

GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies
1901 Que Street, N.W., Washington, D.C. 20009

(202) 234-9382

June 22, 1983

MEMORANDUM

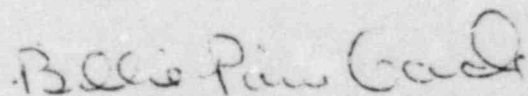
TO: Thomas M. Novak, Assistant Director
for Licensing
Division of Licensing

FR: Billie Pirner Garde, Director
Citizens Clinic for Accountable Government
Government Accountability Project

Subject: Information Item - Notification of Welding-Related
Allegations at San Onofre 2/3 and Midland 1/2

1. On November 30, 1982 your office notified the Atomic Safety and Licensing Board for the Midland Plant, Unit 1 and 2 that the concerns and allegations raised by Mr. E. Earl Kent, a former Bechtel Senior Quality Control Engineer, did not represent a safety concern since "none of the allegations have been substantiated."
2. Attached to this memorandum is a Government Accountability Project report to the Commissioners that details the results of our own five-month probe into the Region V/NRR effort that determined the position presented by your office in the memo referred to above.
3. We believe that it is appropriate for us to request that you also notify the ASLB Board about the information contained in our report.
4. Finally, we wish to point out that our client, Mr. Kent, and Region III officials are only now in the process of discussing the allegations that Mr. Kent made about the Midland Nuclear Power Plant.
5. Please notify this office if you are not going to docket the Midland Service List with the report.

Sincerely,



Billie Pirner Garde, Director
Citizens Clinic

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1901 Que Street, N.W., Washington, D.C. 20009

(202) 234-9382

June 20, 1983

Honorable Chairman Nunzio Palladino
Honorable Victor Gilinsky
Honorable John Ahearne
Honorable James Asseltine
Honorable Thomas Roberts
United States Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Commissioners:

On behalf of Mr. E. Earl Kent, who the Government Accountability Project (GAP) represents as counsel, we request that the Commission review this analysis of the serious mishandling of the NRC inspection/investigation into allegations raised by our client of both specific and generic welding flaws at Bechtel constructed nuclear power plants, particularly the San Onofre Nuclear Generating Stations (SONGS Units 1, 2, and 3).

Further, we request that there be:

- (1) a legitimate inspection and technical analysis of Mr. Kent's welding defect concerns, and
- (2) an investigation into the outrageous handling of Mr. Kent's allegations by another government agency inspector general or independent NRC investigators answering directly to the Commissioners; or
- (3) a request from the Commissioners for a GAO investigation into Region V's handling of this inspection and the deliberate or inadvertent violation of NRC inspection procedures and policies throughout the Region.

I. BACKGROUND

The Government Accountability Project is a project of the Institute for Policy Studies, Washington, D. C. The purpose of GAP's Citizens and Legal clinics are to broaden the understanding of the vital role of the public employee, corporate employee, and private citizen in preventing waste, corruption, or health and safety concerns. GAP also offers legal and strategic

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counsel to whistleblowers, provides a unique legal education for law student interns and public policy students, brings meaningful and significant reform to the government workplace, and exposes government actions that are repressive, wasteful or illegal, or that pose a threat to the health and safety of the American public.

Presently, GAP provides a program of multi-level assistance for government employees, corporate employees, and private citizens who report illegal, wasteful or improper actions. GAP also regularly monitors governmental reforms, offers expertise to Executive Branch offices and agencies, and state and local governmental bodies, and responds to requests by Congress and state legislatures for analysis of legislation to make government more accountable to the public.

In March 1982, GAP's Citizen Clinic became actively involved with the Midland Nuclear Power Plant. The Lone Tree Council had requested GAP to pursue allegations from workers of major problems at the Midland plant. After our preliminary investigation, we compiled six affidavits which we filed with the NRC on June 29, 1982. One of these affidavits was from Mr. E. Earl Kent, (Attachment 1).

Mr. Kent's allegations included concerns about two other nuclear power plants that he had worked on -- San Onofre in California and Palisades, also in Michigan. In keeping with our policy of full disclosure, we included references to Mr. Kent's other allegations in his affidavit.

After several months of no action, Mr. Kent made a personal trip to the NRC Region III headquarters to check on the status of the NRC investigation into his allegations. Mr. Kent was so disturbed by the reception he received that he called the GAP office from the first pay phone after he left the Region office. I detailed his concerns, as well as our own, in a letter to the Regional Administrator Mr. James G. Keppler on September 6, 1982. (Attachment 2).

Mr. Kent also attempted to independently pursue his concerns about the San Onofre facilities upon his return to California. He contacted the utility, Southern California Edison, and also made direct contact with the site Quality Control office in early and mid-September.

Finally, after almost two years of working within the industry and regulatory system, Mr. Kent agreed to talk to a reporter from the Los Angeles Times. The reporter had learned of Mr. Kent's allegations from the Alliance for Survival, a public interest organization in Southern California. On October 13, 14, and 15 there were numerous news stories about Mr. Kent's allegations at the three facilities. (Attachment 3).

The day following the stories Mr. Kent was contacted by the Region V inspectors who had previously ignored, or remained ignorant, of his allegations. These NRC contacts came after Mr. Kent had again offered his assistance and information on serious welding flaws.

Mr. Kent agreed to meet with the Region V inspectors and drove to meet with them on October 15, 1982. In a lengthy discussion with Mr. Kent it was decided that a prerequisite for any detailed contact with the NRC would be either a witness, a personal tape-recording, or the agreement by the NRC inspection team to adhere to the advice of Mr. Kent's counsel and provide copies of the unaltered tapes and a transcript of the same immediately following the meeting. Further, it was agreed that Mr. Kent should not sign a statement until it had been reviewed by counsel.

Two days later two NRC inspectors appeared at Mr. Kent's home and insisted that he sign a five page statement that they had prepared from their notes of the October 15 meeting. Mr. Kent reviewed the statement, made changes, however, he wisely delayed signing the statement prior to review by counsel. (Attachment 4).

After our review of the statements, as well as receiving much more detailed information from Mr. Kent, we informed the NRC -- both Region III and Region V -- that Mr. Kent would be supplying an expanded affidavit of his allegations. He, and his counsel, also made it quite clear to them that this affidavit would be forthcoming after the tapes were received and reviewed.

The tapes and the transcripts were almost impossible to obtain. Mr. Kent, after giving up on the NRC's voluntary compliance, had to file a Freedom of Information request. (Attachment 5). The NRC FOIA office contacted me on November 30 to apologize for the delay in the delivery of the tapes. They were not aware of the fact that they had been promised to Mr. Kent as part of the legal agreement between Region V investigators and himself prior to the original interview.

The Office of Investigations (OI) indicated that there had been a misunderstanding between OI and the IE Regional office about the "right of Mr. Kent to have the tape." In fact, it had been the basic groundrules of Mr. Kent agreeing to talk to the NRC without counsel present.

Meanwhile, region V officials concluded their inspection/ investigation into Kent's allegations. Without even the courtesy of notifying Mr. Kent or his counsel, Region V released their inspection report at a much publicized press conference.

¹The tapes of the meeting and transcripts of the meeting are referred to in this letter as the "transcripts"

The same day, Bechtel and Southern California Edison (SCE) also issued a press release discrediting Mr. Kent's allegations, and warning other potential whistleblowers from exposing information. The Bechtel release sends a clear message:

It would seem inescapable that another product of the Kent affair should be increased public skepticism: skepticism about the integrity and motives of so-called whistleblowers and skepticism about the anti-nuclear groups that use both whistleblowers and the media.

Not until several days after the public press conference did GAP receive the November 30 inspection report or the transcript of the seven-hour meeting. Mr. Kent has since supplied us with in-depth information and appropriate technical data from the professional codes that describe and detail his concerns. Independent welding engineers and other experts have reviewed Mr. Kent's allegations from the technical application of his more theoretical concerns.

On December 14 and 15, and on March 24, 1983, GAP filed, on behalf of Mr. Kent, five Freedom of Information (FOIA) requests for documentation which could shed substantial light on both the allegations themselves and how the NRC came to its own swift conclusion.

The FOIA requests were for the following bodies of information:

---FOIA request 82-614: for the Office of Inspector and Auditor (OIA) investigation into the release of a draft inspection report to a licensee in February 1982. (Received).

---FOIA request 82-617: into a December 30, 1980 inspection/investigation by Region III and/or Region IV's vendor inspection team into Systems Control Corporation and Magnetics, Inc. (Referred to Department of Justice for prosecution.)

---FOIA request 82-616: for all background information into two 1980 Region III inspections at Midland. (Received).

---FOIA request 82-618: for all background information connected with the November 30, 1982 "Special NRC Inspection at San Onofre." (Appealed)

---FOIA request 83-104: for all documents developed in the processing of FOIA 618 (Received).

The information obtained as a result of the FOIA request, the list of documents withheld, and the FOIA office's specific answers to questions have shed significant light on how the NRC's massive inspection effort managed to totally discredit Mr. Kent personally and professionally, as well as fail to resolve Mr. Kent's allegations.

Information obtained further leads us to the conclusion that Region V itself (1) fails to meet even minimum standards of inspection and investigation adequacy; (2) had seriously disregarded the laws and policies of the Freedom of Information Act, (FOIA) 5 USC 552, the Destruction of Documents Act, and the legislative intent of both; (3) has violated Commission policies regarding prior communication about inspection findings to utility personnel. The later finding potentially affects the adequacy of NRC inspections and investigations at all nuclear power plants in Region V during the past 22 months.

II. REQUEST FOR AN INVESTIGATION BY THE GOVERNMENT ACCOUNTING OFFICE INTO THE NRC REGION V KENT INSPECTION

The Kent inspection effort is evidence of regulation and enforcement at its worst. GAP urges the Commission to put the credibility of the agency at-large above commitment to an internal investigation section that has fostered a deep distrust among both agency employees and the public. We urge the serious consideration of the Commission to voluntarily request an independent investigation of the inspection/investigation policies in Region V by either the GAO or another government agency Inspector General.¹ A review of the mishandling of the Kent inspection/investigation will indicate the necessity for immediate reinspection effort.

NRC Report numbers 50-206/82-31, 50-361-82-31, dated November 30, 1982, and 362/82-27 dated October 5, 1982, document the results of inspections conducted in September 1982 and from October 15 through November 15, 1982 at the San Onofre Nuclear Generating Stations (SONGS).

Documents discovered through a through Freedom of Information Search, Public Documents Room (PDR) search, and extensive interviews with Mr. Kent and other Bechtel employees provide further details pertaining to Mr. Kent's allegations as well as the failure of the Regional office to conduct a minimally adequate inspection into his charges.

A. The NRC inspection report ("Kent report") provides inadequate documentation. Our concerns about the Kent investigation can be divided into two categories. First, the allegations of generic welding problems within the Bechtel nuclear construction programs. Mr. Kent's allegations, although briefly outlined in the affidavit that Mr. Kent submitted through GAP to the NRC in June 1982 regarding the Midland plant, are complicated and technical. In lay terms, we are finding that Bechtel welding codes, in some instances, do not meet the standards as set by the various professional associations. As you know, compliance with the professional codes is a baseline requirement of nuclear construction regulation.

Other government agencies have used this method to perform investigations into their internal affairs when public credibility and a fair investigation effort were required. See Exhibit 6, Washington Post account of the Department of Housing and Urban Development (HUD) into the Inspector General of the Department of Agriculture,

The second category, although separate from the actual hardware issues, is the question of the NRC's technical review of the issues raised by Mr. Kent. For example, although Region V requested assistance from the Office of Nuclear Reactor Regulation (NRR) to evaluate the technical details of Mr. Kent's allegations, it appears that, in fact, no independent review was done. Under the Freedom of Information Act we requested and received the communications, notes, memoranda, etc., that surrounded the issues raised by Mr. Kent. Review of these documents found a circular trail of verification that simply relied on the industry -- both Bechtel and Southern California Edison -- to interpret and explain Mr. Kent's allegations away. We have found no evidence of independent analysis or review by the NRC.

The Kent Report, issued by Region V on November 30, 1982, comes to the conclusion that "no items of Non-compliance were identified." (Report, at 1). This conclusion is allegedly based on 218 inspection hours by three regional inspectors and investigators "of allegations concerning design inadequacies and deficiencies in implementation of welding codes and standards" (Kent Report, at 1).

Upon review of the documentation compiled by the agency as proof of its position, GAP discovered that regional inspectors/investigators only documented -- through tape recorded interviews -- three of the 47 witnesses that were allegedly interviewed in their inspection effort.¹ These interviews were of Mr. E. Earl Kent, Mr. Donald Martin, and Mr. Woody Lahr. Of these three interviews, only the tape of Mr. Kent was transcribed at the request of his counsel, and obtained only after an unacceptable delay (see pp 3 of this letter). Interview time made up approximately 11 hours of interviews conducted by three inspectors/investigators. Of the interviews with the remaining 44 witnesses, no interview notes were kept, or such notes were destroyed, or the interviews were never conducted.

In the case of 14 of the witnesses, no interview notes were kept, and the interviews were probably never conducted. Through the final response to our request through FOIA 618, we were told that:

"...the interviews mentioned in the report were conducted while the inspectors were in the plant, and that no separate written statements other than the three that have already been provided to you were prepared."

The draft of this letter obtained through FOIA 154 (Exhibit 7) explains much more graphically the reality of the casualness with which the NRC inspectors "gathered evidence" to disprove Mr. Kent's allegations:

"the interviews mentioned in the report were conducted while the inspectors were walking through the plant..." (emphasis added) Exhibit 8.

¹The Kent Report, Individuals Contacted, Page 1, Paragraph 1, lists 33 Bechtel, Southern California Edison, University Mechanical Engineers and Constructors, as contacted. NRC letter March 21, 1983 from J.M. Felton to Billie Garde in response to FOIA 82-618 identifies 14 other individuals, previously defined in the Kent Report as "other individuals" as six pipefitters, one pipe fitter supervisor, two welders, six Bechtel quality control welding inspectors.

In fact, the question of written interviews of the Kent inspection remains a key issue in our request for an independent investigation into the handling of this inspection effort. Clearly the information obtained from all of the sources could have shed considerable light on the adequacy of the inspection. Yet, if the interviews were conducted, there is no record of the statements at all. If the Region V inspectors had not documented any of their interviews, the argument that regional policy prevented retention of interview notes would possibly have some credibility; however, the interviews conducted of Kent, Lahr, and Martin all produced tapes, notes, and an interview information log. The lack of substantial evidence leads us to believe there is no validity to the Regional inspectors claim that Kent's allegations were "not substantiated."

The public simply cannot be expected to accept the Kent report as an adequate inspection effort. Nor, should the Commission itself tolerate an inspection effort that does not meet its own inspection standards.

The U.S. Nuclear Regulatory Commission Inspection and Enforcement Manual, Chapter 1000 "Inspection Reports" states as its Policy (1005-02)

The basic policy is to provide a written record of inspections. The primary purposes of the written record are to: (1) provide a basis for enforcement action and convey the results of the inspection to the licensee or vendor, and (2) provide information for management of the inspection program within the Office of Inspection and Enforcement. Secondary purposes are to provide information to other NRC offices and to the general public.

That statement is further clarified in a March 8, 1983 letter to The Honorable Edward J. Markey, Chairman of the Subcommittee on Oversight and Investigations of the Committee of Interior and Insular Affairs from NRC Chairman Nunzio Palladino.

In response to the question: "Does the Commission require written summaries of meetings related to an investigation, but not with persons who are the subject of that investigation?" the Commissioner replied:

"NRC policy requires written summaries of meetings with representatives of organizations or individuals under investigation. With respect to contacts with persons who are the subject of an investigation or who may have information relevant to the investigation (interviewees), it is NRC policy to document interviews which relate to NRC investigations."¹

NRC policies that differentiate between inspections and investigations do not appear to be substantially different in the documentation requirements. According to the Office of Inspection and Enforcement Director, Mr. Richard DeYoung, as explained at a public meeting (March 9, 1983 re: Regionalization) I&E inspectors keep "detailed notes of their interviews which can be used for enforcement considerations."

To illustrate the abuse of undocumented interviews in the Kent report the following example is included:

In the inspection into Mr. Kent's concerns about the abuse of scribe marks on piping for socket weld fit up measurements (Kent Report at 6), the following explanation stands as the sole documentation of their inspection effort:

The inspector interviewed several pipefitters to determine if pipe/tubing cutters were ever used by them or others on their crews to make socket weld scribe marks. The pipefitters stated that none of them had ever used pipe cutter or tubing cutters, nor had they ever seen one used on site, to make the scribe marks used in socket weld fitup measurements. All of the fitters interviewed stated that they had received specific instructions, at the beginning of their employment onsite, that prohibited the use of pipe/tubing cutters for making the socket weld fitup scribe marks. All pipe fitters interviewed had worked at San Onofre since the 1974-1977 time period. Therefore, the inspector concludes that such use of pipe/tubing cutters was not an established practice among the crafts.

Not only are there no interviews, notes, logs, summaries, or any other verification of what the above referenced pipefitters said, there is also no idea of how many pipe fitters there are at San Onofre, and how many pipefitters could have used pipe cutters. The inspector's conclusion does not stand up to the most generous extension of inspection criteria. Unfortunately, the inspectors continued their undocumented romp through unidentified personnel — piecing together a completely unsubstantiated conclusion. Had the inspectors kept interview logs and summaries, it would be possible to make an intelligent overview of the adequacy of the inspection interviews. However, as the undocumented dialogue indicates, the inspectors relied solely on the word of employees who were not under oath, did not have to produce documentation, did not have to sign a statement, did not have to even attach their name (with or without a request for confidentiality) and are completely unaccountable for their statements. Certainly nuclear whistleblowers such as Mr. Kent would never be allowed the type of looseness used in this report to discredit serious concerns.

Even more incredible is the flippant use of the term "interview" in the Kent report to establish the alleged "unsubstantiation" of Mr. Kent's charges:

"To determine the practices and criteria used by inspectors in the inspection process of socket welded fittings, the inspector interviewed Welding Quality Control Engineers (WQCE) and their Supervisors. These interviews established that the WQCEs did not

utilize pit gages in all cases to verify compliance with the 5% of nominal wall criteria. These interviews also established that if the WQCEs observed cases where the scribe line looked excessively deep, a pit gage was used to determine the depth of the mark and establish conformance with the 5% of nominal wall criteria.

The WQCEs and crafts personnel were "knowledgeable" of acceptance criteria and limits in the conduct of their particular activities." (Kent Report, at 6).

Other examples of the use of undocumented interviews clearly demonstrate that the NRC inspectors relied on the unsubstantiated information gained from other SCE/Bechtel employees to discredit Mr. Kent's charges:

"Discussions with cognizant Bechtel Quality Control inspectors indicated that arc strikes on the weldment are routinely removed as a matter of course because such welds dicontinuties inhibit weld examination." (Report, at 19).

and

"Bechtel personnel state that M&QS maintains several different editions of the procedures and specifications and that it is the responsibility of the appropriate site discipline project engineer to order that edition which is to be used at each particular site." (Report at 30).

The inclusion of unsubstantiated or undocumented interviews is an unacceptable inspection or investigation methodology in any case. When the subject of the investigation is the safety of a nuclear power plant, the shoddy inspection practices utilized in this report are inexcusable.

C. The search through the documents provided under the various Freedom of Information Requests as well as a thorough search of public documents available in the Public Documents Room indicate that Region V officials purposely or inadvertently violated the FOIA, 5 USC§552.

(1) On December 14 we filed a Freedom of Information request for all documents "prepared by U.S. Government employees in connection with a Nuclear Regulatory Commission Inspection and Enforcement report dated November 30, 1982 and entitled "Special Inspection of San Onofre #1, 2, and 3." In particular Mr. Kent requests all earlier full or partial drafts and/or proposed supplements to the report, as well as all records related to any deletions, from its final version."

On January 13, 1983, GAP received its first response to FOIA 82-618. The agency, in describing their answer as a partial response, provided 19 documents -- many of which were already public information. On February 15, 1983 we received a further response. This provided 25 documents. It also gave us the first indication that there was a serious problem in the ability of the agency to provide the draft reports which we had requested in our initial response. The letter stated:

"In your letter and in a telephone conversation with Carol Reed you requested information on drafts and final inspection report. Ms. Reed has contacted Region V and has been informed that no drafts of the report exist. The report was typed on a word processing machine and when the drafts were corrected and the new versions proofed, the old versions were destroyed."

Through continuing conversations with FOIA office and Region V personnel involved with the inspection, it became increasingly clear that none of the substantiating documents would be produced voluntarily under our FOIA request. That fear was confirmed by the final agency response received March 21, 1983. That letter stated:

"In a telephone conversation on March 10, 1983 with Carol Ann Reed, you again inquired about the existence of drafts of the report and also inquired about documentation for the interviews which were conducted in addition to the Kent, Lahr and Martin interviews. You specifically mentioned the reference to "several" interviews in the report.

"Mr. Bobby Faulkenberry, Deputy Regional Administration, Region V, was contacted by telephone on March 10, 1983, and he has informed me that previous drafts of the report were destroyed at the time succeeding drafts were prepared. He also informed me that the interviews mentioned in the report were conducted while the inspectors were in the plant, and that no separate written statements other than the three that have already been provided to you were prepared. He further stated in reference to the word "several" that the inspectors recall they talked to six pipe fitters, one pipe fitter supervisor, two welders, and six Bechtel quality control welding inspectors. The inspectors' notes, which are not agency records and which are not required to be retained by agency practice or procedures, were destroyed by the inspectors at the time the report was finalized."

The position was clarified in a conference call on March 23, 1983 between Washington FOIA officials, Region V officials and myself. At that time I requested a clarification of the inconsistent position taken on the existence of drafts of the Kent report and interview summaries or notes of the other witnesses. Region V acknowledged that there, in fact, had been interview notes

and summaries prepared of some of the individuals contacted, but that those notes had been destroyed. They also indicated that there had been at least two final drafts of the report which were not destroyed until after the public issuance of the final report on December 30, 1982.¹

After an even more thorough review of the materials provided to us under FOIA, we have determined that other documents responsive to our request must still exist in Region V files. We have filed an appeal of the agency's FOIA decision on 618 today. Exhibit 9.

(2) The destruction of agency documents relative to inspection efforts.

The U.S. Nuclear Regulatory Commission Inspection and Enforcement Manual states in Section 1005-20 "Disclosure to the Public," the following in Paragraph 201:

"Except for certain safeguard inspections, all final inspection reports will be routinely disclosed to the public. Although draft inspection reports will not be disclosed on a routine basis, they will be available to members of the public upon request." (emphasis added).

Clearly the agency's own policies do not make provisions for destruction of draft reports because the Regional Office has the convenient use of a word processor.

If this were an isolated incident, perhaps the Government Accountability Project staff would not be as concerned about this obvious violation of agency policy. However, Mr. Falkenberry specifically indicated on at least two occasions that the destruction of draft reports and interview notes was "regional policy."

(3) Release of draft reports.

Curiously, the other major item of concern about the inspection and investigation policies of Region V also concern draft reports. But in the second case the violation of agency policy centers around draft reports being given to licensees prior to the issuance of enforcement action. This led, in at least one case, to the downgrading of enforcement action as a result of prior agency notification.

¹GAP has a confidential witness who reviewed the report in draft form prior to issuance of the final agency report. Although our witness is not willing to go public at this time, he/she will agree to talk to government investigators who are looking into this if they are not NRC internal investigators.

(4) The inspection and investigation practices of Region V must be reviewed and brought under control by the Commission. It is highly suspect that the same inspectors and investigators who find it appropriate to share enforcement information with the targets of their investigations do not even bother retaining inspection information about allegations of serious defects and construction flaws. In this instance, Mr. Kent became the target of inspection/investigation rather than a source of information. Region V has turned the NRC's inspection and enforcement policies into a charade.

D. Inadequate Site Tour

On many occasions Mr. Kent volunteered to point out on both the SONGS and the Midland site areas where the welding problems were most extensive. One instance of this was during the October 15, 1982 interview. At the time, Mr. Kent was told that nuclear witnesses are not permitted on construction sites for the purpose of identifying problems. Finally on October 25, 1982, at the request of the NRC, Mr. Kent was permitted to tour the site to indicate the exact locations regarding the welding inadequacies.

The tour was virtually meritless. Mr. Kent was accompanied by an NRC inspector, a regional NRC supervisor, and NRC investigator and several staff members of SCE and Bechtel. He was permitted to tour only a preselected area. Furthermore, Mr. Kent was denied the use of any inspection tools including a ladder, fillet weld gages, notes, measuring equipment, pen, pencil, etc. .

If the NRC had wanted an illustrative site tour by Mr. Kent to identify specific examples of problems, then they would have provided him with the necessary documents, equipment, and time. On the contrary, they provided him with a walk through tour which amounted to a public relations sham.

Even at that, Mr. Kent identified problems to both industry and NRC inspectors. These included:

-- transition slopes from the body of nuclear valves (and other equipment) to the connecting pipes were too steep an incline. The actual slope was about a 45 degree angle, whereas the ASME code maximum at the time the contracts were signed, was less than 20 degrees maximum.

-- He also pointed out that MANY JOINTS STILL EXIST AS PARTIALLY WELDED, UNDOUBTEDLY IN THOUSANDS OF PLACES. MANY OF THESE JOINTS DID NOT HAVE THE REQUIRED END RETURNS ON THE WELDS. SOME WERE EVEN FOUND ON CRITICAL COOLING WATER PIPE SUPPORTS.

E. Evidence of Malice and Deliberate Undermining of 10 C.F.R. Part 19 by OI Investigator Owen Shackleton (Region V) and James Foster (Region III)

(1) 10 C.F.R. Part 19 states:

The NRC is amending its regulations in regard to job protection for employees who provide information to the Commission. These amendments emphasize to employers -- that is, licensees, permittees, applicants, and their contractors and subcontractors -- that termination or other acts of job discrimination against employees who engage in activities furthering the purposes of the Atomic Energy Act and the Energy Reorganization Act is prohibited.

On September 7, 1982, Mr. Kent talked to Bechtel officials. On September 13, 1982, SCE and Bechtel notified the NRC about the allegations and the NRC resolutions. On October 6, 1982, Region V was contacted by Mr. John O'Dell of the Los Angeles Times regarding Mr. Kent's allegations. On October 13, 1982, Mr. Owen Shackleton contacted Mr. James Foster, Region III OI. The handwritten notes of that telecom (Exhibit 10) are particularly enlightening and shed light on the eventual outcome of the Region V investigation, and potentially the Region III investigation. A review of these notes are particularly disquieting. Some comments, listed below, prove to be the basis for Mr. Shackleton's entire line of questioning with Mr. Kent at his October 15, 1982 interview.

(2) Comments by Foster, as written by Shackleton (Attachment B-4 to FOIA 618):

a. "Spent a great deal of time investigating Kent's allegations."

This is simply not true. The only time Mr. Foster spent on Mr. Kent's allegations was during a March 1982 conference call and when Mr. Kent came on his own initiative to the Region III office in August 1982 and spent approximately two hours with Foster. Foster asked no questions regarding specific details or concerns about Midland, beyond the affidavit provided to the NRC.

Prior to that, the only Region III inspection into Kent's allegations was conducted in March 1982 by Mr. Kevin Ward. Three of the four issues raised before Kent left the Midland site were dismissed at the time, but are under a second review by Region III. Further, a large number of Kent's Midland allegations dealt with the untrained and uncertified welders, and with the refusal of Bechtel QC inspectors to identify the problems and issue corrective action (NCRS). Both of these problems were stated recently in Mr. J. G. Keppler's Letter of Notification notifying Consumers Power Company of a \$120,000 fine against the utility as a result of a "quality assurance implementation breakdown."

(b) "People consider him strange."

This statement, possibly libelous, again implies that Kent is simply a troublemaker, regardless of the merits of his allegations.

c. Mr. Kent Is Supposed To Be a Welding Engineer.

This statement is neither relevant nor accurate. Mr. Kent holds a Diploma in Structural Engineering, has had forty years of practical experience in engineering and welding. (See summary of Mr. Kent's experience.) He was a member of the American Society for Quality Control until his dismissal from Bechtel. Regardless, Mr. Kent is required by both federal law and industrial policy to report all violations of construction regulations. It is both crude and inappropriate for the NRC to attack his personal qualifications, as the means to discredit his allegations.

d. Industry slander included in NRC investigative file.

The GAP investigation revealed evidence that the NRC actively sought or incorporated unsubstantiated information regarding Mr. Kent. L¹, a telephone memorandum from O. Shackleton, Tom Bishop advised that Burns and Roe Engineers stated that:

"Kent was fired at Litton Industries because his performance was atrocious and he had high absenteeism. When fired Kent made a seventeen-page telegram to President Nixon alleging that ships were so full of faults they would make a bunch of Navy widows." (Exhibit 11.)

GAP's independent investigation into the Burns and Roe allegations reveal that their attack on Mr. Kent was itself doubtful. Burns and Roe are heavily involved with many Bechtel construction projects, including San Onofre. Suffice it to say that it is obvious that the comments supplied by Mr. Foster to Mr. Shackleton poisoned the Region V investigation from the beginning. A review of Shackleton's questions is evidence that he first "destroyed" Mr. Kent, using techniques and gossip tidbits from Foster. (See in particular the first 50 pages of the Transcript.)¹

e. The Kent inspection was Curtailed and Prejudiced at the Onset by SCE and Bechtel Influence.

A review of the internal correspondence regarding the NRC's inspection of Kent's allegations gives chilling insight into the mindset with which the NRC began the Kent investigation/inspection effort.

Examples are listed below:

-- Meeting notes, 10/14/82, from a Region V meeting, state the following (Attachment 12):

¹The 257 pp transcript of the NRC-Kent meeting is available in the PDR under FOIA request #618

- (1) Interview Kent for all his concerns.
- (2) Need full investigative support.
- (3) Technical positions in Region III and V have to be the same.
(Engelken)
- (4) Have NRR reaffirm their position on the ASME Code (emphasis added).
- (5) Call Fitzgerald/Ward and discuss the matter with him. (Exhibit 12)

-- Report #82-27, Oct. 5, 1982, was the initial (pre-publicity) NRC review of Southern California Edison's questions to resolve Kent's allegations. The report states:

"The inspector reviewed the licensee's actions to resolve these allegations by discussions with licensee personnel and examination of documentation.

The licensee appeared to have taken comprehensive investigation action and adequately addressed all issues. The licensee's investigation did not substantiate any allegation."

Unfortunately, it is this cursory review of the licensee's self-examination that provides the basis for the NRC's position.

-- In a November 17, 1982, Memo for Thomas M. Novak from William R. Johnston, "Subject: Allegations by Earl Kent concerning adequacy of weldments at San Onofre Units 1, 2 and 3," the following statement confirms the lack of independent analysis of Mr. Kent's technical concerns.

"The review has included: (1) interviewing the people who accompanies Mr. Kent on a walk-through tour of the plants . . . , (2) repeating the tour and inspecting those welds which he pointed out were of concern to him, (3) review of the documents provided by the applicant demonstrating compliance with the applicable codes.

We conclude that there is no merit in the allegations made by Mr. Kent, and recommend that no further action be taken. The Bechtel Power Corporation (BPC) provided documentation to refute the allegations by Mr. Kent. This documentation was gathered and assembled without BPC having the specific allegations by Mr. Kent as expressed in his statements. The documentation was thorough, and refuted all of the allegations."

-- The recent "Request for Technical Assistance," October 29, 1982, from Jesse L. Crews, Director, Division of Resident, Reactor Projects and Engineering Programs to Mr. Darrell Eisenhut, Director of the Division of Licensing, states The inspection priorities of the NRC. (Exhibit 13)

Obviously Kent's inspection had a predetermined timeframe!

"It is our intention to have a satisfactory resolution on all of the allegations by Mr. Kent prior to license issuance for San Onofre Unit 3, tentatively estimated by Region V as November 15, 1982. Your assistance in this time frame would be appreciated."

III. The specific technical concerns raised by Mr. Kent have not been adequately investigated or they have been obfuscated by NRC rhetoric which ignores key issues that Mr. Kent is raising about welding at nuclear power plants.

The following technical items are recorded in the order that they are included in the "KENT report" issued November 30th by Region V. After each allegation a review of the inspection's effort is provided. This section of the analysis has been developed by engineers from several disciplines, as well as reviewed with representatives of the professional organizations involved with Mr. Kent's code violation concerns.

Mr. Miguel A. Pulido, a mechanical engineer, served as technical coordinator of the evaluation of the data provided:

Allegation:

8.a. "Pipe fitters sometimes use pipe cutters to make scribe marks for socket weld fit-up measurements. These scribe marks caused grooves in both stainless and carbon steel pipes about 1 inch back from the weld area. I am concerned that these grooves might cause stress raisers. These conditions exist on socket welded fittings at random in Units 1 and 2, and possibly a few in Unit 1."

Contrary to the NRC conclusions, there is at least one case which substantiates this allegation in the NRC's own report.

"One instance was identified, to the inspector, where a pipe cutter had been used to scribe a pipe."

This is a perfect example of what the allegation refers to. In this particular case, a Nonconformance Report (NCR) No. P-3330 was generated. The pipe in question here was part of the Auxiliary Feedwater System at Unit 3, has been repaired.

Poor investigative practices are demonstrated in the additional response to this allegation. The investigator only measured the depth of scribe marks on "several of the fittings." (Pg. 8, fourth paragraph, last sentence). SONGS has thousands of such welds and more than several should have been inspected for notch depths. Numerous complaints have been made by our organization about the NRC's lack of using statistical sampling methods to determine the number of items required to take an accurate sample, and the techniques used to judge the results of that sample.

A large portion of the response to the allegation deals with the 5% criterion limit. Bechtel Engineers performed calculations to show that stress raisers caused by notches having this 5% depth would be within code design margins. This entire approach does not address the allegation. The allegation did not contend that a 5% notch depth would violate the code. The allegation stated:

"I am concerned that these grooves might cause stress raisers."

There is no question that they cause stress raisers.

What the NRC investigator should have done is to inspect a reasonable sample of socket welded fittings and examine all of those fittings to determine the depth of the marks (grooves or notches).

Allegation:

- 8.b. "Bechtel designers use fillet welds on connections of beams in pipe supports and tray hangers and do not weld all around the joint to restrain forces in all directions. I feel this is a code violation. No prototype tests to my personal knowledge were conducted to verify the adequacy of welds. Therefore, the actual structural strength of the electrical tray hanger/tube steel welds used or the actual material at SONGS may not be truly known. This also applies to the pipe supports. I also feel that the often partial joint strength (less than full joint integrity) and failure to weld all around the joint is a generic problem. Unfortunately, and in my opinion, the codes do not always demand full strength welding, whether all around or not."

This allegation concerns three separate issues: (1) fillet welds; (2) the failure to weld 100% around the joints; and (3) prototype testing. The NRC determined that these allegations were deemed to be "unsubstantiated." Yet, the NRC Regional report deals only with the failure to weld all around joints and does not discuss either the fillet welds problem or prototype testing. ^{1/} The NRC report clearly refers to the NRR report as justification for Staff resolution of the allegations raised in paragraph 8. Yet, upon review, the NRR report deals only with the fillet weld and not with the failure to weld 100% around the joints. Neither the NRC report nor the NRR review cites any professional codes which contradict Mr. Kent's

^{1/}In fact, the report (p. 10) does substantiate Mr. Kent's allegation that no prototype testing was done. "The alleged's contention that no prototype testing was conducted...was substantiated." The Staff, however, adopts the judgment and explanation of the designer without question. Yet, both the ASME and AWS professional codes we have reviewed clearly state that prototype testing is a requirement, not an option of construction engineering. The Bechtel/SCE explanation does not even refer to ASME/AWS codes, the codes that Mr. Kent points out have been violated, but instead to the American Institute of Steel Construction (AISC) Manual. And even the sections of the AISC Manual referred to as justification do not address the prototype testing allegations specifically, but discuss failure modes not welding requirements.

allegations that failure to weld 100% around the joints not only violated the codes, but also the health and safety requirements imposed by the NRC.

In essence, in its rush to clear itself of public embarrassment, the NRC Region V and NRR Staff have taken a great leap of faith. They have put the judgment concerning dangerous code violations with serious implications for the safety of the public into the very hands of those who have a direct interest in the vindication of their practices.

Mr. Kent's allegation is simply that welding all around the joint would make the weld integrity greater. Bechtel engineers determine weld adequacy by looking at average stress distribution across the joint instead of realistically considering peaks.

This allegation takes exception to both code and implementation of the welding requirements by Bechtel.

Allegation:

- 8.c. "The ASME Code requires adequate root penetration of fillet welds. I recall that some of the vendor supplied welded hardware appeared to not have adequate root penetration. The one vendor I recall is "Zack," I believe a supplier of HVAC equipment. I remember one instance on a piece of Zack hardware where a fillet weld with inadequate welding was identified during inspection on site. This instance was subsequently corrected by weld repair after installation in the plant. I do recommend that the NRC examine the beginning and end of fillet welds to assure root penetration at these areas and verify that all craters are filled, and conduct destructive testing of selected supports supplied by this vendor to determine if other fillet welds and groove welds have adequate root penetration or other codes violations."

In this instance the Region V report takes a particularly sophomoric approach to discredit Mr. Kent. Their response can be summarized as follows: a mock exacerbated search of the SONGS vendor to find a "Zack Company."

Simply reading the transcript of Mr. Kent's 7-hour interview reveals that all three NRC/Region V and OI inspectors should have been well aware that Mr. Kent's Zack allegations were in reference to questions they asked about the Midland plant. (Transcript, pp. 29-30). Further, one of the reasons Mr. Kent did not sign the 6-page statement prepared by Region V investigators was because they had grossly misstated his factual allegations. Mr. Kent has always been aware of the serious problems of welding done by the Zack Company in Midland, Michigan. To misstate his clear knowledge is inexcusable.

Finally, although the Region V inspection would have the public believe that there were "no items of noncompliance or deviations identified" in relation to allegation 8c, nothing could be further from the truth.

The Zack Company has caused innumerable problems in Region III. At Midland all Zack welders were laid off on December 2, 1982, and again in May 1983, because they were trained by a testing agency not on the Approved Vendors List (AVL). The Zack problems at Midland led to a \$38,000 fine in 1981, and are now the subject of a major Region IV vendor inspection investigation, an Office of Investigations (OI) investigation, and a Region III IE inspection.

It is unclear how many of the 218 hours were spent on looking for a Zack Company that didn't exist at SONGS. Had the IE inspectors referred to the transcript in which the allegation was made, they could have saved that time.

Allegation:

- 8.d. "A steel bracket would be placed, I was told, between a Unit 1 hydrogen line on trip for steam generator. This was done because the hydrogen line had worn thin due to rubbing with another line. I believe maintenance people at the site, who were working during the period when damage due to the Unit 1 diesel generator fire was being corrected, would remember and be able to locate the design change and spacer. I don't recall the exact location of the hydrogen line. To the best of my recollection, there wasn't equipment within ten feet. I don't remember if there was any nuclear safety-related equipment nearby, and about the potential for loss of human life and fire, should this line rupture. I recommend NRC conduct an examination of this hydrogen line and make certain it has sufficient wall thickness to be safely operated. Mostly likely, I prevented a major fire in Unit 1 and probably save the lives of several (or more) working here!"

Although the NRC concluded that there was no substantiation to this allegation, in fact, the report itself validates Mr. Kent's concerns.

In the course of the walkdown, the inspector identified the following:

- . Four line supports were missing.
- . One support was not connected to the overhead anchor point and was hanging from the pipe.
- . The line was supported with baling wire at one point and with duct tape at another.

Mr. Kent's allegations clearly brought to the attention of both the utility and the NRC serious problems which required repair and resolutions.

Allegation

- 8.e. "I am of the opinion that weld end returns are not required on Bechtel drawings. This is in violation of AWS-D1.1, Section 8, 1974 Edition, paragraphs 8.8.6, 8.8.6.1, and 8.8.6.2. These conditions exist on details in many structural applications. A two-page Bechtel Power Corporation table establishes that certain pipe supports and other items must conform to AWS D1.1 requirements."

Mr. Kent contends that the word "shall" (see p. 12, fourth line, NRC Finding) in this case means that there is no prerogative to be used here.

Inspectors are given codes, rules and standards to inspect by. In this case Mr. Kent had a two-page table. Attached is a copy of that table (Exhibit 14), given to Mr. Kent by Mr. E. Puckett, Quality Control Engineer.

This table clearly calls out certain codes and specifications. It does not allow for the substitution of Bechtel specifications. The inspector stated (at p. 14, l. 9) that:

It, therefore, appears that Bechtel specifications correctly assign code jurisdictional boundaries and provide for appropriate inspection criteria within those jurisdictional boundaries.

This, however, is not the issue. Mr. Kent was inspecting in accordance with the two-page table, and identified numerous missing end returns. Bechtel claims that it can confirm to the code and simultaneously drop end returns, as long as they satisfy the intent of the code. Bechtel further claims the intent of the AWS D.1.1 1974 8.8.6 code is best expressed by the AISC Construction Manual, 7th Edition. In any event, Mr. Kent was an inspector, inspecting in accordance with the two-page table that was provided. Under that criteria, he was right. Obviously, he is not the only Bechtel inspector. In investigating this issue it is not clear how many other inspectors the NRC questioned or if any of the others had that two-page table.

A proper investigation would cover the important issues being raised here about implementation of the codes.

Allegation:

- 8.g. "Bechtel generated (I was told) a 92 page NCR on electrical tray hangers. I question whether the welds made on electrical supports prior to the NCR resolution were adequately or completely fixed."

Some history is in order in addressing this allegation. Mr. Kent and Mr. Lahr found that the acceptance criteria for flare-bevel welds and the directions, i.e., drawings, were not clear. There was such confusion that this extensive NCR was developed.

This NCR did result in a revision of Bechtel specifications (see p. 20) to clarify the matter. However, by that point in time there were hundreds of welds that were not filled, i.e., flush. Bechtel's calculations (p. 21, para. 3) to determine if these incomplete, non-flush welds were theoretically acceptable. They concluded, and the NRC concurs, that the existing conditions could be "dispositioned." (Note that 15 tube steel supports were reworked as a result of this NCR, p. 21.)

Mr. Kent's allegation questions the adequacy of this disposition. The NRC inspector examined 14 supports, and found 3 that were not filled to flush. He concluded that this was acceptable since it was covered by the NCR resolution (p. 22, para. 2). However,

- 1) If more supports are examined, it is likely that some are not covered by the NCR.
- 2) In the entire "investigation" by the NRC there is no analysis performed independently of Bechtel on this point.

The adequacy of the NRC's effort on this part is both substantively weak, and empirically flawed.

Allegation:

- 8.h. "Bechtel has not, in my opinion, complied with the requirements of AWS D.1.1 (1974) edition), paragraphs 5.12.1.5(2).(b) and 8.15.1.3 regarding filling of open weld craters on tray hangers and other items to cross-section of the weld."

The NRC simply restates the Bechtel position. (See p. 23 of the Bechtel Paper.) In essence, Bechtel's position paper admits that Mr. Kent's allegation is substantiated. Their justification for not substantiating it is that cases that don't meet the code, i.e., "under filled," are analyzed based on conservative criteria. Whether their analysis is conservative or not is not the issue. Mr. Kent's concern is that the code is clearly being violated -- not that there is a degree of violation.

There is no analysis of the subject here by the NRC. Again, the NRC simply restates Bechtel's position.

Allegation:

- 8.i. "Bechtel has not, in my opinion, removed all arc strikes or blemishes from base metal on pipe supports or structural steel as required by AWS D1.1 paragraph 4.4."

In reality, the investigation performed by the NRC here really consisted of: "The inspector examined portions of several safety-related piping systems and did not observe any arc strikes." (At p.25.)

And:

"The inspector could not find any arc strikes in the field which had not already been identified and positioned by Bechtel."

There is no indication of how many pipe supports were examined, nor the methodology of the examinations. The remainder of the NRC response to this issue does not even address the allegation.

Allegation:

- 8.j. "I observed instances where run off plates had not been used as required by AWS D1.1 paragraph 4.6 on groove weld terminations. I cannot recall any specific locations, but I do recall observing this condition on beam and girder splices, as supplied by at least one vendor."

The "investigation" in this case consisted of:

"The inspector examined several exposed structural steel beams and columns and did not identify any instances of improper run-off plate use."

The remainder of the response simply mentions where and why run-off plates should be used.

In the opinion of the professional engineer's working with GAP on this report, this is not an adequate inspection effort.

Allegation:

- 8.k. "I believe that a spacer plate is missing on the upper inside door hinge of the Unit 2 containment personnel hatch because I observed a gap in the weld joint of about 1/4 inch. I brought this to the attention of my supervisor (name) who also shared that belief. I believe that by bringing this condition to the attention of my supervisor I had properly performed by duty to identify this condition. I did not compare the drawing requirements to the installed condition in making this determination of a missing spacer plate because my supervisor had indicated to me that it was the vendor's problems to correct it and I had other work to do immediately."

Like many of Mr. Kent's other allegations this item has been clearly substantiated. Bechtel's own audit (Exhibit 15) identifies a "gap" in the exact location that Mr. Kent identified the gap during his employment at SONGS some two years ago. Clearly the item was an important oversight then, and required both engineering analysis and a revision in the design blueprints to justify not requiring rework.

With this allegation, as with numerous others, the NRC has decided to discredit and dismiss Mr. Kent's concerns instead of honestly reporting that Mr. Kent brought a matter to the attention of both the agency and the licensee that required technical resolution.

Allegation:

- 8.l. "I believe that Bechtel has misinterpreted the requirements of the ASME Section III welding standards regarding socket weld engagement length without initiating a code case and obtaining appropriate code relief. The ASME code requires a gap between the pipe end and the fitting of "approximately 1/16 inch." I believe that the code should provide a more definitive acceptance criteria than merely "approximately 1/16 inch."

Clarification of this allegation is not necessary. 1/16 inch is the minimum acceptable from separation. Yet a Bechtel memo which Mr. Kent has provided to his private attorney, Mr. Melvin Belli, allows this distance to become any length, so long as the pipe is not withdrawn from the socket.

Allegation:

- 8.m. "Bechtel Specification WQ-2, sheet 20, note 1, requires "shall not exceed 1/3 inch . . ." regarding maximum groove weld reinforcement at Midland, Michigan's Twin Nuclear Plant. This requirement should read "shall not exceed 1/8 inch . . ." as required by the ASME Section III code on groove weld reinforcement. This 1/3 inch height may be, also, mistakenly implemented at San Onofre."

Mr. Kent's allegation in this instance is proven on page 25, part 3 where Bechtel admits the 1/3 inch is a "typo".

If Bechtel is not going to weld in accordance with the code, the appropriate professional society should make a determination as to the acceptability. A "typo" that mistakenly denotes 1/8 of an inch for 1/3 of an inch is a good example of the type of error that cannot be tolerated in nuclear plant construction.

Allegation:

- 8.o. "The alleged indicated that Bechtel Power Corporation at the San Onofre-2/3 site allows: (1) low hydrogen weld rod to be in open air for eight hours prior to use; (2) that Bechtel does not place low hydrogen electrodes in a drying/holding oven after removal from the hermetically sealed cans; and (3) that the Bechtel site procedures allow the issuance of weld rod upon removal from the hermetically sealed can."

Here Mr. Kent claims again that Bechtel is violating the code. Through tests Bechtel claims 12 hours are justified, and the NRC concurs.

Yet, the code allows 4 hours. In order to determine if what Bechtel has done is acceptable, engineers advising GAP believe there would have to be a consultation with representatives from the governing code organizations.

If what Bechtel has done is unacceptable, then virtually every weld on the site may be unacceptable.

Allegation:

8.r. "The allegor, during the tour of the site on October 25, 1982, identified instances in the Low Pressure and High Pressure Safety Injection Systems and the Component Cooling Water System where he believed the tapering requirements of the ASME B&PV Code had been violated in the welding of piping to certain valves. As examples of the concern the allegor pointed out two Unit 3 pipe to valve attachment welds which had a section on the valve body that approached a 1:1 slope instead of the 3:1 slope that he believed should exist to conform to ASME Code requirements."

This is an important and relatively simple allegation to be resolved. Mr. Kent claims one thing and the NRC addressed another. (See pg. 166 of the Bechtel Position Paper.)

The diagram, which supports the NRC response, is simply not what Mr. Kent is concerned about. Instead, he is concerned that Bechtel has been using the wrong number, possibly across the country. This allegation is also substantiated, but disputed. (Exhibit 14)

The technical concerns listed above represent an overview and technical analysis of Mr. Kent's allegations at San Onofre. Our own review of the Bechtel and Southern California Edison justification discover that their efforts are largely defensive and avoid the key issues raised by Mr. Kent.

Unfortunately for the public, the NRC has chosen to regurgitate the utility's self-examination. There can be no confidence in an agency that refuses to conduct even the minimum of independent analysis on serious technical concerns.

Therefore, we are requesting an independent technical analysis of the issues raised by Mr. Kent, as well as a second investigation effort on behalf of the NRC by another agency.

It is not enough for the NRC to accept Bechtel's justification of its own arrogant disregard for the professional codes that govern nuclear power plant construction. To illustrate the dangers of this, the following excerpts are incorporated from an independent design and construction verification program (IDCVP) at the Midland Nuclear Power Plant. 1/

1/ The Midland Nuclear Power Plant, Units 1 and 2, has Bechtel as the designer, engineer, and constructor.

The first monthly report of the IDCVP audit of the Auxiliary Feedwater System found several examples of Bechtel codes not meeting professional codes or contract specifications. For example, TERA confirmed item report C-028 which states that:

"The AFW system design may not meet a B&W interface requirement that auxiliary feedwater temperature be at least 40° F. B&W's BOP criteria for AFW (Ref. 1) requires a 40° F minimum AFW temperature. This criterion is consistent with the B&W document for reactor coolant system analysis (Ref. 2) which is used in analysis of reactor coolant system components. Bechtel calculation FM-4117-28 (Ref. 3) uses a 32° F temperature as a worst case winter temperature. The recommendation contained in the original was implemented, but no addition analyses were identified.

Item C-045 states:

- "1. Manufacturer's recommended storage instructions require motor shaft rotation every two weeks while motor is in storage (Ref: Vendor Doc. No. 7220-M14-68).
2. Bechtel procedure governing in-place maintenance (F-10-247) requires rotation of motor shaft every 90 days, exceeding the maximum duration between shaft rotations, as recommended by the vendor, by a factor of 6.

And finally item C-046 states that:

1. Pump manufacturer's recommended storage instructions require pump to be stored under vacuum with VPI crystals (dessicant) to maintain relative humidity at less than 50%.
2. Bechtel Procedure for storage of pumps, Proc. #f-10-118, does not require vacuum nor humidity check #1 above
3. Further to concern, review of records indicates pump have been open, subject to flooding & other damage, & several NCR's remain open against the AFW pump turbine.

These have been included as Exhibit 16.

IV. Narbut Report

In response to our FOIA request #614, we received an OIA investigation into alleged violations of NRC regulations by a Region V inspector, Paul Narbut, in the spring of 1982 concerning the release of a draft investigation/inspection report. Upon review of the OIA report ("Narbut report") it is clear that from at least 1981

to 1982 Region V had a policy about sharing draft inspection/investigation reports with licensees -- a policy that is in direct conflict with NRC regulations. Although the resolution of that problem came in an April 1982 memorandum to all Region V personnel from Mr. Engleken following the Hayward Tyler Pump incident in Region IV, the fact remains that for almost two years Region V management had a policy that was indirectly violating federal regulations.^{1/}

At a minimum this raises serious questions about the judgment and competence of the Regional Administration. However, even more serious is the way that OIA administrators handled the very clear findings contained in the Narbut report. (Exhibit 17) The Narbut case involves a draft inspection report being released to a licensee, specifically a draft inspection report to the Washington Public Power Supply System in April 1982.

However, other cases discovered in the OIA investigation included a Region V release of a draft report to Southern California Edison concerning security problems at San Onofre (SONGS) in March, 1982, which resulted in -- apparently -- planned escalated enforcement action being dropped.

In a June 22, 1982 letter to Mr. James Cummings, Director of the Office of Inspector & Auditor, the investigator who directed the Narbut investigation registered his dissent about the internal edit by his superiors. (Exhibit 17)

"I am not questioning your authority in overruling me on this matter, nor do I feel that you were obliged to mention my views to the Commission. However, I do believe that the memo improperly states that there was unanimity in its recommendations . . . "

Details of the San Onofre Case

In the course of investigating the Narbut case, OIA asked Region V staff whether they knew of other cases where draft reports had been released. The most detailed and significant example given by the NRC staff involved a March 8, 1982 release concerning safeguards deficiencies at the San Onofre site in San Clemente, California. The release occurred with the knowledge and approval of the Regional Enforcement Director and the cognizant

^{1/} An October 21, 1981 Procedure for Initiating, Conducting and Reporting Enforcement Conferences "clearly directed Region V's personnel to provide licensees with a draft notice of violation in advance of any enforcement." (OIA Report, page 48.) This contradicts Section 04 of the IE Manual, Chapter 1025, dated April 17, 1981, that states: "Advance copies of inspection/investigation reports provided to Headquarters in support of escalated enforcement action should not be sent to licensee/vendors for review in accordance with this chapter until the documents initiating the enforcement action have been signed and issued."

Division Director. Further more, it took place at a time when escalated action was being actively considered. The particular fact is important because NRC rules, as stated in the IE manual, apparently indicate that no reports --drafts or final--should be given to licensees until after the enforcement action has been fully determined.

In this case, however, it appears that a planned escalated enforcement action was cancelled partly because of the release of the draft report. Because of a prompt written response by Southern California Edison to Region V's concerns, no escalated enforcement action was taken. The matter is complicated because of a March 9, 1982 change in NRC's enforcement policy establishing somewhat different criteria for what violations require civil penalties. Nevertheless, prior to releasing the draft report, prior to meeting with the licensee and prior to receiving the licensee's responses to NRC's concerns, Region V staff had planned to propose a fine of \$20,000.00.

Conclusion

The results of the NARBUT investigation into Region V's inspection policies, coupled with the handling of the KENT allegations, leave the Commission no choice but to take immediate strong action to restore public confidence in the NRC's Region V office. This can be done only by an independent investigation of both Mr. Kent's allegations and the NRC inspection of his charges. We look forward to the direction of the Commission on this item in the near future.

Sincerely,

Billie Pirner Garde

Billie Pirner Garde
Citizens Clinic Director

BPG/mt