

GOVERNMENT ACCOUNTABILITY PROJECT

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January 12, 1988

William H. Briggs, Jr.
Solicitor
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

RE: Notice of Appeal in U.S. v. Garde

Dear Mr. Briggs:

I am writing to discuss the notice of appeal filed on behalf of the NRC on December 24, 1987. The apparent reason for filing the notice of appeal is to "keep the government's legal options open in the event that the ongoing cooperative process...[between GAP and the NRC]...proves to be unsuccessful." This reasoning was revealed in the NRC's proposed press release and your January 5, 1988 memo to Thomas A. Rehm.

Members of GAP staff and some of the allegers involved in the allegation review process find the NRC's reasons for filing the appeal to be disingenuous. Consequently, the good faith working relationship that has been carefully developed is now somewhat tarnished. We find it offensive that the NRC would use the threat of an appeal as an excuse to claim our cooperation is not voluntary. Members of the agency, including yourself, have applauded the present voluntary arrangement.

The threat of a lawsuit has never been a motivating factor in our current relationship with the NRC. Our actions have been solely based on the best interest of the whistleblowers (our clients), the public, and our organization. It is unfortunate that a branch of the U.S. government would try to use its power and resources to attempt to hold GAP staff members and the South Texas Project (STP) whistleblowers hostage while they are making every effort to cooperate.

In my opinion, the NRC's legal position on appeal has been rendered moot. The NRC has received much more information from the present cooperative process than it ever could have obtained by litigation.

The tragedy of the threatened appeal is that the confidence of the STP whistleblowers and the public in the regulatory process suffers the most. They perceive that the NRC is more

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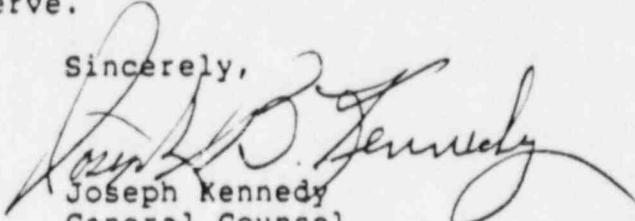
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interested in exercising power and control than in public health and safety. Had the NRC chosen cooperation over litigation this matter could have been resolved last year. It is ironic that it took one year to arrive at the same process that GAP invited the agency to commence in January 1987.

GAP sincerely hopes that the present working relationship with the NRC can continue. However, the NRC's posturing over the subpoena fight and review of the STP allegations has left us very skeptical of the agency's motives and goals. We hope NRC politics will not affect the thorough review of the STP allegations that the allegers and the public deserve.

Sincerely,



Joseph Kennedy
General Counsel

JK:079AA22

cc: L. Clark, GAP
B. Garde, GAP
R. Condit, GAP
T. Mack, Jones, Mack, Delaney & Young
P. Goldman, Public Citizen
M. Nagle, U.S. Attorney
T. Rehm, NRC
J. Calvo, NRC