

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of

LOUISIANA POWER AND LIGHT COMPANY

(Waterford Steam Electric Station,  
Unit 3)

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Docket No. 50-382

AFFIDAVIT OF THOMAS M. DEVINE

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The above, being duly sworn deposes and says:

1. My name is Thomas Michael Devine. I am the Legal Director of the Government Accountability Project (GAP), which provides legal representation to citizen organizations and employees who challenge illegal, dangerous or wasteful activities either undertaken or ignored by the government.

2. In July 1983 I drafted three affidavits from witnesses who had worked at the Waterford III nuclear power plant. Two affidavits (Exhibits 12 and 27) were drafted on the basis of personal interviews. One affidavit (Exhibit 8) was drafted on the basis of a prior, taped interview between a witness and Mr. John Clewett, an attorney working with GAP. The interview was taped with the witness' knowledge and consent.

3. All three witnesses explicitly based their willingness to sign affidavits on condition that their identities would remain confidential. In my interviews I explained the NRC's confidentiality policy and the concept of a motion for protective order. I also assured the witnesses that GAP would not publicly

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disclose their identities without their consent. After hearing <sup>AD</sup> these explanations, both witnesses agreed to sign affidavits. Ms. Lynne Bernabei of GAP has informed me that the third witness, the affiant in Exhibit 8, also agreed to sign an affidavit submitted under cover of a Motion for Protective Order.

4. The witnesses both explained to me that they did not want their identities public due to--1) a desire to protect their privacy; and 2) their concerns about retaliation from Louisiana Power and Light (LP&L) managment, based in one case on the witness' own experience and in another case on the experience of his colleague the third affiant. The perceived retaliation included harassment, invasion of privacy and in one case termination.

I have read the above 2 page statement and it is true, accurate and complete to the best of my knowledge and belief.

Thomas M. Devine  
Thomas M. Devine

Subscribed and sworn to before me  
this 5<sup>th</sup> day of November 1984.

June H. Razo  
Notary Public

My Commission expires June 14, 1985

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PROTECTIVE ORDER

Counsel and representatives of the parties to this proceeding who have execute an Affidavit of Non-Disclosure in the form attached shall be permitted to "protected information"<sup>1/</sup> upon the following conditions:

1. Only counsel and representatives of the parties who have executed an Affidavit of Non-Disclosure may have acces to protected information. All executed Affidavits of Non-Disclosure or copies shall be provided to the Appeal Board and the parties.
2. Counsel and representatives who receive any protected information (including any documents that contain or otherwise reveal protected information) shall maintain confidentiality as required by the attached Affidavit of Non-Disclosure, the terms of which are hereby incorporated into this protective order.
3. Counsel and representatives who receive any protected information shall use it solely for the purpose of participation in matters directly pertaining to this proceeding and any further

<sup>1/</sup> As used in this order, "protected information" has the same meaning as used in the Affidavit of Non-Disclosure, attached hereto. The provisions of this Protective Order do not apply to Nuclear Regulatory Commission employees; they are subject to internal requirements (see NRC Manual Appendix 2101) concerning the treatment of protected information.

proceedings in this case and for no other purposes. Nothing in this protective order, however, shall preclude any party from moving the Appeal Board for the release of particular information for appropriate purposes, such as for use before another adjudicatory body.

4. Counsel and representatives shall keep a record of all documents containing protected information in their possession and shall account for and deliver that information to counsel for the staff in this proceeding in accordance with the Affidavit of Non-Disclosure that each has executed.

5. In addition to the requirements specified in the Affidavit of Non-Disclosure, all papers filed in this proceeding that contain any protected information shall be segregated and:

- (a) served only on the counsel or other representatives of each of the parties who have executed an Affidavit of Non-Disclosure;
- (b) served in a heavy opaque inner envelope bearing the name of the addressee and statement "PRIVATE. TO BE OPENED BY ADDRESSEE ONLY." Addressees shall take all necessary precautions to ensure that they alone will open envelopes so marked.

6. Counsel, representatives, or any other individual who has reason to suspect that documents containing protected information may have been lost or misplaced (for example, because an expected paper has not been received), or that protected information has otherwise become available to unauthorized persons,



6. I shall use protected information only for the purpose of preparation, including any investigations which may be necessary, for this proceeding or any further proceedings in this case dealing with quality assurance and quality control issues, and for no other purpose.

7. I will avoid disclosure of protected information to the best of my ability. However, it must be recognized that in the course of conducting investigations in connection with this proceeding, certain protected information may be independently discerned incident to that investigation which might result in the inadvertent disclosure of protected information.

8. I shall keep a record of all protected information in my possession, including any copies of that information made by or for me. At the conclusion of this proceeding, I shall account to the Appeal Board or to a Commission employee designated by that Board for all the papers or other materials containing protected information in my possession and deliver them as provided herein. When I have finished using the protected information they contain, but in no event later than the conclusion of this proceeding, I shall deliver those papers and materials to the Appeal Board (or to a Commission employee designated by the Board), together with all notes and data which contain protected information for safekeeping until further order of the Board.

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Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_ 1983.

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Notary Public

AFFIDAVIT OF NON-DISCLOSURE

I, \_\_\_\_\_, being duly sworn, state:

1. As used in this Affidavit of Non-Disclosure,

(a) "protected information" is (1) information revealed in connection with in camera hearings in the Waterford operating license proceeding, including particularly the names of and identifying facts about in camera witnesses, and any other related information, particularly documents, specifically designated by the Atomic Safety and Licensing Appeal Board ("Appeal Board"), or (2) any information obtained by virtue of these proceedings which is not otherwise a matter of public record and which deals with the in camera hearings.

(b) An "authorized person" is a person who, at the invitation of the Appeal Board, has executed a copy of this Affidavit.

2. I shall not disclose protected information to anyone except an authorized person, unless that information has previously been disclosed in the public record of this proceeding. I will safeguard protected information in written form (including any portions of transcripts of in camera hearings, filed testimony or any other documents that contain such information), so that it remains at all times under the control of an authorized person and is not disclosed to anyone else.

3. I will not reproduce any protected information by any means without the Appeal Board's express approval or direction.

So long as I possess protected information, I shall continue to take these precautions until further order of the Appeal Board.

4. I shall similarly safeguard and hold in confidence any data, notes, or copies of protected information and all other papers which contain any protected information by means of the following:

(a) My use of the protected information shall be made at a place approved by the Board.

(b) I will keep and safeguard all such material in a locked facility approved by the Board.

(c) Any secretarial work performed at my request or under my supervision will be performed at the above location by one secretary of my designation. I shall furnish the Board and parties an appropriate resume of my secretary's background and experience.

(d) All mailings by me involving protected information shall be made by me directly to the United States Postal Service or by personal delivery.

5. If I prepare papers containing protected information in order to participate in further proceedings in this case, I will assure that any secretary or other individual who must receive protected information in order to help me prepare those papers has executed an affidavit like this one and has agreed to abide by its terms. Copies of any such affidavit will be filed with and accepted by the Appeal Board before I reveal any protected information to any such person.

shall notify this Board promptly of those suspicions and the reasons for them.

IT IS SO ORDERED.