

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION

IN THE MATTER OF:

Houston Lighting and Power

_Docket No. 50-498/499

(South Texas Nuclear
Power Plant)

MOTION TO MODIFY SUBPOENA AND
MOTION FOR PROTECTIVE ORDER

COMES NOW JOHN CORDER, by and through his attorney Billie Pirner Garde, and moves this commission for an order modifying the December, 1989, subpoena issued to him; or in the alternative for a protective order for the reason that such subpoena will impose undue financial hardship on Mr. Corder.

Mr. Corder further requests that the Commission issue a protective order in regards to the subpoena which will stay the deposition of John Corder until such time as the receipt of all documents and information requested through the Freedom of Information Request No. 89-431.

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BACKGROUND

John Corder is a former Bechtel engineer, terminated from employment at the South Texas Nuclear Power Plant (STP) in November 1986.

In the context of his employment at STP Mr. Corder identified certain issues of concern about the plant. He

also filed a complaint in regard to his termination of employment pursuant to 42 U.S.C. 5851, CORDER vs. BECHTEL, 88-ERA-9.

In October, 1988, Mr. Corder resolved is Section 210 complaint by entering into a settlement agreement with Bechtel, the terms of which are presently pending review before the Secretary of Labor (SOL) to determine whether any portion of the settlement, particularly that portion which prohibits Mr. Corder from engaging in certain activities, is unenforceable. (See, Order To Submit Settlement, May 25, 1989.)

Notwithstanding the failure of the SOL to rule on the propriety of the settlement, the NRC staff contacted < Mr. Corder to determine whether he had any unresolved safety concerns about STP. (See, letter from Dennis Crutchfield to Robert Rice, September 5, 1989.) Mr. Corder replied by letter from the undersigned that he had concerns about STP that he wanted to pursue. (See, letter from Billie Garde to Richard Hoefling September 28, 1989.)

In response to the letter a series of discussions ensued between counsel in regards to the prerequisites for Mr. Corder's disposition by the NRC Staff and the logistical details regarding the deposition (i.e., location, date).

No mutually satisfactorily agreements were reached and the staff issued the subpoena now at issue.

Mr. Corder does not oppose the taking of his deposition on his safety concerns; however, for the reasons asserted below he requests a modification to the location of the

deposition in order to make it financially feasible for him to have a representative present and also to postpone the deposition until the NRC Staff has provided all information requested pursuant to the Freedom of Information Act in order that he can adequately review the Staff's resolution of the allegations he has raised about STP since 1986 in order to determine what issues are unresolved, and what issues remain uninvestigated.

MOTION TO MODIFY

Due to the unique circumstances that attach to this situation, Mr. Corder believes he needs to have an attorney and a technical representative present for the deposition. Although he is unable to pay for an attorney this office has agreed to assist Mr. Corder pro bono, except for the expenses incurred in regards to this matter. In order to accomodate the deposition as noticed Mr. Corder would be required to meet airfare, hotel, and rental car expenses for myself and/or the technical advisor familiar with his issues. These expenses are estimated to be in excess of \$1,500.00 in order to provide Mr. Corder representation at Lake Jackson, Texas for the period of one-two days. (This time period is optimistic without the ability of Mr. Corder to review previous actions by the NRC in order to organize his concerns into those already pursued and resolved, those unsatisfactorily resolved, and those unpursued and unresolved.

Mr. Corder does not oppose the taking of his deposition, only the time, date and location noticed by the

NRC which will cause him extreme hardship. Mr. Corder proposes as an alternative that his deposition be conducted in the area of the Dallas/Fort Worth Metropolitan area, perhaps at Region IV headquarters in Arlington, Texas. If the deposition was at this location Mr. Corder could drive himself to Dallas/Fort Worth, stay with relatives, and not incur the expenses of myself or the technical representative because of participation in regular business in regards to Comanche Peak; additionally, Mr. Corder has volunteered to come to Washington, D.C., if the NRC will pay his way and that of his counsel.

Finally, Mr. Corder would be able to accomodate the deposition in or around the Houston or STP area if the NRC staff was willing to either pay the way of his counsel, or wait while such time as his counsel was in the area in regards to another case and thus avoid the excessive cost of air fare from Wisconsin.

In short, Mr. Corder is willing to give a deposition to the NRC. However, because of the highly unusual state of his case, his continued concern over his actions being viewed as a breach of the DOL settlement agreement, and the possibility that his case will be remanded for further evidentiary proceedings, and/or a Senate hearing in regards to this case he is apprehensive about proceeding without benefit of counsel.

Because of his financial condition (see attached affidavit) he is unable to provide counsel at the scheduled December 19, 1989, deposition location in Lake Jackson,

Texas.

Therefore, Mr. Corder requests that the Commission modify the subpoena to provide that the deposition be taken within a reasonable period of time, at a mutually convenient place and time to be agreed upon by the staff and Mr. Corder's representative.

MOTION FOR A PROTECTIVE ORDER

In addition to the accomodation in regards to location Mr. Corder requests that the desposition be stayed until such time as the NRC staff has provided a substantive response to FOIA request 89-431. The response to this request will enable Mr. Corder to prepare for the deposition by reviewing prior transcripts of interviews between himself and the NRC in order to identify all of his concerns, and to determine whether or not the NRC has addressed them.

The request was filed on September 28, 1989. It has not yet been responded to because the NRC has insisted on demanding fees from Mr. Corder. The request has been resubmitted today by the Government Accountability Project on Mr. Corder's behalf, and is presently pending a fee waiver determination by the FOIA office.

FOR ALL OF THE REASONS ASSERTED HEREIN JOHN CORDER respectfully requests that the subpoena be modified and or that the Commission issue a protective order in this matter.

Respectfully submitted

Billie Pirner Garde

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December 11, 1989

cc: James E. Taylor, Acting EDO