Most of the officers stated that they did not believe that their concerns were adequately addressed by the TWC report. The officers further indicated that their responses in March were similar to the responses that they provided during this investigation pertaining to the issue of a chilled environment.

However, the report did identify several problems which are relevant to concerns

identified during this investigation. The Wackenhut report indicated that "some of the TWC supervisory cadre are not trusted by the security force to properly and professionally address issues or concerns"; "perceived problem behaviors were the result of feedback/communication, lack of understanding, or lack of personnel management skills by supervision"; security officers are "more often 'in the dark' about emerging issues and changes that affect their performance on the job"; and "the lack of feedback caused a perception that 'management did not care'."

Entergy has retained consultants to review and improve security at Indian Point #2; preliminary changes to the defensive positions and strategy have already been made. Entergy has also organized a team to consolidate the security plans of the two units and ensure that the technical systems and strategies are compatible. The security officers favorably commented on the new support and respect they have received from the Vice President Operations. As noted above, a majority of the officers have articulated improvements which they feel are necessary to present a strong defense and repel any threat. They believe that Entergy management is concerned about security and noted that the time that was taken to listen to their concerns during this investigation is evidence of that. The officers appear optimistic that changes will occur and look to Entergy to effect some of those changes over the next several months.

Appendix D

THE WALL STREET JOURNAL.

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B8 THE WALL STREET JOURNAL TUESDAY, DECEMBER 21, 1993

LAW

Alyeska Settles Suit by a Whistle-Blower

By CHARLES MCCOY
And RICHARD E. SCHWARTZ

Staff Reporters of The Wall Street Journal

Alyeska Pipeline Service Co. agreed to a multimillion-dollar settlement of an invasion-of-privacy lawsuit by a whistle-blower, stemming from a spying campaign that Alyeska mounted against him.

The outcome was hailed by whistle-blower advocates as an important legal victory for corporate critics. In part because of several pretrial rulings by federal Judge Stanley Sporkin in Washington that appear to establish or advance precedents bolstering protections for those who report corporate wrongdoing.

Precise terms of the settlement were not disclosed. But Alyeska and its owners, including Exxon Co., British Petroleum Ltd. and Atlantic Richfield Co., have spent more than \$10 million just to defend the suit, and the settlement requires a payment of millions more, according to people familiar with it.

The suit stemmed from the elaborate campaign that Alyeska mounted against whistle-blower Chuck Hamel and his associates in 1990, after Mr. Hamel repeatedly had tipped off regulators and Congress about alleged environmental wrongdoing along the Trans-Alaska pipeline. Mr. Hamel received much of the information from workers inside Alyeska, which runs the pipeline for the oil companies.

Alyeska doesn't contest that during its campaign against Mr. Hamel, its operatives secretly taped Mr. Hamel's phone calls and rifled through mail, garbage, phone records and credit records of him and several associates. They even employed attractive female operatives to try to entice Mr. Hamel into admissions of actions that might discredit him. But the company has claimed that the actions were lawful and legitimate attempts to retrieve documents it alleges Mr. Hamel stole from the company.

Alyeska said that it and other parties to the settlement aren't "conceding any wrongdoing."

In a ruling last month that helped grease the settlement, Judge Sporkin noted that whistle-blowers are often retaliated against by their employers and held that Mr. Hamel could not be required to divulge his sources unless Alyeska agreed to guarantee those sources lifetime employment. Alyeska declined, and the sources weren't disclosed. Whistle-blower advocates say Judge Sporkin is the first federal judge—and perhaps the first judge at any level—to insist on such protections for sources.

Moreover, two weeks ago, Judge Sporkin advised attorneys in the case that he intended to rule that the secret taping of

Mr. Hamel was illegal—a devastating blow to Alyeska's defense. Although that ruling was never formalized, it also was seen as potentially limiting the kinds of activities that companies may be willing to engage in to ferret out critics.

"Judge Sporkin's rulings will reverberate in whistle-blower cases for years," said Louis Clark, executive director of the Government Accountability Project, a whistle-blower legal support group. "He has said a company must in effect post a bond to protect whistle-blowers from retaliation if they want to learn their identities through legal action."

In comments after the settlement was entered in federal court, Judge Sporkin observed: "No one should be subjected to the kind of treatment the Hamels were." Earlier in the proceedings, Judge Sporkin had described the details of Alyeska's spy operation against Mr. Hamel as "horrendous" and "reminiscent of Nazi Germany."

Wackenhut Corp., the Miami-based security concern that ran the spy campaign for Alyeska, was included in the settlement and will be required to help fund it. Mr. Hamel is not enjoined from future whistle-blowing against Alyeska, though he did agree to relinquish certain types of documents should they fall into his hands in the future.

The affair had its roots in the early 1980s, when Mr. Hamel, an oil broker by trade, got involved in a business dispute with Alyeska that he says cost him millions of dollars. Mr. Hamel then began funneling tips about Alyeska's alleged environmental wrongdoing and internal Alyeska documents to regulators and Congress, and eventually accumulated a sizable network of whistle-blowers within Alyeska.

In 1990, in an effort to stop Mr. Hamel, Alyeska hired Wackenhut to set up a bogus environmental organization called EcoLit. It offered to help Mr. Hamel pursue litigation against the oil industry, but the real purpose, Alyeska has acknowledged, was to gather evidence supporting the allegation that he had stolen documents.

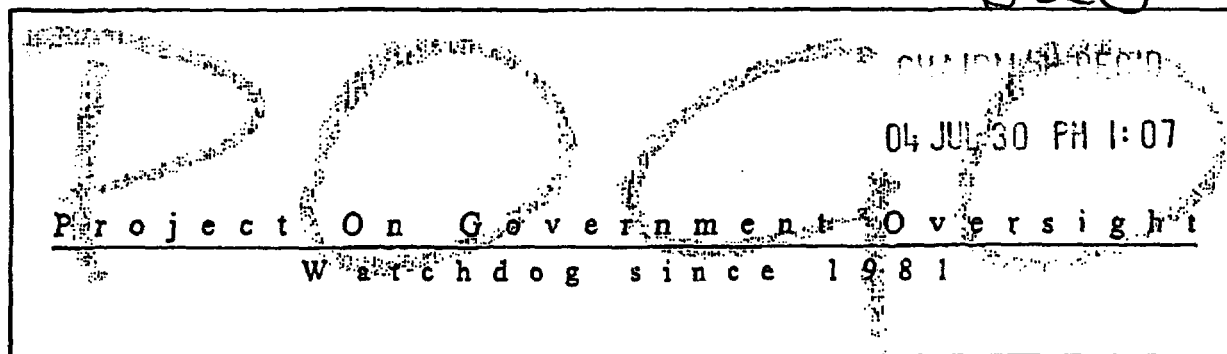
The operation was shut down after seven months by Alyeska's owner oil companies. A subsequent congressional investigation concluded that the operation may have violated criminal laws and asked the Justice Department to look into the matter. So far, the Justice Department has decided not to pursue any criminal charges stemming from the case.

From the start of the case, Judge Sporkin repeatedly urged Alyeska to consider settling. He sparred with defense lawyers and chided them for refusing to enter settlement talks. At one point, he threatened to find Robert Jordan—lead counsel for the defense and a former head of the Washington bar—in criminal contempt because of a brief Mr. Jordan submitted criticizing Judge Sporkin.

In October, Judge Sporkin ruled against a defense motion seeking to compel a newspaper reporter to divulge sources.

Although courts commonly protect reporters' sources, they don't always do so, and whistle-blower advocates say this ruling was significant, because the information sought by Alyeska was important for its defense. This ruling was followed by the one protecting Mr. Hamel's sources within Alyeska.





FAX TRANSMITTAL SHEET

DATE:

30 July 2004

DELIVER TO:

Chairman DiazNRC

PHONE:

FAX:

301.415.1757

FROM:

PROJECT ON GOVERNMENT OVERSIGHT

Danielle Brian

DESCRIPTION:

PAGES TO FOLLOW:

16

COMMENTS:

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