

Maria E. Garzino
Federal Government Whistleblower, U.S. Office of Special Counsel
Mechanical/Civil Engineer, U.S. Army Corps of Engineers

February 5, 2011

The President
The White House
Washington, D.C. 20050

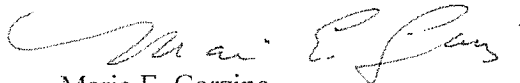
Dear Mr. President,

In the enclosed Request for Disposition, I will demonstrate that:

- In the event of a Katrina-level storm, the City of New Orleans is just as vulnerable to catastrophic flooding as it was in 2005.
- The U.S. Army Corps of Engineers (USACE) knowingly installed equipment that cannot adequately protect the city of New Orleans from flooding. The USACE also used faulty installation and testing methods that increased the potential for equipment failure. The USACE deliberately hid the flaws of this project from both the public and the United States Congress.
- The USACE fraudulently embarked on a cover-up project, doing duplicate work at a needless cost of hundreds of millions of dollars. The USACE deliberately deceived Congress as to the nature of and reason for this work.
- Even the cover-up work is proceeding at a snail's pace while the city remains in danger.
- In allowing the citizens of New Orleans to believe falsely that they are safe, the USACE and your Administration are guilty of a grave violation of the public trust.

I ask that your Administration and the USACE remedy this shameful situation with all due speed and offer my services to help you in doing so.

Respectfully,



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RE: Request For Disposition of Transmitted OSC File No. DI-07-2724

Dear Mr. President,

After almost three years conducting an official investigation, on June 2, 2009, the U.S. Office of Counsel (OSC) transmitted to you their final official investigatory findings, together with all contents of their second official investigation that substantiated my allegations of wrongdoing by the U.S. Army Corps of Engineers (USACE). OSC informed you that hydraulic flood control pumps installed in New Orleans after Hurricane Katrina will not protect the city adequately, and that there exists today a serious threat to public safety, along with findings of serious management failures by the U.S. Army Corps of Engineers.

OSC's investigation and official findings are contained in two separate transmittals. The first official transmitted findings with investigatory files were sent to the Office of the President on August 4, 2008, with the second and final official transmitted findings (with its own independent investigatory files) sent to you as indicated above. OSC's final official investigatory findings incorporate and find valid all previous findings as specified in the original investigation, as well as outline and characterize additional findings as specified in the second and final investigation.

Of critical importance, and as demonstrated in findings from the more than three-year investigation, the USACE is responsible for the procurement and installation of hydraulic pumping equipment, proven defective in nature, that will not protect the people of New Orleans in the event of a another major hurricane. As the OSC's own report states, "The government and the public cannot reasonably trust that the flood control system in place in New Orleans possesses reliability and integrity."

In addition, the USACE is guilty of engaging in deceptive and fraudulent acts in order to hide the known inadequacies of the hydraulic pumping equipment and the USACE's own wrongdoing from the public and other responsible government agencies. An excerpt from OCS's report: "After reviewing the agency report, one finds that the agency's findings and conclusions are hollow and incomplete, despite compelling evidence that would lead one to conclude that USACE employees are responsible for wrongdoing. The agency report appears to avoid holding people accountable for documented deficiencies in how USACE managed the design,

installation, and oversight of the pump units in New Orleans, all at a substantial and specific danger to public health and safety to the people of New Orleans.”

Further, findings outlined in the final OSC investigation show that the USACE originally estimated a 50-year lifespan for the existing project, a gated closure structure with installed defective hydraulic pumps, in order to facilitate receiving authorization and funding from Congress. The USACE now publicly claims that the existing project was only intended to have a lifespan of 3–5 years, and must now be demolished and replaced with what is essentially the same project: a gated closure structure with installed pumps and a lifespan of 50 years. This time, however, the USACE intends to use direct drive pumps in lieu of hydraulic pumps, at a cost of \$700M.

This effort by the USACE to portray a project with an initial 50-year lifespan as in need of rebuilding after only 3–5 years is also extensively documented as part of an evolving cover-up of the fact that the installed hydraulic pumping equipment is defective – and the fact that the USACE is well aware that the equipment has always been inadequate.

Worst of all the wrongful actions perpetrated by the USACE is the ongoing reality that the citizens of New Orleans have had their right to informed consent stripped from them, a horrendous and unjust reality that I propose affects all Americans, not just the citizens of New Orleans. All Americans deserve the right to exercise informed consent in regard to the information their government or its agents present to them – especially when it concerns their safety. To deny such is an affront to the very foundation of our rights as Americans.

To help illustrate these points, the following provides an additional breakdown of findings from the contents of the investigatory files.

Defective Hydraulic Pumping Equipment

USACE has made, and continues to make, false statements as to the operability and acceptance testing status of the hydraulic pumps. In addition to massive documentation in direct conflict with USACE’s statements regarding this issue, OSC and OSC’s independent expert have substantiated my allegations as to the false nature of statements made by USACE regarding the operability and acceptance testing of the hydraulic pumps. OSC and OSC’s independent expert have also substantiated my allegations as to the hydraulic pumps being defective and posing a threat to the public safety and welfare. From the official investigatory files, the following is a listing of some of the proven system design failure and defective equipment issues surrounding the installed defective hydraulic pumping equipment. Any one of these issues is serious enough on its own to bring about catastrophic operational failure of the gated closure structures with installed pumps. In conjunction with the other design defects, the danger is multiplied many times over.

In addition, for all the following hydraulic pumping system design defects, there is not, from an engineering standpoint, any justification to assume, let alone state as fact, that the hydraulic pumping equipment could ever be deemed suitable for service and able to withstand a real-life

hurricane event – let alone reach their original designed life expectancies. What can be stated with engineering certainty is that the hydraulic pumping equipment is not suitable for service and can be deemed unable to withstand a real-life hurricane event given the inherent voluminous and egregious design defects to same, in conjunction with extensive and detailed documentation related to the attempts at running the pumping equipment (not only in the testing facility, but more so, in the field) that demonstrate/evidence an inability to operate as intended due to these design defects. The extensive and egregiously dangerous design defects are as follows:

- The Durst pump drive is too small and over torqued, and is overloaded through the entire range of pump operation. The output torque from the Caterpillar diesel engine grossly exceeds the maximum input torque allowed by the Durst pump drive (max torque allowed 1995 lb ft; actual torque inflicted 3218 lb ft). In addition, running the Caterpillar diesel engine at reduced speeds (a current practice) will further increase the torque into the Durst pump drive, an even more dangerous practice.
- The cooling system for the hydraulic pump units provides insufficient cooling capacity to prevent damage to the hydraulic pumping system, including seals.
- The hydraulic pumping equipment has experienced numerous instances where the hydraulic oil has exceeded 250° F, as evidenced by the voluminous number of hydraulic hose failures (in the testing facility and in the field). Such high temperatures will result in damage to internal components (i.e. critical components such as seals, etc.).
- The temperature sensor for the hydraulic oil temperature is located upstream of the discharge of the Denison hydraulic motor. The hydraulic oil temperature seen at the Rineer motor is significantly higher than the location of the temperature sensor (hydraulic oil reservoir). A temperature sensor cut-off level of 180° F will result in an excessive hydraulic oil temperature inside the Rineer motor and will adversely affect seal life (cause failure) and accelerate oxidation and fluid breakdown.
- The Rineer hydraulic motor is not designed, and is inadequate for, the thrust of the MWI hydraulic system thrust and horsepower. The Rineer motor used in the MWI hydraulic pump is not shown to be capable of handling the 735HP, as well as ensuring the combined axial and radial thrust does not exceed limits (the ‘rebuilt’ Rineer motor using the Code 62 model is rated up to 400HP continuous).
- The hydraulic pumps were not built and delivered with the contractually required start-up clutches between the diesel engines and the Durst drive pumps, subjecting the hydraulic system to the ramifications of using a 735 HP diesel engine operating at 1800 rpm connected to the hydraulic pump unit.
- The unbalanced non-uniform flow rate, from the factory test conducted in December 2006 by USACE Engineer Dr. Maynard, demonstrates an imbalance in dynamic pressure and could potentially cause axial forces on the pump bearings to cause them to fail

prematurely – the bearings should be inspected for damage and the pump impeller inspected for cavitation damage.

- The Rineer motor bearings are underrated. They are not designed for more than 3,000 L10 hours of use. The contract requirement is for bearing life of 50,000 L10 hours of use.
- The static hydrostatic test performed at the testing facility on the majority of the pumping units was performed incorrectly and most likely caused irrevocable damage to both the Denison pump and the Rineer motor.

As stated above, the USACE is guilty of hiding the true operational nature of the hydraulic pumping equipment from the public and other responsible government agencies and has engaged in deceptive and fraudulent acts that have served as a cover-up for the proven defects of the hydraulic pumping equipment. An excerpt from OCS's report: "After reviewing the agency report, one finds that the agency's findings and conclusions are hollow and incomplete, despite compelling evidence that would lead one to conclude that USACE employees are responsible for wrongdoing. The agency report appears to avoid holding people accountable for documented deficiencies in how USACE managed the design, installation, and oversight of the pump units in New Orleans, all at a substantial and specific danger to public health and safety to the people of New Orleans."

The USACE Engaging in Fraud and a Cover-Up

The existing project that is situated at the outfall canals in New Orleans, a gated closure structure with installed defective hydraulic pumps, was originally slated to cost \$504M (PL 109-234— June 15, 2006), but the final cost was \$700M-\$800M (looking at actual contract values associated with work done on the gated outfall canal closure structures). This project was reported to USACE Headquarters and Congress to have a lifespan of 50 years. Also, this project was designed to replace "in kind" protection that was in place prior to Katrina, and as such was designed to provide an approximately 50-year level of protection. In addition, *nowhere* in the official language of PL 109-234 does it state the project is "temporary" – in fact, just the opposite is communicated.

That we know this project was officially supposed to have a 50-year lifespan can be found in the official Project Information Reports (PIR) that were prepared by USACE and used to justify the project and obtain funding from Congress. In fact, the initial PIR that speaks to the existing project provided for a Benefit to Cost Ratio (BCR) of 7.3, with follow-on PIRs (mainly to expand the pumping capacity of the outfall canal closure structures) that resulted in even lower BCR's.

In addition, in the ensuing stages of construction, and subsequent to the conclusion of most major construction features, leaders of Task Force Hope (TFH) gave public testimony and statements for the record that specifically delineated the gated outfall closure structures with installed pumps were built with a 50-year lifespan and intended to be incorporated into the "permanent" solution for 100-year hurricane protection by adding additional pumping capacity

to the existing project. Specifically, on April 12, 2007, Ms. Karen Durham-Aguilera, Director of TFH, Army SES, gave testimony before the Louisiana State Legislature, at the State Capital Building, Baton Rouge, Louisiana. In her testimony, Ms. Durham-Aguilera stated unequivocally that the existing project was to be incorporated into the “permanent” solution (100-year hurricane protection) by adding additional features and pumping capacity. In addition, on February 12, 2007, Col Jeffery Bedey, Commander of TFH, stated on the record at a meeting attended by City of New Orleans officials and the public that the existing gated closure structure with installed pumps has a “50-year lifespan” and that they “were designed to there for 50 years.”

Also of significance: Upon my arrival in New Orleans to work on the project, I was briefed by my superiors that the project I was working on was not temporary in nature, but that the pumping capacity was temporary (fulfilling at the final stage of construction a 50-year level of hurricane protection). I was informed that the structures we were building and pumps I was installing were not only to have a 50-year lifespan, but were also to be incorporated into a larger and higher pumping capacity system.

Upon President Bush declaring that the level of protection for all hurricane recovery projects was to be raised to a 100-year level of protection, it became integral to the initial project’s definition that USACE would return to Congress with follow-on proposals that would incorporate the initial project built (\$504M) with augmentation (additional features with increased pumping capacity) that would allow the protection system to reach a 100-year hurricane protection level. This direction by the administration and Congress is found in Public Law 110–28 (May 25, 2007), which provides the authorization and funds to perform an analysis/investigation of three specific follow-on project options, and to determine which was best suited to provide eventual 100-year storm protection. Congress explicitly specified that two of the future follow-on project options would involve incorporating the newly built closure structures with installed pumps, which they paid for under PL 109-234, into the final solution for providing the 100-year level of protection. The last project option that Congress directed be investigated was simply repairing/rebuilding the damaged/failed levees and floodwalls.

At this critical juncture, USACE submitted their Report to Congress (August 30, 2007), in supposed response to this direction given them by PL 110-28. It is painfully clear that USACE did not follow the specific direction ordered by Congress and instead chose to subvert that direction and investigate three completely different future project options, all of which in effect ignored the existence of and constructively abandoned the newly built gated closure structures with installed pumps in place. In USACE’s Report to Congress, USACE makes every effort, at all levels of the supposed “investigation,” to not even mention, in passing or directly, the very existence of the newly built closure structures with installed pumps — incredibly, even when two of the USACE redefined viable future project options proposed the building of identical in nature closure structures (one gated, one permanent closure) with installed pumps no more than a few hundred yards further upstream from the newly built closure structures with installed pumps.

To facilitate the closing of the circle for the cover-up, the USACE chose from the three options they submitted to Congress their “preferred” project, the building of gated closure structures with

installed pumps. The major difference between this proposed project and the already existing project is that the USACE is proposing the use of direct drive pumps instead of hydraulic pumps.

Congress obviously did not see that it had been disregarded and subverted in its direction to USACE, and gave USACE the authorization and funds to build this “preferred” project (Public Law 110–252 —June 30, 2008). PL 110-252 provided USACE the authorization and additional funds, in the amount of \$704M, to build gated closure structures with installed pumps — amazingly only a stone’s throw from the existing gated closure structure with installed pumps project.

Continuing to participate willfully and flagrantly in the cover-up, USACE, at the very highest levels, was at this juncture publicly and broadly proclaiming that the existing gated closure structure with installed pumps was only designed to have a life expectancy of 3–5 years (which later morphed into 5–7 when the project was delayed). Further, USACE also stated that the existing gated closure structure with installed pumps was to be demolished, with a new “permanent” system built with a 50-year lifespan, i.e. the same gated closure structure with installed pumps, but a few hundred yards from the existing gated closure structure with installed defective pumps.

What must be paramount in understanding is the only reason our existing project is described by the USACE as now having a revised lifespan of 3–5/5–7 years is because the hydraulic pumps are known by USACE to be defective and not suited for the service they were intended for. They needed to be replaced, and were scheduled for replacement through deceptive and fraudulent means.

It is important to me that I communicate a simple lesson taught to me by my great grandfather (the only other engineer in the family). Engineering and science can at times present very complicated thought processes which result in answers that are also wrapped in the same complexity. Sometimes the best way to decide if the answer you have in front of you is reasonable and worthy of continuing forward with is by stepping back and asking, “Does that answer make *sense*?” Applying common horse sense, if you will.

Does it make sense, I would ask, that USACE builds a gated closure structure with installed pumps, with a (revised) lifespan of 3–5/5–7 years, and with a pumping capacity suitable for a 50-year level of hurricane protection for \$700–\$800M, and then proposes building the same project, a gated closure structure with installed pumps with a lifespan of 50 years, with a pumping capacity suitable for a 100-year level of protection just a stone’s throw away from the existing project for \$704M? No.

Conclusion

Ordinary American citizens deserve access to information that bears directly on their immediate safety and welfare. They should not be misled and lied to by agents of their own government. A heinous and cruel breach of trust has been levied upon a people who have already borne an unimaginable hurt. Stripping American citizens of their right to informed consent and allowing

these same citizens to live with an overwhelming and unjust risk of imminent death and large scale destruction – all this is beyond anything I could ever have imagined my Agency could be the creator of. The citizens of New Orleans deserve to know the dangers they face, and they deserve our best effort to remedy this situation.

I implore, I beg: Our nation can ill afford to only look forward – away from the wrongdoing of agents acting on its behalf. We *must* return to the scene of this wrongdoing, we *must* take action to acknowledge and correct it. Anything less is imposing on the people of New Orleans a second death sentence in the event of another hurricane similar to Katrina. And we *must* hold those responsible accountable. Anything less is sentencing all Americans to a similar future reality; it is illogical to assume otherwise.

Given the silence that has ensued since the U.S. Office of Counsel transmitted to you their final official investigatory findings, and given what to me has been an excruciating period of time waiting for action to be taken by yourself and/or the Senate and House Armed Services Committees, I respectfully request disposition of this matter. In the event that I can be of service in assisting in any capacity that might help this matter move forward, I offer all manner of assistance and cooperation.

Finally, I must address a very disturbing incident that I believe might speak volumes as to why your Administration has been silent on this issue. During the initial period of your Presidency, specifically when you took your first vacation away from the White House, Press Secretary Gibbs' Deputy, Bill Burton, took over as acting White House Press Secretary. During this time, and sometime near the end of August 2009, Mr. Burton phoned (an "off the record" call on his private cell phone) and, I also understand, emailed, but not on his official White House email, a lawyer acting on my behalf who was in effect fielding and publicizing media inquiries. I was informed by my counsel that she and Mr. Burton knew each other from law school days, and that his phone call was initiated as a "friendly exchange" between acquaintances. In light of the recent public release of the OSC findings, my four-part radio series interview with Molly Peterson of KPCC (a local NPR affiliate) days earlier, a *USA Today* headline article highlighting the findings of the OSC and the defective nature of the hydraulic pumps also days earlier, an upcoming one-hour radio interview with Harry Shearer on his *Le Show*, and my counsel fielding and publicizing same, it was soon clear that the conversation was not, in fact, ever intended to be a friendly chat. Mr. Burton asked point-blank what would it take to make me be quiet and go away. To her credit, my counsel at that time stated that it would be difficult to un-ring the bell. However, what was also communicated in this phone call was possible Administration support for future Whistleblower legislation support if I could be convinced to be quiet and go away.

What would it take to make me be quiet and go away?

I have spent five years of my life pursuing what I believe to be the right course of action. In the course of this journey I have given lifespan, I have given my good health, I have given my interpersonal relationships, and I have given my career. I have been as close to broken as a person can get without doing so – and breaking seems to be the last thing left to give. But I say

this with all knowledge: I have done this by my own choosing, and I would willingly and fervently walk down the same road again if faced with the same decision.

I take very seriously my duties as an engineer, and as an engineer who works for the federal government and thus for the American people. And I know what is paramount in the fulfillment of my duties: We do not harm people; we protect them. That is our primary duty. What is critical is that our service to the nation protects the best interests of those we serve. Our nation depends on us all doing our duty and fulfilling our obligations to its citizens, including the engineering profession.

Without this sense of duty and honor, we are not good stewards for the American people, and do not deserve the trust and good faith they place in us. I truly believe that being entrusted with the welfare of others and working in service to our nation is the greatest honor and privilege I could ever have imagined. But given what has transpired in this matter, and given the Administration's response to date on same, I offer that this is not the America I know and admire, nor is it the America I can accept by remaining silent and still. To do anything less than keep fighting for what is right is to fail in the mission of protecting the best interests of the American people.

As long as the people of New Orleans remain in danger and continue to be denied their right to informed consent, and as long as those responsible for this wrongdoing are held unaccountable, I will not cease to pursue all manner of remedy. I will not go quietly, nor will I go away.

I remain profoundly grateful to USACE for the opportunity to serve our nation and the people of New Orleans, and submit this letter for your attention and consideration in furtherance of that mission.

Respectfully,



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