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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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November 19, 2007

The Honorable Robert M. Gates
Secretary
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Mr. Secretary:

I am writing to request information about whistleblower allegations that the Army Corps of Engineers may have knowingly installed defective pumping equipment in the wake of Hurricane Katrina, leaving the people of New Orleans potentially vulnerable to catastrophic flooding. I am also writing to express concern that an Army Corps attorney allegedly criticized the whistleblower who first raised these concerns for "going outside the chain of command."

Maria E. Garzino, a mechanical and civil engineer who has worked for the Defense Department for sixteen years, was detailed from March to September 2006 to the New Orleans Army Corps District, where she served as Team Leader of Pumping Systems Installation. According to Ms. Garzino, she raised concerns at the time with her supervisors about the safety and integrity of pumping equipment installed at three canal outflow gate structures in New Orleans. She claims the Army Corps did not sufficiently address the safety issues she identified, and she remains concerned for the safety of those living and working in New Orleans.

Ms. Garzino also contends that, when it became apparent that the Army Corps would not resolve her concerns internally, she raised them with the Office of Special Counsel and sought whistleblower protection. On September 21, 2007, the Office of Special Counsel concluded that "there is a substantial likelihood that the information Ms. Garzino provided discloses a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, and a substantial and specific danger to public safety."¹ The Office of Special Counsel referred the matter to you for an investigation and appropriate action within sixty days.

¹ Letter from Special Counsel Scott J. Bloch to Secretary of Defense Robert M. Gates (Sept. 21, 2007).

After you received the referral from the Office of Special Counsel, someone provided a copy to the press, resulting in several news stories that revealed Ms. Garzino's identity. According to Ms. Garzino, the Chief Counsel for the Army Corps South Pacific Division then criticized her for contacting the Office of the Special Counsel, stating that she had not "stayed within the chain of command." Ms. Garzino also reported that the Army Corps Chief Counsel urged her to "correct" information in the Special Counsel's September 21, 2007, referral to you. Ms. Garzino made contemporaneous notes of her conversation and has provided these notes to the Committee.

It would be a serious matter if the Army Corps installed pumps and other equipment that it knows will not protect the people of New Orleans. I am sure you agree that it would also be inappropriate to contact a whistleblower in order to have her alter her testimony. To help the Committee assess whether to investigate these claims, I request that you designate an official to examine this matter and provide a briefing to Committee staff by December 3, 2007. In particular, I request that the briefing address the following questions:

- Did the Army Corps ship and install pumping equipment it knew did not meet contract factory testing requirements?
- Was the Army Corps aware of serious issues regarding the reliability of the pumping units?
- What measures did the Army Corps take to mitigate any serious reliability issues, and when were these actions taken?
- Does the pumping equipment perform as specified by contract requirements?
- Has the pumping equipment been properly field tested under catastrophic storm conditions to ensure that it will function properly?
- What documentation does the Army Corps have to demonstrate that the pumping equipment has been properly field tested?
- To the extent safety issues have been identified, how have these deficiencies been addressed?
- What steps have been taken to investigate Ms. Garzino's allegations concerning the conduct of Army Corps officials or employees in the field?
- What steps have been taken to ensure that no one within your agency takes any action intended to retaliate against, or intimidate, Ms. Garzino for raising her concerns?

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The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. If you have any questions regarding this letter, please contact me or ask your staff to contact David Rapallo or David Leviss of the Committee staff at (202) 225-5420.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman". The signature is written in a cursive, slightly slanted style.

Henry A. Waxman
Chairman

cc: Tom Davis
Ranking Minority Member