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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of)	
)	
LOUISIANA POWER AND LIGHT COMPANY)	Docket No. 50-382 OL
)	
(Waterford Steam Electric Station,)	
Unit 3))	
)	

MOTION FOR PROTECTIVE ORDER

Pursuant to 10 CFR 2.740 Joint Intervenors request a Protective Order to shield the identity of those individuals who have signed affidavits providing a portion of the basis for Joint Intervenors' Motion to Reopen the record on the quality assurance breakdown at the Waterford III nuclear power plant ("Waterford III") and Louisiana Power and Light Company's ("LP&L") lack of character and competence to operate Waterford.

I. BACKGROUND

On November 6, 1984, Joint Intervenors filed a motion to reopen the record on quality assurance issues at Waterford. As part of the basis for these contentions, Joint Intervenors obtained three affidavits from former employees who have worked at Waterford. The individuals who signed the affidavits agreed to provide sworn statements only upon a premise that their identities would be kept confidential.^{1/}

^{1/} The affidavits were given to legal representatives of the Government Accountability Project ("GAP"), a nonprofit public interest law firm which represents workers in federal government or private industry who have suffered retaliation or harassment for disclosing waste, fraud, abuse of authority, illegal actions or imminent hazards to the public health and safety. GAP also is counsel for Joint Intervenors in this licensing hearing.

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The affidavits of the three witnesses who seek protection are attached to this motion. All information which would tend to identify the affiants have been expurgated from the affidavits. Unexpurgated copies of the affidavits have been provided to the Appeal Board which will decide this motion. Copies of similar unexpurgated copies will be provided to the parties upon the granting of this motion and agreement of parties to the protective order.^{2/}

All three employees have agreed to provide information to this Appeal Board through GAP as their personal representative in this matter. Joint Intervenors therefore attach an affidavit of Thomas Devine, GAP Legal Director, attesting to the witnesses' request for confidentiality and the basis for their request. See Devine Affidavit, attached and incorporated herein as Exhibit 1.

II. JOINT INTERVENORS HAVE DEMONSTRATED GOOD CAUSE FOR ISSUANCE OF A PROTECTIVE ORDER.

The Licensing Board established the standard to grant a protective order in the South Texas licensing proceeding:

...where revealing the name of an informant or proposed witness or member, in response to discovery or other NRC requests, would occasion harm to or reprisal against such person, a Licensing Board can and should take steps to protect that person, consistent with achieving to the extent possible the purposes of NRC's discovery rules or other requirements.

Houston Lighting and Power Company (South Texas Project, Units 1 and 2), LBP-80-11, 11 NRC 477,480 (1980).

^{2/} None of the three affidavits have been supplied to the Nuclear Regulatory Commission ("NRC" or "Commission") Staff.

At the South Texas plant, as in Waterford, there were widespread allegations of harassment and intimidation of QA personnel, at least a portion of which have been affirmed. The NRC's Office of Investigation's ("OI") investigation into potential willful violations of the Atomic Energy Act and NRC regulations has focused on harassment and intimidation of site personnel as well as falsification of QA documentation. Up to this point OI has referred over five cases to the Department of Justice for potential criminal prosecution. Joint Intervenors believe that at least a portion of the charges of harassment and intimidation have been substantiated.

In addition each witness has conditioned his cooperation with the NRC on a promise of confidentiality. Without revealing the identities of each witness, the reprisals they fear vary from job harassment, invasion of privacy or termination. See Exhibit 1.

Licensing Boards at Zimmer, Byron, Catawba and Comanche Peak have understood the importance of protective orders and granted them to workers who have come forward with information about significant safety problems. The circumstances at Waterford justify similar protection for the workers coming forward to this Appeal Board.

The Board has in each of these other cases determined that the information the workers were offering was worth the inconvenience and burden to the parties of dealing with the information subject to a protective order.

In a September 17, 1984 Policy Statement the Commission institutionalized its commitment to protect confidential wit-

nesses by setting up a procedure whereby Licensing Boards could receive information about NRC Staff or OI investigations in camera if the Staff or OI believed that disclosure of witnesses' identity or even witnesses' testimony would prejudice the flow of information to the NRC. In all cases when the Licensing Board decides after receiving the information that the identity of a confidential source should be disclosed publicly, the Commission has determined that it will review that decision "because of the importance to the Commission's inspection and investigation program of protecting the identity of confidential sources." Statement of Policy, Investigations, Inspections, and Adjudicatory Proceedings (September 17, 1984), at 10 n.4.

Joint Intervenors attach a copy of a proposed Protective Order and Affidavit of Nondisclosure, both of which have been used in other proceedings in which protective orders were granted. See Proposed Order and Affidavit, attached and incorporated herein as Exhibits 2 and 3.

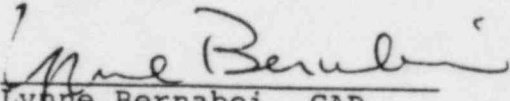
As in the other licensing proceedings mentioned above, current and former employees at Waterford, with valuable information about potential safety problems at the plant, will not come forward with that information unless protected from retaliation and harassment.

III. CONCLUSION.

In consideration of the above arguments and the showing of potential harassment and retaliation of former workers who disclose potential safety problems at Waterford, Joint Intervenors request this Appeal Board to grant their motion for a

protective order and permit filing of the three affidavits, attached to this motion, with all identifying information deleted.^{3/} In addition, Joint Intervenors request that the unexpurgated versions of the affidavits become available to the parties in this proceeding only under a protective order and an agreement by the parties to sign an Affidavit of Non-Disclosure.

Respectfully submitted,


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DATED: November 6, 1984

^{3/} The three affidavits appear as Exhibits 8, 12 and 27 to Joint Intervenors Motion to Reopen, filed today in conjunction with this Motion for Protective Order.