



U.S. OFFICE OF SPECIAL COUNSEL

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The Special Counsel

August 4, 2008

The President
The White House
Washington, DC 20500

Re: OSC File No. DI-07-2724

Dear Mr. President:

The United States Army Corps of Engineers (USACE) serves the Armed Forces and the nation by providing vital engineering services in support of national interests. As part of its mission, USACE has been tasked with providing critical hurricane and flood protection to the recently-devastated city of New Orleans. Maria E. Garzino, USACE Civil Engineer, alleged that USACE employees and Moving Water Industries (MWI) personnel installed defective pumps in New Orleans and circumvented contract requirements related to contract modifications and notifications at the expense of public safety and proper contract oversight.

I required the Honorable Robert Gates, Secretary of Defense, to conduct an investigation into Ms. Garzino's disclosure pursuant to 5 U.S.C. § 1213(c) and (d). Secretary Gates delegated responsibility for investigating Ms. Garzino's allegations to his Inspector General, the Honorable Claude M. Kicklighter, who submitted a report to me. Ms. Garzino also provided comments to the agency report. As required by law, 5 U.S.C. § 1213(e)(3), I am now transmitting the report and the whistleblower's comments to you.

Specifically, Ms. Garzino, who consented to the release of her name, stated that costly pumping equipment at three "outfall gated canal closure structures," which is part of the flood protection design to protect New Orleans, was inherently flawed due to poor pumping and hydraulic system designs; pumping equipment that had previously malfunctioned under favorable contractor testing conditions, and subsequently shown to be defective, was knowingly installed by USACE employees and MWI personnel; and that USACE and MWI employees were responsible for not providing proper oversight of the pumping equipment project which created a substantial and specific danger to public health and safety.

On May 14, 2008, the agency submitted a report in response to Ms. Garzino's disclosures. The report substantiated several of Ms. Garzino's allegations, but ultimately concluded that "... these deficiencies [were] performance related short-comings that did not rise to the level of a serious violation of law or regulation, abuse of authority, or gross mismanagement. Nor did they result in a gross waste of funds or a danger to public health or safety."

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Ms. Garzino, however, vigorously disputed the agency's findings and provided OSC with extensive documentary evidence to support her account of events surrounding the design, testing, installation, operational capabilities, and contract irregularities. She stated that the agency's conclusions were severely flawed and erroneous, and represent a "whitewash," according to the available evidence and documentation. Ms. Garzino states that the agency report is devoid of engineering and mathematical interpretation, upon which the engineering profession is based. Merely transcribing without question and adequate scrutiny what others put forth, no matter how illogical, unsubstantiated, or void of fact, is unsuitable in any investigatory effort. Ms. Garzino believes that it is imperative that there be a vehicle in place that can provide a truthful, competent, and fair investigation of the evidence and documentation that exists in this matter. As required by law, 5 U.S.C. § 1213(e)(3), I am now transmitting the agency report along with Ms. Garzino's comments to you.

Having reviewed the agency's submissions and Ms. Garzino's comments, I have determined that the agency's report, taken together, contain all of the information required by statute, but, as explained in the enclosed Analysis of Disclosure, I must conclude that findings in the agency report do not appear reasonable within the meaning of 5 U.S.C. § 1213(e)(2). Ordinarily, in cases where I have found the report unreasonable, I would afford the agency head an opportunity to correct the deficiencies and submit a supplemental report. In this case, because of the exigencies of hurricane season, I have elected to forgo this option, and I am forwarding the reports, together with my comments and recommendations, to you.

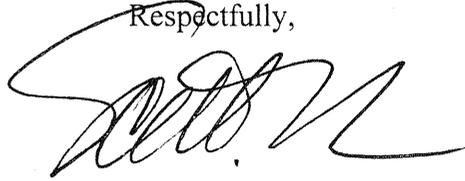
The documentation and comprehensive explanation provided by Ms. Garzino in contrast with the agency's superficial and dismissive findings also suggest that, although Ms. Garzino regularly and persistently made USACE aware of serious flaws in the design, testing, installation, capabilities and contract issues that arose with the New Orleans pumps, USACE employees failed to act in a manner that was consistent with providing accountability to the process. Instead of taking Ms. Garzino's concerns seriously, USACE employees appeared to have taken a band-aid approach at the expense of good government and public health and safety. As explained in the Analysis of Disclosure, the agency report appears to make excuses on behalf of the USACE employees instead of holding employees and contractors accountable for their actions and assuring the citizens of New Orleans that the pumps, a critical pillar of the flood protection systems, would actually perform without catastrophic failure during the mildest of hurricanes. I am left to conclude that a thorough and impartial investigation conducted by independent professional engineers into these matters is warranted. Moreover, it appears that the pumps remain inadequately untested, and vulnerable to failure in the event of a hurricane.

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As required by § 1213(e)(3), I have sent a copy of the agency report and Ms. Garzino's comments to the Chairmen of the Senate and House Committees on the Armed Forces. We have also filed a copy of the agency report and Ms. Garzino's comments in our public file and closed the matter.

Respectfully,

A handwritten signature in black ink, appearing to read 'Scott J. Bloch', with a large, sweeping flourish at the end.

Scott J. Bloch

Enclosures