



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

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JUL 31 1987

The Honorable Frank C. Cooksey
Mayor
City of Austin
P.O. Box 1088
Austin, Texas 78767

Dear Mayor Cooksey:

The Commission is in receipt of your June 30, 1987 letter inquiring about the Government Accountability Project's (GAP) request for an independent task force to review allegations and Citizens Concerned About Nuclear Power's (CCANP) motion to reopen the record regarding the South Texas Nuclear Project.

In a July 15, 1987 letter, the Commission informed GAP that the agency could determine more appropriately whether the appointment of an independent task force is warranted, after careful review of the allegations in detail. (See attachment.) Thus, the Commission encouraged GAP to provide the allegations to the agency. GAP repeatedly has refused to provide the allegations to the agency and has yet to do so. Once GAP complies with this request, the agency will be in a position to make the appropriate determination regarding allegations management. Further delay by GAP in turning over the information will only result in further delay in the agency looking into the matters to which GAP has alluded in its communications with the NRC and others.

The Commission recently denied CCANP's motion to reopen and referred it to the NRC staff for consideration under 10 CFR § 2.206.

Thank you for your concern regarding these matters.

Sincerely,

Harold R. Denton
Director
Office of Governmental
and Public Affairs

Attachment:
NRC Letter to GAP, July 15, 1987

FOIA-88-107

G/13



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

OFFICE OF THE
SECRETARY

July 15, 1987

'87 JUL 17 A9:52

Billie P. Garde, Esq.
Director, Midwest Office
Richard E. Condit, Esq.
Staff Attorney
Government Accountability Project
1555 Connecticut Avenue, N.W., Suite 200
Washington, D.C. 20036

SERVED JUL 17 1987

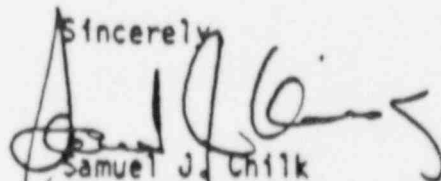
Dear Ms. Garde and Mr. Condit:

This letter responds to your May 29, 1987 petition under 10 CFR 2.206 for the establishment of an investigative unit independent of NRC Region IV and the Executive Director for Operations (EDO), to review allegations concerning the South Texas nuclear power plant.

You specifically state in your petition that "[i]t would be inappropriate to have [the EDO] or anyone connected with Region IV decide the merits of this petition since they are the individuals we are seeking relief from." GAP 2.206 Petition at 15. A 2.206 petition is addressed to the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards. 10 CFR 2.206(a). These directors report to the EDO who by virtue of his position is involved in the 2.206 deliberative process. Taking into consideration the plain language of your request, the Commission decided to treat the document that you characterize as a 2.206 petition as a request for Commission consideration. The Commission notes, however, that the determination of the most appropriate means of evaluating allegations is essentially within the Commission's discretion and is not within the scope of actions contemplated by 10 C.F.R. 2.206.

The agency can best determine whether the allegations should be handled by Region IV personnel or by an independent task force only after detailed review of the nature of the allegations. The Commission encourages GAP to provide the allegations to the agency promptly pursuant to the May 20, 1987 subpoena issued to Ms. Garde. Additional delay in turning over the information to the agency will only result in further delay in looking into matters which you claim are relevant to public health and safety. After the agency has reviewed the substance of the allegations, it will be in a better position to determine whether Region IV is the appropriate entity to review the allegations or whether the appointment of an independent task force is necessary. The Commission assures GAP that the agency will handle the investigation of the allegations properly, both with regard to technical review and confidentiality.

Sincerely,


Samuel J. Chilk
Secretary of the Commission

9-707270086

Refer

10/9/87

Fax to: Carla Smith, OGC, H Street

From: Bob Newlin, PA, HDQ

4 pages including cover sheet

87 OCT -9 AM 1:32

USNR
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FOIA-88-107

G/14

* UPI STATE Wire (TEXAS)
 Mail Id: IPM-197-871008-150590001

(Texas, Colo.)

Attorney for workers at South Texas nuclear plant assails NRC
 by PHILIP J. GARCIA

WASHINGTON (UPI) - An attorney representing whistle blowers at the South Texas Project said Thursday the Nuclear Regulatory Commission is more interested breaking her group "once and for all" than investigating alleged safety defects at the nuclear plant.

Billie Garde of the Government Accountability Project said she has been told that NRC Executive Director Victor Stello has pledged to break her group.

"What I understand that he says privately is he's going to break GAP and Billie Garde once and for all," Garde said of Stello at a Capitol Hill news conference.

"Now that's been reported to me from what he's said at a number of meetings," Garde added.

Stello was unavailable for comment. But Frank Ingram, an NRC spokesman, disputed Garde's claim.

"All we can say is that what we're trying to do is to get from Billie Garde the allegations about safety problems at the South Texas nuclear power plant," he said. "That's our basic and sole interest."

In May, the NRC issued a subpoena to Garde ordering her to name more than three dozen workers at STP who have made allegations of faulty work and wrongdoing at the nuclear facility near Bay City.

Garde refused to comply, citing confidentiality and fears that workers would face punishment. The NRC, through the Justice Department, filed suit in U.S. District Court in Washington to enforce the subpoena.

Garde, accompanied by Rep. Patricia Schroeder, D-Colo., said GAP will meet a Friday court deadline for explaining why the group should not reveal the identities of the workers and its information. A hearing is set for Oct. 22, GAP said.

Garde said the NRC knows the identities of 17 of the 56 individuals GAP represents at South Texas because they already had expressed concerns to the agency.

Garde has asked for the appointment of a special task force, a process "that has been followed regularly in every region since 1980," she said.

"In this case, Mr. Stello has changed the rules (and has) decided to play tough," Garde said.

Stello has said he wants to review the allegations before making a decision on establishing a task force. There are about 650 allegations in all, Garde said.

Ingram reiterated the NRC's position that "once we know what the allegations are, we will be able to proceed and figure out what to do with them."

Houston Lighting & Power Co., the major partner at STP, also has sought GAP's information.

Schroeder, a leading congressional advocate of whistle blowers' rights and chairman of the House Subcommittee on Civil Service of the Post Office and Civil Service Committee, said the NRC's action was "outrageous."

"When you've got 56 (whistle blowers) that is a very serious thing," Schroeder said. "We, as taxpayers, ought to be totally outraged at that type of system. ... It is power ball."

Joan Claybrook, president of Public Citizen, which is representing GAP, said NRC's actions were "a use of government power that I think is rejected by the public generally."

"It's a precedent-setting case in many ways," Claybrook said.

"It's a tremendous threat to all public interest groups." She said GAP would make use of "enormous protections" under the First Amendment rights of association and attorney-client privilege. She vowed the case will be pursued "all the way to the Supreme Court if necessary."

Garde said the litigation would not hold up plant operations.

"At this point, the NRC is acting, and has stated that it is going to operate as if these allegations do not exist," Garde said.

She said whether or not plant operations should be held up "is a decision that, frankly, only the NRC can make."

But she said any NRC review must exclude the people who "rubber-stamped South Texas in the first place and don't find these problems."

STP recently received NRC permission to begin low-power operations and hopes to generate electricity by early next year.

upi, 10-08-87 03:38 pcd

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NUKE SUIT

BY ANDREW MANGAN

WASHINGTON (AP) -- AN ATTORNEY REPRESENTING 56 ANONYMOUS WHISTLEBLOWERS CHARGING MISDEEDS AT THE SOUTH TEXAS NUCLEAR PROJECT SAYS SHE WILL GO TO JAIL RATHER THAN DIVULGE THE NAMES OF HER CLIENTS TO THE NUCLEAR REGULATORY COMMISSION.

ALLEGATIONS INCLUDE SAFETY AND CRIMINAL MISCONDUCT AND RANGE FROM POOR WORKMANSHIP TO ORGANIZED FRAUD ON THE PART OF THE GOVERNMENT AND CONTRACTORS.

BILLIE P. GARDE, AN ATTORNEY FOR THE GOVERNMENT ACCOUNTABILITY PROJECT, HAS BEEN ORDERED BY THE NRC THROUGH A SUBPOENA TO TURN OVER ALL NAMES AND ALLEGATIONS BROUGHT TO HER BY THE WHISTLEBLOWERS REGARDING THE UNCOMPLETED NUCLEAR PLANT NEAR BAY CITY, TEXAS.

MS. GARDE, HOWEVER, DOESN'T TRUST THE FEDERAL AGENCY TO CARRY OUT AN IMPARTIAL INVESTIGATION OF THE MORE THAN 650 INDIVIDUAL CHARGES.

"THE NRC INDIVIDUALS WHO LOOK AT THESE ALLEGATIONS MUST NOT BE THE SAME PEOPLE WHO ORIGINALLY IGNORED THE PROBLEMS AND WENT DOWN AND RUBBERSTAMPED SOUTH TEXAS IN THE FIRST PLACE," SAID MS. GARDE, POINTING SPECIFICALLY TO NRC EXECUTIVE DIRECTOR FRANK STELLO AND THE OFFICIALS OVERSEEING THE SOUTHWESTERN UNITED STATES FOR NRC.

MS. GARDE FACES A FEDERAL COURT HEARING OCT. 22 IN WHICH THE JUSTICE DEPARTMENT WILL SEEK A DECISION COMPELLING HER TO DISCLOSE THE INFORMATION, WHICH SHE SAYS SHE WILL NOT DO.

"WE ASKED AT THE BEGINNING OF OUR SOUTH TEXAS WORK FOR THE APPOINTMENT OF A SPECIAL TASK FORCE FROM THE NRC. THAT PROCESS HAS BEEN FILED REGULARLY IN THIS COUNTRY SINCE 1980," SHE SAID.

"IN THIS CASE MR. STELLO HAS CHANGED THE RULES, AND MR. STELLO, AS THE EXECUTIVE DIRECTOR OF THE AGENCY, HAS DECIDED TO PLAY TOUGH," MS. GARDE SAID.

ACCORDING TO HER, STELLO REJECTED AN OFFER BY GAP TO PRESENT A GENERAL ASSESSMENT OF THE ALLEGATIONS AND WAS TOLD: "STELLO SAWS NO DEALS. TURN EVERYTHING OVER."

NRC OFFICIALS, HOWEVER, SAY THEY ARE SIMPLY TRYING TO CARRY OUT AN INVESTIGATION.

"UNTIL WE SEE THE ALLEGATIONS, WHICH SHE HAS REFUSED TO GIVE US, WE CAN'T DETERMINE HOW THEY SHOULD BE HANDLED," SAID NRC SPOKESMAN DON NEWLIN. "FRANK STELLO, OUR EXECUTIVE DIRECTOR FOR OPERATIONS, HAS SAID IT'S NOT CLEAR TO HIM WHETHER ANYTHING SHOULD BE DONE, BUT HE'S ALSO SAID THAT IF NECESSARY HE'LL CREATE A TASK FORCE.

"WE HAVE NOT GOTTEN THE ALLEGATIONS AND WE CAN'T DEAL WITH IT UNTIL WE KNOW WHAT THEY ARE," NEWLIN SAID.

AP-WX-10-08-87-1611EDT

Stello
 says no
 deals
 turn
 over
 9/20

Texas

NRC official seeks review of allegations at South Texas Project
 WASHINGTON (UPI) - A Nuclear Regulatory Commission official said
 Tuesday he "would need to see" allegations by workers at the South
 Texas Project before deciding to form a task force on alleged safety
 defects at the nuclear plant.

Victor Stello Jr., executive director of the NRC, confirmed a
 report that he would be willing to create a special task force if
 necessary. But Stello reiterated that no such decision had been made.

"I would need to see the allegations before deciding on whether or
 not a task force is needed," Stello said through a spokesman.

Allegations of wrongdoing have been made by whistle blowers
 represented by the Government Accountability Project, a non-profit
 public interest group that works with whistle blowers.

The Project is fighting an NRC subpoena that seeks the identity of the
 South Texas workers.

The Project's attorney, Billie Garde, claims to be withholding
 close to 600 allegations of safety and related defects at the facility
 near Bay City.

Garde has refused to comply with subpoena, arguing the commission
 would leak the identities to the utilities and contractors and exp.
 the whistle blowers to punishment by their employers.

She also says there is evidence the commission is unwilling to
 investigate safety concerns at STP.

The NRC filed suit in Washington to enforce the subpoena but Garde
 again refused to comply, citing attorney-client and related legal
 privileges.

The Project has until Friday to show why it should not release the
 names and Tom Carpenter, a lawyer for the Project in Washington, said
 the group will respond in U.S. District Court in Washington.

"We're arguing that complying with the subpoena would force us to
 reach the attorney-client privilege," Carpenter said. The project will
 also argue that enforcement of the subpoena "would have a chilling
 effect" on workers' ability to consult with attorneys or groups on
 issues regarding safety, Carpenter added.

The Project has called a news conference Thursday to discuss the
 subpoena.

Houston Lighting & Power Co. received a license this summer to
 start up the first of two nuclear reactors at South Texas and hopes to
 begin generating electricity early next year.

The NRC is required by law to assess any threat to the safety of a
 nuclear power plant.

Garde earlier this year asked Stello to appoint a task force
 independent of his immediate staff and personnel responsible for nuclear
 projects in Texas.

She based that request in part on claims the commission ignored
 similar safety allegations at the troubled Comanche Peak nuclear power
 plant near Glen Rose, southwest of Fort Worth.

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Disposition: forward
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