

Refer

August 24, 1987


NOTE TO: Richard Brady
NRR Allegation Coordinator

FROM: William Paton
OGC

On Monday, July 27, 1987, and Wednesday, August 5, 1987, OGC took the deposition of Billy P. Garde with respect to approximately 600 allegations concerning the South Texas Project that the Government Accountability Project claims they have received. Ms. Garde refused to turn over those 600 allegations to the NRC. She claims that she is prohibited from doing so essentially because the persons from whom she receive this information are her clients or clients of other attorneys at GAP.

On August 5, 1987 during the deposition, Mr. Roisman, who is representing Ms. Garde, announced that GAP possesses numerous allegations that they have received from sources other than clients and that they are willing to turn these allegations over to the NRC. Mr. Roisman stated that GAP is now processing these allegations and intends to turn them over to the NRC near the end of August.

Bill
William D. Paton
OGC

cc: W. Parler
J. Murray
W. Briggs
S. Sohinki


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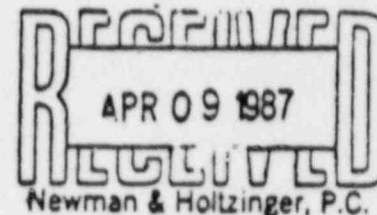
*Mr. Newman
Re: 1000*

The Light company

Houston Lighting & Power P.O. Box 1700 Houston, Texas 77001 (713) 228-9211

April 6, 1987

Ms. Billie Garde
Director of the Midwest Office
Government Accountability Project
3424 N. Marcos Lane
Appleton, Wisconsin 54911



Dear Ms. Garde:

In response to your letter of March 27, 1987, please be advised that Houston Lighting & Power Company is very skeptical that any further dialogue with GAP would be constructive. Although we are ready to utilize our SAFETEAM organization to perform investigations of any concerns related to nuclear safety or quality at the South Texas Project, we believe that protracted discussion with your organization is wasting valuable time that could be better spent investigating such matters.

Your obvious low regard for SAFETEAM, which is consistent with the manner in which GAP has criticized other nuclear projects, prompts us to again urge that you immediately share your concerns with the Nuclear Regulatory Commission. Your letter suggests that you have sought "guidance" from the Nuclear Regulatory Commission but "have not received a response". That statement is puzzling. In fact, you have received a response from Mr. Stello by letter of February 18, 1987 (available in the Nuclear Regulatory Commission public document room) in which you were assured of the availability of Nuclear Regulatory Commission resources to resolve issues your clients might raise. That letter concluded that failing to bring forth information promptly "would not be in the best interests of assuring the prompt resolution of legitimate safety concerns".

Your letter states that Houston Lighting & Power and its contractors have been made aware of serious safety concerns through internal processes. The innuendo is that nothing has been done. To the best of our knowledge, every such matter brought to our attention or those of our principal contractors has been investigated and resolved or is the subject of a pending investigation. If you have information to the contrary, please tell us.

The statement in your letter concerning information obtained during discovery for the Goldstein case and the conclusions which you have drawn from that information are presumptuous at best. Contrary to your statement, a comparison of the interview transcript and the investigation report reveals that each of the issues raised during the interview were understood, investigated, and conclusions drawn based upon the facts. In any event, as you well know, the Goldstein case has been adjourned. When it resumes later this year, the defendant will present its case and a conclusion will be reached based upon all the evidence.

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Ms. Billie Garde
April 6, 1987
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I reiterate our suggestion that you try our SAFETEM system as modified to meet your concerns with respect to any matter of potential safety consequences. In the meantime, however, we are taking steps to request appropriate government officials to obtain from you or your organization information which could potentially affect the safety of the South Texas Project. If such information exists and is furnished to us, we will spare no effort in pursuing its resolution.

In closing, let me add at the risk of being immodest, that the South Texas Nuclear Project is managed by experienced professionals of the highest integrity. Our concern for public safety is of paramount importance. Any suggestion by your organization to the contrary is not supported by the record. Our concern for protecting the public and the plant is demonstrated by our dogged determination to unearth weaknesses wherever they can be found and dealing with them. SAFETEM is but one of many techniques that we utilize in that effort. While our SAFETEM program is not perfect, I believe it to be among the very best in the country.

Very truly yours,

J. H. Goldberg

J. H. Goldberg
Group Vice-President, Nuclear

JHG/JEG/sd

cc: Chairman	L. W. Zech
Commissioners	K. M. Carr
	T. M. Roberts
	J. K. Asselstine
	F. M. Bernthal
Exec. Dir.	V. Stello
Reg. Adm.	R. D. Martin
Dir. I & E	J. M. Taylor
Owners	T. V. Shockley
	A. vonRosenberg
	M. B. Lee

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
HOUSTON LIGHTING & POWER) Docket Nos. 50-498 OL
COMPANY, ET AL.) 50-499 OL
)
(South Texas Project, Units 1)
and 2))

CERTIFICATE OF SERVICE

I hereby certify that copies of the letter to Samuel J. Chilk from Jack R. Newman, dated June 11, 1987, have been served on the following individuals and entities by deposit in the United States mail, first-class, postage prepaid, or by arranging for messenger delivery as indicated by asterisk, on this 11th day of June 1987.

Lando W. Zech, Jr., Chairman*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Commissioner Thomas M. Roberts*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Commissioner James K. Asselstine*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Commissioner Frederick M. Bernthal*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Commissioner Kenneth M. Carr*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Ms. Billie P. Garde
Director of the Midwest Office
Government Accountability Project
3424 North Marcos Lane
Appleton, Wisconsin 54911

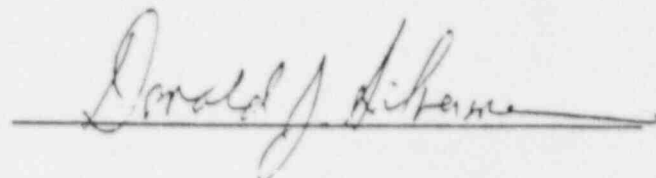
David S. Rubinton*
Richard E. Condit*
Government Accountability Project
1555 Connecticut Avenue, N.W.
Suite 202
Washington, D.C. 20036

Anthony Z. Roisman*
1401 New York Avenue, N.W.
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Washington, D.C. 20005

William Paton*
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Jack R. Goldberg*
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Office of the Secretary*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555



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G/5

September, 1987

Dear Friend,

The Government Accountability Project (GAP) is under attack!

The Nuclear Regulatory Commission (NRC) and the Justice Department are suing us. They're demanding that we reveal the names of 54 of our clients -- workers at a nuclear power project who have sought our help in blowing the whistle on safety problems and corruption. The attack goes directly to the heart of attorney/client privilege and therefore jeopardizes our entire program of assistance to government and corporate whistleblowers.

That's why we're writing to you today. We have to win this lawsuit. But we can only do it with your help.

The NRC's attack against GAP is unprecedented. Never before has a government agency attempted to subpoena the confidential records of a public interest organization that are protected by attorney/client privilege. It is the NRC's latest, most serious effort to destroy GAP's proven effectiveness at forcing the NRC and the nuclear industry to address serious safety problems.

Since 1980 over 500 nuclear workers have come to GAP with information about flaws at 47 commercial nuclear power plants. We've substantiated thousands of allegations from these workers. And then we've forced the federal government to halt construction, order reinspections, demand new corporate managers, force massive rework, levy fines and citations, and withhold operating licenses.

It's no wonder the corrupt NRC wants to put us out of business.

Over the past year, 54 whistleblowers have come to GAP lawyer Billie Garde with more than 500 specific allegations concerning the South Texas Nuclear Project. Half of them involve plant safety: defects in instruments and controls, problems in the heating, ventilating, and air conditioning systems, falsification of quality assurance documents, and the list goes on.

In addition, some federal NRC employees have also come forward to blow the whistle on the NRC itself, which is another reason why the NRC wants the names of our clients.

Most of these workers have already raised their concerns with the utility (Houston Lighting and Power) and with the NRC. But nothing has been done. Their concerns have fallen on deaf ears.

That's why they've come to GAP. They know we'll listen. They know we'll take seriously their concerns. And they know we'll take effective action. Moreover,

they come to GAP with the understanding that their identity and information will be kept confidential for their own protection.

But now, if the NRC gets its way and we are forced to turn over the names and allegations of our clients at the South Texas Nuclear Project, they are sure to be harassed, if not fired, and their concerns about health and safety issues will be buried once again. What's more, if we lose, it will threaten the ability of any nuclear worker to consult his or her attorney to seek advice or to disclose safety problems.

This is the most difficult challenge we have ever faced. Our very existence is at stake.

If we are forced to compromise the confidentiality of our clients in this case, workers may never come forward to blow the whistle again. And if that happens, GAP may have to close its doors.

No more whistleblowers, no more GAP. It's as simple as that.

What would the world be like without GAP?

It's frightening just to think about it.

Without GAP, who would hold the U.S. Department of Agriculture and meat industry accountable for allowing meat inspection systems to break down? Who would ensure the public's right to a safe food supply?

Without GAP, who would expose the fact that radioactive waste and other toxins are leaking from nuclear weapons facilities all across our nation? And who would go after the Department of Energy to get it cleaned up?

Without GAP, who would hold the Food and Drug Administration accountable for allowing carcinogenic drugs to be used in poultry feed?

Without GAP, who would fight the NRC's attempt to deregulate the nuclear power industry? Who would make sure that nuclear power plants are built and operated safely?

Without GAP, who would be left to challenge government misuse of power, malfeasance, corruption, and illegality?

Other public interest groups?

If the NRC's attack against GAP is successful, it will adversely affect all public interest organizations, making them vulnerable to similar attacks by the government agencies they monitor.

So you see, the NRC's attack against GAP is an attack against the entire public interest community.

Can we win this lawsuit? We think we can. But only with your help.

There are two things we can do right now.

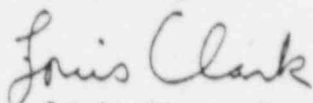
First, send us your contribution -- \$500, \$150, \$100, even \$50 would be a great help.

Second, please take a moment to write to Senator John Glenn and Congressman Edward Markey (addressees below). Ask them to demand that the Justice Department's and NRC's lawsuit against GAP attorney Billie Garde be thrown out of court. Ask them to ensure that the rights of whistleblowers are respected and protected.

This is going to be a long, hard, costly battle. It's outcome will greatly depend on the support we get from people like you.

Please join us in this fight. Together we can prevent the federal government from putting GAP out of business.

Sincerely,



Louis Clark, Esq.
Executive Director

Write to:

Senator John Glenn
Senate Government Affairs Committee
503 Hart Office Building
Washington, DC 20510

Congressman Edward Markey
Energy and Power Subcommittee
2133 Russell House Office Building
Washington, DC 20515

GOVERNMENT ACCOUNTABILITY PROJECT

25 E Street, N.W., Suite 700
Washington, D.C. 20001

(202) 347-0460

SUMMARY

Re: U.S. subpoena of GAP files and clients' identities related to the South Texas Nuclear Project.

At the behest of the Nuclear Regulatory Commission (NRC), the Justice Department has sued Government Accountability Project ("GAP") lawyer, Billie Garde, for the identities of 56 whistleblowers at the South Texas Nuclear Plant who have sought GAP's help about safety allegations and corruption. The attack goes directly to the heart of GAP's entire program of assistance to government and corporate whistleblowers, as well as to the attorney/client privilege.

GAP lawyer Billie Garde and other attorneys and investigators at GAP have been investigating safety allegations at the South Texas Nuclear Project. A crucial part of her work involves representing workers who know of safety defects at the plant, but who, out of frustration and mistrust of the utility and the NRC, have approached GAP with their allegations. Fifty-six corporate and government workers at the South Texas project have contacted Garde with the understanding that their identity and information be kept confidential for their own protection. They approached GAP because of its reputation for dealing honestly with workers, and because of its extensive legal victories on behalf of nuclear workers who have been harassed and retaliated against for revealing safety violations and construction defects.

In January of this year, the utility (Houston Lighting & Power) and the NRC learned that GAP had this information. In late March, the utility (HL&P) wrote Billie Garde demanding the information, and promising to go through government channels to obtain "every shred of information" that GAP has if it failed to comply. Garde refused, respecting her clients' wishes that the utility and the Regional NRC office not be informed of their identities and allegations for fear of reprisals against them and mistrust of what the Region IV NRC would do with the allegations. Instead, Garde offered to give the allegations and set up interviews with her clients to a specially-created task force composed of trustworthy NRC inspectors, independent of Region IV NRC. That offer was rejected in April by Victor Stello, Executive Director for Operations of the NRC. In addition to rejecting our offer, Stello threatened to subpoena GAP's records within thirty days if it did not turn over all its information on South Texas, including the names of GAP's clients. After thirty days, on May 20, Billie Garde was issued a subpoena.

GAP prepared an extensive Motion to Quash the subpoena and

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submitted it to the NRC Commissioners. In early July, the Commissioners took thirty seconds to deny GAP's Motion, without oral argument, and ordered that Billie Garde submit to interrogation concerning the extent of the attorney/client privilege. In late July, Billie Garde did appear at a deposition, but refused to divulge any specific information about her clients or their allegations, and answered only those questions that related to the scope of the attorney/client privilege. NRC lawyers seemed particularly upset when they learned that some of GAP's clients were NRC employees.

In early August, Garde was sued by the Justice Department in Federal District Court on behalf of the NRC. The suit seeks a court order to compel Billie Garde to divulge the names of her government and corporate clients at the South Texas Nuclear Project. An answer to that suit is due on October 9, 1987, with a hearing set for October 22, 1987.

GAP has refused to cooperate with Region IV of the NRC for good reason. Because of the long history of NRC Region IV incompetence as well their lack of respect for worker confidentiality, GAP asked the NRC to appoint an independent oversight panel to investigate worker allegations. This action is consistent with previous NRC actions taken in the case of the Waterford nuclear plant and the Comanche Peak plant, where independent review teams were appointed to review worker allegations. In each of those cases, substantial safety defects were identified even though Region IV NRC had previously recommended the plants for licensing.

GAP's Garde has stated that she will face a jail sentence rather than divulge her clients' identities to Region IV personnel. GAP believes that the NRC's actions are being initiated in a bad faith effort to disrupt its activities and chill nuclear workers' and NRC-employees' willingness to communicate with GAP. GAP has represented hundreds of nuclear workers in agency proceedings and lawsuits, and forced the NRC to address safety concerns previously rejected by the Commission as irrelevant. This legal confrontation will have far-ranging consequences beyond the issue of nuclear power - - it raises questions concerning the ability of workers to consult with their attorneys about safety allegations in private, and a public interest organizations' ability to monitor government activities free of governmental intrusion.

For more information contact:

Tom Carpenter/GAP (202) 347-0460
25 E Street N.W. Suite 700
Washington D.C. 20001

GOVERNMENT ACCOUNTABILITY PROJECT

25 E Street, N.W., Suite 700
Washington, D.C. 20001

(202) 347-0460

P R E S S R E L E A S E

Immediate Release
October 8, 1987

Contact: Tom Carpenter
or Billie Garde/GAP
(202) 347-0460

"NRC LAWSUIT TO OBTAIN THE IDENTITIES OF WHISTLEBLOWERS DECRIED"

Congresswoman Patricia Schroeder (D.Col.) and the Government Accountability Project ("GAP") today criticized the U.S. Nuclear Regulatory Commission ("NRC") for filing suit against GAP attorney Billie Garde for the release of names of government and corporate whistleblower clients who came to the Project with allegations about problems at the South Texas Nuclear Plant. The group called the NRC lawsuit an attack on itself and all those within the government and the nuclear industry who raise questions related to safety.

The NRC subpoenaed the files of GAP's Garde in May of this year, and has pursued enforcement in U.S. District Court of the subpoena, which seeks all of GAP's files on confidential witnesses and sources, and the names of everyone from whom GAP has received information. GAP's answer to that subpoena is being filed on Friday, October 9, 1987, with a hearing set for October 22.

The confrontation between the NRC and GAP began when Billie Garde, on behalf of clients at the South Texas Nuclear Plant near Houston, requested that the NRC appoint an independent inspection team to review allegations of safety hazards, criminal conduct and harassment against workers concerned about safety. According to Ms. Garde, her clients are unwilling to communicate their concerns, or even have their identities known by Regional NRC personnel (Region IV) because of alleged corruption within the Region management. Region IV NRC incompetence and insensitivity to dissent and criticism was aired at an April Congressional hearing probing the NRC need for an Inspector General before the Senate Government Affairs Committee chaired by Senator John Glenn. Officials of the NRC's Office of Inspector and Auditor testified that Region IV senior management personnel covered up or diluted safety violations, harassed agency inspectors and released altered reports.

GAP's attorney Garde stated, "It is unfortunate that Mr. Stello has chosen these coercive and chilling tactics as his method to allegedly ensure reactor safety. The role of nuclear industry whistleblowers, my clients, has become a central part of

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the checks and balances in the nuclear industry and its overseers. What started along the regular path that GAP and the NRC have followed since 1980 where worker allegations surfaced, has turned into a battle in which the public is destined to lose."

The Honorable Patricia Schroeder, Congresswoman and Chair of the House Subcommittee of Civil Service, voiced her concern over the NRC's subpoena effort, stating, "What the NRC is doing is an outrage and a disgrace. For ten years Congress has grappled with the problem of protections for whistleblowers. Overnight, the NRC has struck them a devastating blow. It is a frightening turn. Because effective government protections have proven so elusive, whistleblowers have been forced to seek outside help, such as GAP. The NRC is looking to eliminate that route as well."

The case will be argued in U.S. District Court in Washington D.C. on October 22, 1987. Presenting the case for GAP will be lawyers from the Public Citizens Litigation Group and Garde will be represented by the firm of Jones, Mack, Delaney & Young. To fight the subpoena, the attorneys will argue that the NRC is improperly seeking to pierce the attorney/client and work product privileges, and that the workers have a freedom of association privacy right under the First Amendment of the Constitution to associate with GAP. GAP's attorneys will argue that enabling the NRC to subpoena public interest attorney's files at whim would interfere, and possibly destroy, the ability of that group to conduct its business.

The Government Accountability Project is a whistleblower protection organization that provides legal services for whistleblowers as well as investigates and attempts to have corrected the illegality challenged by the whistleblower. GAP has represented hundreds of nuclear workers at over thirty nuclear sites, and has sparked re-inspections leading to major rework at several of those sites. The group believes that the NRC is motivated by a desire to chill GAP's ability to serve as a "safe haven" for NRC and nuclear whistleblowers who have in the past embarrassed the agency.

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Contacts:

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(202) 785-3704