



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

MEMORANDUM FOR: James G. Keppler, Director

THRU: J. F. Streeter, Acting Director, Enforcement and Investigation Staff

FROM: G. A. Phillip, Investigator

SUBJECT: COMMENTS ON OIA REPORT ON THE ADEQUACY OF IE INVESTIGATION REPORT NO. 50-358/80-09) AT THE WILLIAM H. ZIMMER NUCLEAR POWER STATION

The overall thrust of the OIA investigation and the basis for its major criticism is their unstated premise regarding the primary purpose of an IE investigation. This premise is that investigations of allegations are conducted to determine the literal validity of allegations, i.e. to confirm or discredit an alleged's statements. It appears that OIA is of the view that the primary objective is to make an accounting to the alleged. While this is a secondary consideration and a consideration that has grown in importance in recent years, it is not the primary purpose of an investigation. I did not view our investigation as an effort intended to either vindicate or discredit Mr. Applegate.

The primary objectives of IE are to determine whether licensee's activities are in compliance with NRC requirements and whether their activities constitute a hazard to the public health and safety and to take enforcement action when appropriate. One useful tool in pursuing those objectives is the investigation of licensee activities based on information provided by allegeders and complainants. Such individuals sometimes provide information not likely to be obtained through the normal inspection process and problems are identified which might otherwise go undetected. For that reason the NRC, specifically IE, has encouraged contacts from allegeders.

As a matter of courtesy and in recognition of the allegeder's interest in the matters he brings to our attention, we have followed the practice of informing the allegeder of our investigation findings. Not very many years ago, this was accomplished only orally, either personally or by telephone. It has only been in the last 5 or 6 years that we have routinely sent a copy of our report to the allegeder.

The investigation conducted on the basis of information brought to us by Mr. Applegate was conducted to determine whether the licensee's actions in the specific matters raised by him were in compliance with our requirements. The fact that our report characterizes an allegation as "not substantiated" or "partially substantiated" is perhaps unfortunate but it was not intended to convey an evaluation of the allegeder or his allegations but merely to provide a brief bottom line. To state that an allegation was not substantiated is not to say that it is not true. It

may very well be true but the investigation was not able to confirm it. The NRC cannot hold a licensee in noncompliance without providing a sound objective basis for doing so.

Regarding the allegation that defective welds, specifically identified, had been accepted was approached from the standpoint of determining the status of these welds as of the time of our investigation. This was viewed as the point of interest to the NRC. Had the welds passed the point of further review or evaluation and were they defective? The history of the welds was not viewed as significant. There was no attempt to determine whether these welds had at some time in the past been accepted. We normally withhold making a finding regarding a weld until no further action regarding it is planned by the licensee. I believe that with all of the information now available including that contained in the OIA report, no noncompliance regarding these welds has been identified. The findings as set forth in our report remain unchanged.

Since I am aware that the OIA conclusions and criticisms are being addressed in a memorandum from you to Mr. Stello, I will not comment further here regarding them. I am also aware that Mr. Foster has prepared a memorandum to you containing an evaluation of the investigation conducted by OIA. For that reason I am not addressing that subject in this memorandum.

The following are comments concerning statements in the OIA report which relate to information attributed to me which I consider inaccurate, incomplete or misleading. These comments are keyed to the marked up pages of the report which are attached.

1. (Page 4) - The main question I posed during this meeting was whether this investigation was intended to determine whether I had violated the law as charged by GAP.
2. (Page 5) - I indicated I had destroyed my field notes after holding them for several months after the report was issued and that eventually destroying them was consistent with my normal practice.
3. (Page 5) - On August 4, 1981 I advised OIA that this statement was in error. I pointed out that, when Wm. Ward briefed me on his telephone conversation with Applegate, he informed me Applegate had made comments which implied some inspectors' conduct might be included in the allegations. Ward counseled me against involving any inspectors in the case until it was determined through an interview with Applegate whether allegations were being made about NRC personnel. We agreed that two people should interview Applegate and Ward offered the services of Williamson for this purpose.
4. (Page 6) - This was not my observation; Applegate told me this.
5. (Page 6) - I did not characterize anything as "divorce" or "divorce-type".

6. (Page 6) - Applegate's statement alluded to all of the information he discussed not just CG&E's failure to take action against Marshall.
7. (Page 7) - More accurately, I said that Applegate told me that either CG&E or Kaiser had instructed PM to examine some pipe that had been unloaded by dumping it on the ground. He said PM had gone further and had radiographed the welds. The radiographs had showed that the welds were bad. CG&E and/or Kaiser ignored the results of the radiography because the welds had been checked and certified by the supplier and therefore radiographing the welds after the pipe was received at the site was not required.

(NOTE: It was subsequently determined that it was true that further NDE was not required. Because of their being mishandled when they were unloaded, however, the welds were re-examined to assure no damage had resulted. PM was instructed to radiograph them "For Information Only" because it was known that radiography was not appropriate and could not be an acceptable basis for determining whether welds of that kind were acceptable. Since radiographs of welds on three of the pipes showed "indications" they were placed on hold in the warehouse.)

8. (Page 7) - I stated the receipt inspection generally consists of a visual inspection to assure no damage was incurred in transit and a check is made to assure required documentation pertaining to the items has been received.
9. (Page 8) - I informed OIA on August 4, 1981 that this statement is incorrect. Applegate did not tell me or suggest that Murray would cooperate with NRC.
10. (Page 9) - Applegate did not say the threats, etc. were the result of his attempting to bring the information to the NRC.
11. (Page 9) - The statement about tapes indicating collusion is not appropriate in this context. During his initial telephone conversations with Ward and with me he implied he had tapes of this kind. I don't recall that he so characterized the tapes during our interview.
12. (Page 10) - It would be more accurate to say I asked for clarification as to Tyner's whereabouts.
13. (Page 10) - Regarding communications with Norelius, I told them that I had briefed Norelius on the main points of my interview with Applegate and gave him the reports Applegate had provided me. I then prepared a letter to Applegate and Norelius concurred. I'm sure that among other things I informed Norelius of what position I had taken with Applegate regarding matters not under NRC jurisdiction.

I informed OIA on August 4, 1981 that I had never said I relied on my vast experience. I did say that Norelius usually allowed me to work without a lot of supervision - possibly because I had been around a long time.

14. (Page 11) - I also said that I was reasonably sure that Keppler was made aware of the fact that Applegate had made allegations which would be investigated.
15. (Page 11) - I said I did not recall the specific details of our meeting with Schwiers but that I was sure we did not give him the specific allegations.
16. (Page 11) - The description of my interview with Applegate does not bring out the fact that one of his assertions was that Sellers had a list of welds which were rejected by PM but which Kaiser/CG&E had said were acceptable and had overruled the PM findings.

When Sellers denied having any such list or any practical means of identifying such instances, we decided on the spot to select a safety related system and to review the reader sheets for all welds in that system to check for instances of overruling by Kaiser.

17. (Page 12) - Regarding Tyner and flushing problems, I informed OIA that Ward and I had a lengthy interview with Tyner who made complaints about the Zimmer site but did not provide any specific information. He was repeatedly asked to provide specific information and his wife, who was present, even commented two or three times that he was not giving us anything specific that we could pursue.
18. (Page 12) - This statement is not accurate. I informed OIA, and it's also in our investigation report, that on the day following the Tyner interview, I asked T. Daniels, the Resident Inspector, about the hydro test. Daniels informed me everyone (the licensee and the NRC) was well aware the test was invalid and would have to be redone. I didn't say anything about an inspection. I did say that Daniels informed me the future hydro test would probably be witnessed by an NRC inspector.
19. (Page 12) - The paragraph regarding the spool pieces is neither accurate nor complete. While this is not crucial, it makes me wonder whether OIA understood the matter or bothered to read our report which I believe describes the matter. The following are specific inaccuracies.

When we arrived on site on April 7, 1980 the spool pieces were not in a "Hold Status". They had been installed and were not tagged. This was the basis for the noncompliance. There was, however, an open NR regarding three of the five spool pieces (see page 13 of our report).

While it is true Kaiser, not PM, could accept or reject, that point is not pertinent in the context in which it appears here. The result of radiography performed for information purposes is not a basis for acceptance or rejection. Also, because of the nature of the welds, good radiographs are not possible and the quality of the film according to Ward was such that little, if anything, could be learned from them. The film therefore was not used or intended to be used as the basis for accepting or rejecting the welds and the last of a series of NR's which was first initiated before radiography was performed remained open, that is unresolved.

To state an NR was subsequently issued is incorrect. An NR was initially written on July 5, 1979 and because of it the information only radiography was performed, the results of which were reported by Surveillance Report dated July 23, 1979. This NR was voided, being superseded by a series of NRs.

It is incorrect to state "...ultimately an NR was improperly written..." It was improperly altered in that a notation referring to another succeeding NR was lined through.

To discuss the matter of Schwiers instructing someone to line through in this context is misleading. It appears to the reader that this was addressed during my first visit. The alteration of the NR which permitted the pipe to be released from the warehouse was one of the reasons for my second visit to the site.

It is also inaccurate to state Schwiers apparently told someone to line through. An employee told me this during my second visit to the site. Schwiers denied it. I did not conclude that he did or did not issue this instruction.

20. (Page 13) - Foster informed me that Applegate wanted me to call him so I did. I had no reason of my own to contact Applegate.
21. (Page 13) - Regarding identification keys, it was intended that one should be prepared if there is a need for one. Not every investigation file needs one. I saw no need for one in this case.
22. (Page 13) - Regarding Johan, I advised OIA this statement is inaccurate in that Daniels contacted the site switchboard and was advised that no one with that name was employed at the site.
23. (Page 13) - While I regard contacts with the press as irrelevant to the purpose of the investigation, the information is misleading, incomplete and inaccurate. Channel 9 and others contacted me after Applegate went public. Channel 9 continued to contact me every few days and in that way they knew when my investigation at the site was concluded. They requested an interview either on the site or outside the fence. I agreed to an interview but indicated that their

access to the site would have to be arranged with CG&E. Immediately prior to our exit meeting with CG&E, Schwiers said Altamuhle was on the telephone and wished to discuss the subject of my interview with the press. Schwiers said CG&E would agree to allow Channel 9 to interview me in Daniels trailer. I then spoke with Altamuhle who asked whether I would be willing to be interviewed by other news media people if he set up a press conference in downtown Cincinnati. Since I had already made a commitment for an interview with Channel 9, I felt I had no choice but to agree to meet with others. I told Altamuhle I would "make myself available" to the news media.

24. (Page 14) - Although I informed OIA, their report omits the fact that Applegate stated he was calling at this time from the offices of the Chicago Sun Times. Since he was in Chicago we arranged to meet him in the FBI's Chicago office. We did not ask him to come to Chicago.

Since the matter of Applegate's transportation is not relevant to the purpose of the OIA investigation, I can only conclude that this information was included as a means of implying that Applegate was ill-treated by us. The implication is made that we requested Applegate to come to Chicago from Cincinnati and then refused to provide him transportation to the airport after our meeting. If OIA could recall and saw fit to report that we refused to give Applegate a ride, it is difficult to understand why they did not recall and report that Applegate made his contact with us from a Chicago newspaper office. I regard this selective reporting as reprehensible.

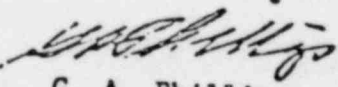
25. (Page 14) - It is my impression that OIA interviewed Buckley but their report does not provide any information regarding the interview or state that it was conducted. It does not state that a copy of our report was sent to the FBI.
26. (Page 14) - The report does not state that I attempted to interview Alldredge during the next few days but was informed that he was out of the country and would not return until about May 20, 1980.

Further, the report does not state that I contacted two other PM personnel in Cincinnati by telephone or that we transcribed the tape Applegate gave me. It also does not state we made the tape and draft transcript available to OIA or that it was available for review by Region III supervisors.

27. (Page 15) - This sentence should at least read: Region III was already aware of problems relating to welding through numerous NRC inspections which had previously been conducted before we heard from Applegate.

Any people Applegate mentioned with the exception of Sellers were security guards or pipefitters, most or all of whom had been fired for time card cheating.

28. (Page 16) - I don't recall how I characterized the manual to OIA but in fact it is the manual for the fundamentals of Inspection course. Its contents are a written discussion of various topics which are orally presented to groups of PM personnel periodically. The oral presentation is not a recitation of the written material. To portray the manual as an instruction which must be followed is incorrect. The paragraph quoted was written to convey the idea that telephone complaints, concerns or allegations are documented by a memo to file if an investigation is not considered necessary. Normally, if such a contact results in an investigation, a personal interview is arranged with the caller to obtain more detailed information. The telephone contact in those instances is not usually written up because of the ensuing interview includes that information.
29. (Page 16) - Ward selected the Core Spray System. We proceeded to the vault and asked for all radiography film packets on that system. Until we asked for them no one could have known we would look at them. We stood there while they were pulled from the file and handed to us.
30. (Page 35) - Regarding there being no cover up, the report should state that another NR remained open. I think our report more clearly states why the lining out occurred.
31. (Page 35) - Regarding ultrasonic tests, OIA neglects to state that I informed them, and it is stated in our report, that the reports on the magnetic particle and ultrasonic inspections performed by PM were reviewed by Vandell and that we interviewed the PM personnel who performed these inspections. Both they and Pullman-Kellogg, who also performed ultrasonic inspections, concluded the welds were acceptable.


G. A. Phillip
Investigator

investigation (April-May 1980). The GAP petition listing the allegations (pages 13 and 14) which were presented as not being appropriately investigated is included, with enclosures, as Attachment 3.

Meeting with Region III Personnel

On January 13, 1981, David H. Gamble, John R. Sinclair, and Arthur A. Schnebelen, Office of Inspector and Auditor, met with the following employees of IE, Region III, at the regional office, Glen Ellyn, Illinois:

James G. Keppler, Director, Region III

A. Bert Davis, Deputy Director

Charles E. Norelius, Assistant to the Director

Gerald A. Phillip, Senior Investigator

Gaston Fiorelli, Chief, Reactor Construction
and Engineering Support Branch

Kavin D. Ward, Reactor Inspector, Engineering Support
Section #2, Reactor Construction and Engineering
Support Branch

The meeting was held at the request of OIA to inform these Region III personnel of the purpose of the OIA investigation being initiated. These employees were informed that the investigation was directed by the Chairman in response to Thomas Applegate's allegations as described in the GAP petition to the Special Counsel of the Merit Systems Protection Board. They were informed that OIA was investigating the NRC's handling of Applegate's original allegations, to include why certain allegations allegedly were not addressed by NRC and whether Region III's investigation adequately dealt with the allegations that were addressed.

#1
At this point Mr. Phillip inquired whether the investigation was not actually an investigation of his conduct. He displayed a copy of a draft of GAP's petition which he said made numerous allegations against him by name. Mr. Keppler then inquired as to whether he should be obtaining lawyers to represent each of his employees. OIA confirmed that Phillip's name was similarly used in the "final version" of GAP's petition. OIA indicated to all employees present that they had an absolute right to have a lawyer present when they were interviewed but that OIA could not advise them whether lawyers were necessary. OIA did briefly recount that GAP had verbally advised OIA that they considered

their allegations to be more against the NRC than individual employees. OIA repeated that, similarly, the OIA investigation would concentrate on how the agency handled the matter.

In response to a question about OIA's ability to investigate a matter which also alleges that the Director of OIA did not act quickly enough on the earlier allegations, the group was advised that the Chairman was aware of that aspect of the case.

The employees present raised no additional substantive questions. OIA asked each to locate any documentation of their activities such as notes which they might have so they could be reviewed during their interviews.

Phillip pointed out that he had destroyed his notes prior to having heard of GAP's petition.

Interview of Gerald A. Phillip

Mr. Gerald A. Phillip, Senior Investigator, Region III, IE, NRC, was interviewed on January 14 and 15, 1981, by David Gamble, John Sinclair, and Arthur Schnebelen, OIA, at the NRC Regional Office, Glen Ellyn, Illinois.

Mr. Phillip began the interview by explaining that his first knowledge of the Thomas Applegate allegations occurred approximately February 28, 1980. Phillip recalled that he was contacted by Bill Ward, Executive Office for Operation Support (XOOS), IE, during which Ward related that he had received information from one of the Commissioner's offices which had been contacted by Applegate. According to Ward the information related to the Zimmer Nuclear Plant site and the initial determination was that there may be some significance to the information. Ward also related that Applegate alleged that there was a possible conspiracy between the site contractor and utility to cover up defective welding. Ward also stated that apparently Applegate had made previous contacts with the NRC and felt that he was "getting the run-around" because he did not see NRC taking any action.

Phillip stated that he contacted Applegate the same day and obtained some of the general information concerning Applegate's claims. Phillip also stated that arrangements were made to meet and interview Applegate for more details.

Phillip recalled that after talking initially to Applegate, he (Phillip) believed that there was information which appeared to be casting a shadow on NRC inspectors. Phillip contacted Ward at NRC Headquarters in Bethesda and notified him of this fact.

Ward then informed Phillip that no inspectors should be brought in on the initial phase of the inquiry and if additional personnel were required then Ward would make someone available from Headquarters. Phillip then stated that within the next few days arrangements were made to have another investigator from Headquarters meet Phillip in Cincinnati to assist on the interview of Applegate. Ward advised Phillip that he would have

Len Williamson meet Phillip in Cincinnati to help with the interview. Phillip explained that the initial plans to interview Applegate were complicated by the fact that Applegate was very cautious in his instructions and guidelines for the meeting. As he recalled Applegate would not provide his address or the address of a neutral meeting place. Applegate had advised Phillip that when he or the NRC investigators arrived in Cincinnati they should call a specific telephone number for additional instructions. Phillip stated that on March 3 after arriving in* Cincinnati, he contacted Applegate at which time Applegate instructed the NRC investigators to meet him at an address which turned out to be a church parking lot. Phillip explained that he and Williamson arrived early and eventually were approached by an individual who identified himself as Applegate. After the initial meeting the three of them went to a rooming house that was located approximately one-half block away. Applegate advised Phillip and Williamson that he had received threats as had the landlady at the rooming house. From Phillip's observations it appeared that Applegate rented a room in a house which was owned by a policeman and his wife.

Shortly after arriving at the house Applegate took off his jacket revealing that he was wearing a firearm. Applegate began by providing some information pertaining to his background. Applegate told Phillip that he had been employed by a security firm which did work in divorce investigations. Initially he (Applegate) had been assigned an investigation involving a "pipefitter" at the Zimmer site who had been suspected of "playing around" by his wife. After the divorce-type investigation had been started, Applegate began to discover information of "time card padding" by individuals employed at the Zimmer site. Applegate informed Phillip that his supervisor, Major Cox, contacted the utility company, Cincinnati Gas and Electric (CG&E), to advise them of the discovery. Subsequent to the contact the utility contracted with the security firm for the services of Applegate, provided him with a false identity, and instructed him to look further into the time card padding. After Applegate began the assignment he began to provide the utility with weekly reports which confirmed the time card padding and disclosed a degree of collusion between certain pipefitters and security personnel at the site. Applegate explained to Phillip and provided Phillip the opportunity to review security reports which described security guards' permitting pipefitters to leave the site during working hours without "clocking out." Applegate also explained that during the same time frame (December 1979-January 1980) information began to be developed identifying the illegal sale of firearms at the site. Phillip also indicated that Applegate had surfaced information disclosing that the site supervisor, Mr. Marshall, utilized site materials and personnel to perform work on his private residence. According to Phillip, Applegate stated that Marshall's acts were dishonest, however, when he (Applegate) brought the information to the attention of CG&E the company refused to take action against Marshall. According to Applegate the condoning of these type of acts was going to have a major impact on CG&E and, in effect, put them out of business.

Applegate continued by explaining some of his concerns to Phillip about potentially faulty welding. Phillip explained that Applegate stated that PM was radiographing welds which were questionable. Applegate did not appear to know who was responsible for their instructions: CG&E or Kaiser.

#7 ✓ However, someone had directed PM to go back and "re-examine welds." Applegate informed Phillip that either CG&E or Kaiser ignored PM's radiographs of the welds because such examinations normally only constituted a visual inspection and not a radiograph. This according to Applegate was done at the direction of Mr. Marshall who instructed PM to "examine" but not radiograph. Phillip stated that he believed Applegate was referring to a specific shipment of pipe that had been delivered to the site in the fall of 1979 and improperly unloaded (dropped off the truck) without a quality control inspection. Applegate informed Phillip that this incident took place around the time of an NRC hearing on Zimmer. Applegate said that much controversy was generated at the hearing regarding fuel rods that were allegedly dropped; but in fact it was these pipes - not fuel rods - that were dropped.

As background, Phillip then provided a brief description of the supplier, Pullman-Kellogg and the delivery. Phillip stated that Pullman-Kellogg was the supplier (vendor) and therefore was responsible for the Quality Assurance (QA) and Quality Control (QC) work related to the weld and the structure of the pipe.

#8 ✓ As a normal procedure QC inspections are not done at the site for adequacy of the equipment or the welds. Phillip further stated that the equipment is inspected only for damage in transit and inventory purposes during a "receipt inspection" which does not include either visual or radiography examinations of welds.

Phillip said Applegate provided him with three specific examples of welds rejected by PM but then approved by Kaiser. Applegate claimed that one was buried in concrete and he felt the utility was not going to do anything to correct it.

Another area related by Phillip pertained to Applegate's disclosure that there were "problems" with a pipe flushing operations. Apparently, someone had informed Applegate that as a result of banging pipes during the flushing procedure deleterious substances came out of the pipes and the "flushing" failed the test. The individual who observed this problem attempted to resolve it by raising the issue with his supervisor. Applegate claimed that the individual subsequently quit because there was no action taken. As the discussion continued Applegate also stated to Phillip that another individual at the site had been keeping a notebook or log on his observations at the site. Applegate did not identify the individual and could not furnish specific information, such as the content of the log or why the individual was keeping it. Phillip also recalled that Applegate mentioned having been trapped by a fire down in one area of the plant.

#9 ✓ Applegate then identified an individual by the name of Murray who was employed by CG&E. [Phillip stated that according to Applegate, Murray was "all right" meaning that he would cooperate with NRC.] Applegate then proceeded to tell Phillip that he (Applegate) had provided Murray and Schwieters, QA Supervisor, information about the alleged defective welding and the specific locations of the welds in question. Phillip believed Applegate said that Schwieters had one weld tested, found it to be defective, and then related that the weld would be fixed.

Phillip then stated that Applegate continued the interview by claiming that information was developed pertaining to the time card padding. Phillip further stated that Applegate informed him that CG&E notified the Kaiser Corporation Headquarters in California of the time card cheating. Subsequent to this notification representatives from Kaiser came to the Zimmer site and were informed that evidence was obtained that confirmed the time card padding. Applegate also advised Phillip that CG&E told Kaiser that they had an individual working undercover. Applegate then stated that shortly after this meeting the undercover operation was terminated because of two factors: (1) Kaiser was now aware that someone was undercover for CG&E; and (2) the wife of the subject of the original divorce investigation had made visits to the site and Applegate feared that, if he were observed by her, she might reveal his true identity.

Applegate related to Phillip that he had been trying to bring the information to the attention of NRC because although the time card problem was being addressed no action was being taken about the QC issues. Applegate told Phillip that he originally contacted U.S. Senator John Glenn's office to apprise him of the information and obtain assistance. Senator Glenn's office provided him with the name of James Cummings, Director, OIA, NRC. Phillip then explained that Applegate claimed he contacted Cummings by telephone and related the information concerning the problems at the Zimmer site. Applegate also related to Phillip that he (Applegate) became frustrated with Cummings as a result of several telephone conversations with Cummings which culminated with Cummings' requesting that Applegate provide "something in writing" compiling the allegations. Phillip stated that Applegate thought about the request over a weekend and became angry. According to Phillip, Applegate stated that he was upset about the request because he (Applegate) had been incurring personal expenditures to bring the information to someone's attention and now he was requested to do more. Applegate said he then called Chairman Ahearne's office who apparently referred the matter to IE.

Phillip stated that Applegate stated that he provided the same information to the Cincinnati office of the Federal Bureau of Investigation (FBI). Phillip explained to Applegate that the type of allegations brought to the attention of the FBI were items not within the jurisdiction of NRC and would not be addressed during an NRC investigation. Phillip also advised Applegate that allegations of criminal activity at the site

would have to be handled by the appropriate agency. Phillip said he explained that the cost of construction (i.e., cost overruns) also was not a matter within NRC jurisdiction. Phillip explained that Applegate was not happy with his (Phillip's) explanation regarding the NRC's position but Applegate did not challenge the response.

Phillip stated that the only other remarks made by Applegate related to a variety of problems which allegedly indicated that there was mismanagement and collusion between pipefitters and security personnel. Applegate stated this demonstrated that there was not a proper commitment to building a nuclear plant. Applegate also stated that as a result of his attempting to bring information to officials of CG&E as well as others (NRC, FBI), he had been threatened, run off the road and his landlady had been harrassed and threatened over the telephone. Applegate provided additional information to Phillip in the form of excerpts from #10 #11 * audio tapes. According to Applegate the information on the tapes indicated collusion between high level managers of the project. Applegate played portions of tapes for Phillip which he (Applegate) believed corroborated his allegations. Phillip said Applegate controlled the recorder and only played selected segments for Phillip - describing the context in which each one occurred. Phillip explained that Applegate would not release the tapes because he considered them to be "insurance." Phillip said that many of the tapes were difficult to understand; in those instances, Applegate interpreted what was being said. Phillip stated that, based on what he heard on the tapes he did not hear any information which indicated there was some type of collusion or cover up going on at the Zimmer site. Phillip said that, after Applegate had skipped around on the tapes, Applegate confirmed that he had played all the important parts. However, Phillip did state there was some information on the tapes that identified three specific welds which was detailed enough to check into during an investigation. Phillip stated that in his opinion comments like 20 to 30 percent of the welds at the plant are defective were too general and needed more support before they could be investigated.

Additional information which Applegate furnished to Phillip related to the manufacture and sale of belt buckles by personnel at the site. Phillip stated that he advised Applegate that, although some of the material used in the manufacturing of belt buckles may be required for construction purposes, it was a problem which should be addressed by CG&E, the licensee, and was not within NRC's jurisdictional responsibilities. Applegate also provided information about people being fired for time card padding or cheating. As Phillip recalled, however, Applegate did not state that any of the individuals fired as a result of his investigation into time card cheating were in fact the same individuals who had attempted to raise safety issues. Phillip advised that the only documentation furnished by Applegate during the initial interview were reports submitted by the security firm (Confidential Service) who employed Applegate and were under contract to CG&E. Phillip said Williamson left the interview to photocopy these reports at the Federal Building in

Cincinnati. He said Williamson spoke with an FBI agent and obtained a copy of a February 14, 1980, FBI letterhead memorandum which confirmed that Applegate had spoken with the FBI. The letterhead memorandum also reflected that an Assistant United States Attorney had declined prosecution on the matter.

#12 Phillip recalled that he had a subsequent telephone conversation with Applegate on March 4, 1980, during which they discussed two points: (1) what would be the best approach in trying to contact the individual who quit over the flushing operation and, (2) to confirm details about an individual Applegate mentioned previously by the name of Sellers (phonetic). Apparently Sellers was still employed at the site and had been keeping a list of defective welds rejected by PM but approved by Kaiser. Phillip said that he asked Applegate whether Sellers ever shared this list with him as Sellers said he would; Applegate responded negatively. Phillip said he also confirmed which of the Sellers brothers at PM was the one Applegate was referring to.

#13 Phillip then stated that, after returning to the Region III office and reviewing some of the material furnished by Applegate, he (Phillip) had a discussion with Chuck Norelius, his supervisor, regarding the allegations. Phillip explained that the meeting was held to establish what issues were going to be investigated by NRC. Phillip also explained that he had already made an initial assessment of the information and had informed Applegate, in general terms, of which allegations were within NRC's jurisdiction. Phillip then stated that he relied on his vast experience with the Commission and his professional experience in judging what issues were going to be investigated. Phillip continued by stating that there were additional discussions with region personnel after they determined that the welding allegations were going to be investigated. Phillip stated that Kevin Ward, an inspector, had been assigned to assist him in the investigation.

Phillip said that Bill Ward, IE Headquarters, contacted Phillip on March 13 to apprise him that Applegate had contacted IE Headquarters and informed them that the PM trailer had been broken into and some records were allegedly stolen. Phillip then called Applegate on the same day to obtain specific information regarding the incident. Phillip recalled that Applegate could not provide any information related to specific documentation which may have been taken from the PM trailer.

The interview continued with Phillip's explaining that the issues were "scoped" but initially they were probably somewhat general in nature and not very specific. Phillip also stated that the early briefing of Norelius was general, however, he (Phillip) recalled providing all available documents furnished by Applegate for review by Norelius. Phillip then stated there were subsequent telephone conversations with Applegate after Region III sent the letter describing the allegations (issues) and scope of the upcoming Region III investigation. Applegate never indicated during these conversations that he was not satisfied or that NRC was "limiting" or "too narrowly investigating" the allegations.

#14 * Pertaining to questions about regional procedures and discussion of the initial allegations, Phillip responded by stating there were several discussions with different regional personnel. Phillip stated he had conversations with Messrs. Norelius, Kavin Ward, Vandel (Project Inspector), Danielson (Kavin Ward's supervisor), and perhaps, Fiorelli and Knop. As Phillip recalled the discussions were general in nature and not too detailed. Phillip stated that he did not recall discussing the matter with James Keppler, the Regional Director. Phillip did state that Len Williamson's (assigned from IE Headquarters) involvement was very limited and as a result he was not requested to write or document any information obtained during the initial Applegate interview.

Phillip explained that he did not believe that there was any advanced notification made to the Zimmer site and was about 95 percent certain that it was a "special unannounced investigation." Phillip stated there was no fixed policy on announcing investigations, however, probably most are unannounced. [Phillip indicated that he did not believe that a licensee could alter "poor performance" rapidly enough to affect investigations.] Phillip continued by stating that he and Kavin Ward initially went to the Zimmer site and had an entrance interview with Schwierts, the site QA Manager. [Phillip was not sure how specifically they identified the allegations to Schwierts; they probably identified them as QA/QC problems without specifying the area of welding.] After meeting with Schwierts they interviewed Alan Sellers, QC Supervisor for PM who stated that he was unaware of any list illustrating welds rejected by PM which were subsequently accepted by Kaiser. As a result Phillip and Ward decided to inspect a representative "system of welds" in order to determine whether or not there was a problem with welds. Phillip recalled that Ward was familiar with welding at the Zimmer site and therefore asked PM to pull radiographs and "reader sheets" to determine how many PM radiograph "rejects" were overruled by Kaiser and subsequently approved. Phillip stated approximately 99 weld radiographs were checked and only two were overruled. Phillip explained that in both cases Kavin Ward concurred with Kaiser's interpretation of the radiograph.

Concerning the three specific welds alleged to be defective, Phillip stated the radiographs were reviewed by Ward who discovered that problems with the radiographs and/or documentation existed but had been identified in a comprehensive review of PM radiographs conducted by another firm, NES. Phillip advised that Ward could better answer specific questions regarding the welds.

Phillip then stated that he did not check into the "break in" of the PM trailer and, in fact, did not know if the trailer was broken into or if documents were taken. Phillip noted that the licensee is responsible for maintaining the record copies of all documents, so PM's copies were not the official ones.

#17 Phillip stated that at that time he also attempted to address the allegation involving alleged problems in the "pipe flushing" procedures. Phillip advised that the allegation arose from the initial allegations made by Applegate; however, after contacting the individual who had knowledge of the problem (Tyner) he (Phillip) was unable to obtain any specific information. The individual did inform Phillip, however, that the "hydro test" was run and the system was modified after the test thus invalidating the test. This statement resulted in an inspection which disclosed that the circumstances, as described by the individual, were factual. Phillip then stated that the "hydro test" was going to be rerun with an inspector present.

#18 Phillip explained that the next allegation which was addressed had to do with the handling of five "spool pieces" (pipe). According to Phillip, at the time that he and Ward arrived on site these pieces of pipe were in a "hold status," however, they were not "tagged" as such. The spools were shipped by the vendor, Pullman-Kellogg, and were "unloaded" at the site by "dropping them off the truck onto the ground." Phillip stated the pipe was approximately 12 inches in diameter and over a half-inch in wall thickness. Regarding the radiographing of the pipe, Phillip explained that the pipe was radiographed by PM for "information purposes" and not as part of a regulatory requirement or appropriate test procedure.

#19 Phillip stated that CG&E and/or Kaiser were therefore committing to radiographs and documentation as it related to the condition of the pipe when a visual inspection would have been sufficient. Phillip noted that PM found "rejectable indications;" they did not actually reject the pipe because only Kaiser could accept or reject. Subsequently, an NR was issued and ultimately an NR was improperly written which resulted in some of the pipe being released from the warehouse and installed. However, one remaining NR was written which still kept the problems with the pipe as an open item of nonconformance. Therefore, Phillip did not believe there was any type of cover-up; he said that Kaiser, by installing the pipe at this point, was assuming the risk that the pipe might later be found to be unacceptable. Phillip then stated that none of the individuals interviewed believed that there was a "hardware problem," only a "paperwork problem." Phillip continued by stating that apparently the QA Supervisor, Schwiers told someone to "line through" and void the NR. Phillip stated he interviewed Schwiers regarding the alleged instruction at which time Schwiers denied giving anyone instructions to line through items identified on an NR. Phillip concluded this portion of the interview by stating that he did not take any sworn statements or write reports of interviews and did not believe it was necessary.

Phillip continued by explaining that, even after he left the Zimmer site he thought that maybe all the work had not been done - although he had told CG&E that there was one item of noncompliance. After returning to Region III Phillip discussed the results of the investigation with Norelius and also told Norelius that he had some concerns and believed

that more work was going to have to be done. Phillip then stated that he returned to the site several weeks later with another NRC inspector, Tom Vandel, to make further inquiries regarding the spools. Phillip stated that the pipe was checked and they concentrated on the "paperwork problem."

Phillip recalled that he received a call during the first day or so of the investigation from another investigator in Region III, Jim Foster, who advised that Applegate had called the Region and explained that he (Applegate) was contemplating going to the PM people and possibly the newspapers. This occurred about April 7, 1980, according to Phillip.

#20 Phillip then stated that he contacted Applegate and told him that he was free to go to the press, however, it eliminated any chance of Applegate's maintaining his confidentiality. Phillip believed that Applegate did then go to the press, probably the Chicago Sun Times.

#21 In response to a question regarding procedures for identifying individuals contacted and reported in IE investigations, Phillip stated that the procedures do call for making an identification key. Phillip then stated that there was no identification key for his investigation.

#22 Phillip said that he made one attempt to contact an individual named "Johan" who Applegate claimed was keeping some type of journal. Phillip said Resident Inspector Daniels unsuccessfully tried to locate Johan through the Zimmer switchboard. Phillip said he did not pursue the matter further because Applegate did not supply any specifics of what the journal contained.

#23 Phillip continued by explaining that shortly after Applegate "went public" a reporter from Channel 9, Cincinnati, contacted him to obtain information about the investigation. The reporter asked if he could interview Phillip on the site or at the gate. Phillip had a discussion with Schwiers, QA Manager, CG&E, who stated that they would permit Channel 9 to come on the Zimmer site for an interview in Resident Inspector, Daniels' office. Sometime later, Mr. Altemuehle, CG&E public relations officer, asked Phillip if he would attend a press conference downtown.

This apparently was done to provide the other representatives of the media an opportunity to learn about the results of the investigation at the site and not just provide a story for one station (Channel 9). Phillip then explained he went to the Resident Inspector's trailer and was interviewed by Channel 9. Later the same day he (Phillip) went to downtown Cincinnati to attend the press conference. Approximately 20-25 reporters were in attendance and the two main points of interest were the welds on the pipe spool pieces which he stated were "OK" and that the licensee was going to be cited for an item of noncompliance relating to records and violating "hold" procedures. As Phillip recalled, one reporter asked about drugs and alcohol on the site and the fact that workers were coming to work drunk or intoxicated. Phillip replied to

the question by explaining he did not know of the allegation, as stated. When asked whether NRC was concerned about this, Phillip replied that it was the employer's concern because, even if a drunk welder made a bad weld, the licensee's QC inspection program was designed to catch faulty workmanship. Phillip stated that Mr. Borgmann, V.P. of Engineering, CG&E, and Mr. Altemuehle were also present* in the press conference.

Phillip explained that on May 7, 1980, he had several different telephone conversations with Applegate, Bill Ward (IE Headquarters), and Rita Giordano (reporter for the Cincinnati Inquirer). Apparently Applegate had new information (tapes) which he claimed indicated that CG&E had lied to NRC and that there was a criminal conspiracy. According to Phillip he contacted Applegate who explained that he had evidence in the form of taped conversations with individuals which showed there was a conspiracy on the part of the licensee and Kaiser to prevent PM from disclosing defective welding at the plant. Phillip stated that he decided that if Applegate, in fact, had this type of information it would be better to interview Applegate at an FBI office. This apparently was concurred in by Bill Ward and Norelius. Phillip explained that he then talked with Jim Donahue, Region III's Chief of Safeguards and requested that he make arrangements for an interview date. Donahue then contacted Special Agent Robert Buckley, Atomic Energy Desk, Chicago Field Office, FBI. Phillip stated that the interview took place in the Dirckson Federal Building in downtown Chicago at which time Applegate presented the "tapes" and made his allegations. After listening to the tapes Buckley advised Applegate that he did not hear anything which constituted a violation of the Federal criminal statutes. The taped conversations were made by Applegate of telephone conversations he had with representatives of PM, including the president of the company, Mr. Aldredge.

Phillip then stated that Applegate was not satisfied with the results of the interview and the fact that the FBI did not accept his (Applegate's) claim that the tapes were evidence of criminality. Phillip also stated that Applegate was complaining of not having any money or transportation to the airport for his return flight to Cincinnati and requested FBI or NRC transportation. Phillip stated Applegate's request was denied. At the close of the interview Buckley advised Applegate that the NRC would provide him with any additional information obtained and a copy of the NRC report when the NRC investigation was concluded. Phillip also told Applegate that he would further review the taped conversations (which Applegate provided) and interview Aldredge.

Later the same day Phillip explained he was called by a reporter, Rita Giordano, wanting to know what happened at the meeting with the FBI. Phillip stated he provided Giordano basically the same information described above. Phillip went on to explain that he then made attempts to contact Aldredge and eventually interviewed him on May 20, 1980. The next contact with Applegate came on June 7, 1980, at which time Applegate stated to Phillip that he (Applegate) was "not sitting still." Phillip

advised Applegate that a report would be coming out - NRC would provide him a copy.

In response to questions about welding problems at the Zimmer site which were described in Applegate's "Confidential Report" compiled during his contract assignment at the site Phillip provided the following responses.

#27 Phillip explained there were individuals named in Applegate's reports who may have had knowledge of the welding problems; however, Phillip did not believe that it would have been fruitful to "track people down to obtain weld information" because Region III was already aware of welding difficulties and numerous NRC inspections had been conducted. Phillip added that the specific welds in question could be checked by reviewing radiographs. Phillip also noted that individual welders would not be in a position to know what subsequent actions were or were not taken to correct deficient welds.

Phillip was then provided an opportunity to review the list of allegations described in the petition to the Special Counsel. Upon reviewing the allegations Phillip provided a response to each allegation identifying allegations which had been previously addressed during either his investigation or other Region III efforts and those which appeared to be new allegations.

Phillip said there was no explicit IE policy on how to write the "details" section of investigative reports. He said the investigator uses his discretion to prepare the report in the way which best presents the information to the reader. Phillip said that although sometimes the report is a series of interviews, he often feels it is better to organize the report by subject matter. He said that, when this is done, there are no documents which comprehensively summarize what each witness stated: the report presents what each witness said (identifying them only by title) on each issue. Phillip further stated that he believed that investigations of allegations are best reported as follows: (1) state the allegation; (2) list details provided by the allexer; (3) state the findings; and (4) list details supporting the findings.

Phillip said he did not take any written statements in this case. He said it is up to each investigator's discretion to decide when to have a witness or allexer sign a statement. Phillip recalled only one occasion when he asked an allexer to sign a statement containing his allegations. Phillip doubted that this approach would help pin down the allegations or help the allexers be more accurate. Phillip said that he generally does not obtain statements from any witnesses unless he feels he will be receiving conflicting significant information. Phillip said the only time the thought even entered his mind was in connection with the circumstances of the notation being crossed off the nonconformance report which allowed the five spool pieces to be installed. Phillip noted however that the consensus, which he believed also included Norelius' view, was that this crossing off was not that significant because the problem was still identified in the system, therefore it turned out that statements were not needed.

Phillip said that having IE investigators administer oaths to witnesses is a relatively new idea. He said that oaths are a useful tool, however they are not appropriate for use in every situation. Phillip said oaths have been used only sparingly. Phillip noted that IE investigators do not have general authority to administer oaths. He said that investigators must receive a written delegation of authority to administer oaths in each case from the Regional Director and the delegation must receive the advance concurrence of the Office of the Executive Legal Director in Headquarters. Phillip believed this was a rather cumbersome approval process if it is really intended that they use oaths. Phillip also noted the practical problem that an investigator does not know what the situation is until he gets into the field, yet the authority to administer oaths must be requested in advance.

28 Phillip said that the IE Inspectors Manual is a training tool for new personnel. Phillip said he wrote Chapter 8 which addresses investigations. Phillip's attention was directed to paragraph 1 on page 6 which states:

Every complaint or allegation received, regardless of the source or the avenue of communication involved, must be evaluated and documented. There are instances wherein the complaint or allegation obviously has no substance and it comes from an individual suffering from a mental disorder. Even in those cases, at least a memo to the files should be prepared documenting the contact, the general content of any communications and the basis for the conclusion that the matter need not be pursued further.

Phillip responded that this passage means that investigators cannot dismiss entire contacts without appropriately documenting it; however, it does not require itemization of specific allegations and how each one would be handled.

29 Phillip said that people outside the nuclear field generally do not realize the number of checks and balances that exist at nuclear power plants. He said that as an example it would require a lot of collusion to get all the required signatures on a false document such as an NR. Phillip stated that, although review of documentation is necessary, it is not true that IE inspectors limit their inspections to "paper reviews." He said it was more than common for inspectors to look at the hardware itself. He also pointed out that, under the IE modular inspection program, the licensees notify IE of when certain tests and activities are to be performed and IE inspectors then witness them. Phillip said that in this investigation Kevin Ward reviewed radiographs, which Phillip considered to be "hard evidence." Phillip said that IE does not have independent capability to perform its own radiographic testing to double-check the licensee's radiographs. Phillip did not consider this to be a problem because the licensee would not have had time to substitute radiographs after Ward and he had randomly selected the system they intended to review.

*Changes incorporated pursuant to reinterview on 8/4/81.

welds would be reviewed. Phillip noted that, inasmuch as Applegate claimed he brought these welds to Schweirs' attention, the licensee may have expected that someone would be reviewing this weld sometime.

Investigators' Note - After a lunch break the interview was continued with Phillip only.

Phillip said he knew from his first visit to Zimmer that the notation on NR/E-1911, Rev. 2 - which was holding up installation of the spool pieces - had been lined out; however, he did not establish who lined it out. Phillip said he also realized on his return to the Regional Office after the first visit that Applegate's allegation was that the spool pieces were bad at the factory - not that they were damaged when unloaded from the truck. Phillip said that he discussed the matter with Norelius and, for these and other reasons, they decided that Phillip should do further investigation at Zimmer. Phillip said that the Zimmer personnel knew he was returning because he so informed Schweirs a couple days ahead of time.

Phillip said he established that Mr. Oltz, with Kaiser's Document Control Unit, was the one who lined out the NR notation. Phillip could not recall Oltz' excuse, but Oltz did agree that his method of closing the NR by lining it out was incorrect. Phillip said the warehouse man who released the spool pieces based on the altered NR informed him that he was present when Schweirs directed Oltz to line out the notation. Phillip said he did not pursue the matter after Schweirs denied it because the "bottom line" was that there was no cover-up, as evidenced by the other NR that remained open on the matter. Phillip suspected that this lining out only occurred because the Zimmer personnel considered it to be only a "paper problem." Phillip said that, in fact, the spool pieces passed ultrasonic tests PM and Pullman-Kellogg* performed between their two visits.

Investigators' Note - Toward the end of the interview, Ward returned to advise OIA that he had just learned from Len Wood of CG&E that the three welds are all safety-related. He said K-916 is a class 3 weld and both K-262 and CY-606 are class 2 welds.

*Changes incorporated pursuant to reinterview on 8/4/81.

Interview of Everett L. Williamson, Jr.

Everett L. Williamson, Jr., Investigator, Region II, IE, was interviewed at the Washington National Airport, Washington, D.C., on March 5, 1981, by Investigators David Gamble and John Sinclair, OIA. Williamson said he participated in an interview of Thomas Applegate which occurred sometime around March 3, 1980. Williamson said that about a week before that date his supervisor, William Ward, instructed him to meet Region III Investigator Gerald Phillip in Cincinnati, Ohio, to assist Phillip in an investigation. Williamson said that Ward informed him that Applegate had called NRC; he believed the Headquarters Duty Officer had received and recorded Applegate's call and Ward called Applegate back. Ward said

File

September 3, 1981

MEMORANDUM FOR: James G. Keppler, Director, Region III

FROM: James E. Foster, Investigator

SUBJECT: OIA REPORT "ADEQUACY OF I&E INVESTIGATION 50-358/80-09 AT THE WILLIAM H. ZIMMER NUCLEAR POWER STATION"

I am very concerned about the adequacy and conclusions of the subject OIA report. From my review it appears that the report does not deal with all questioned areas, significantly mischaracterizes statements made by Region III personnel, does not document interviews conducted, contains statements not supported by fact, and reaches inaccurate conclusions. It also appears that the investigative effort neither included interviews of pertinent licensee and contractor personnel, reviews of appropriate Region III investigative procedures, nor developed crucial information. Lack of attention to detail is evident in many areas.

Three of the conclusions reached by OIA regarding the I&E investigation are:

1. The investigation failed to properly document the results of investigation both as to interviews and material reviewed.
2. The investigation failed to determine the correct status and history of several welds.
3. The overall investigative effort was neither vigorous nor sufficiently broad in scope.

These conclusions are unsupported, but do apply to the OIA review. The remaining OIA conclusion (use of the phrase "not substantiated") has some merit, but would not alter the conclusions of the I&E investigative report. In summary, the OIA effort appears totally deficient.

Specifically:

1. The OIA report (Page 3 Paragraph 2, Page 4 Paragraph 3, Page 5 Paragraph 9) indicates that the matter reviewed is the agency handling of allegations by Thomas Applegate. These were:

74240326

- a. Welds CY606, K811, HR42 have been rejected by Peabody-Magnaflux personnel but accepted by Kaiser.
- b. System flushing procedures were improper.
- c. Welds on Main Steam Relief pipe spools are defective but were accepted by Kaiser.

The OIA report only contains a review of the handling of the first allegation. No detailed review of the other two allegations was performed or documented.

2. Although William Ward (Chief, I&E Investigations Branch) played a substantial part in the handling of this case by I&E (his name appears 20 times in the OIA report, Pages 5, 10, 14, 20, 35, 36, and 38), he was not interviewed.
3. Several statements by RIII personnel (G. Phillip, K. Ward) were significantly mischaracterized or misunderstood. I understand they are responding separately.
4. I&E Inspection Reports Nos. 50-358/78-39 and 50-358/79-17 are significantly mischaracterized as indicating a "chronic and long history of welding problems at Zimmer" (OIA report Page 2). These reports deal with radiographic technique, not welding problems.
5. One of the OIA report attachments is a manual chapter from the Fundamentals of Inspection course meant as a training aid (written by Gerald Phillip). This is not an I&E or RIII procedure. RIII does have procedures covering report format, statements, etc. pertaining to investigations. No reference is made to these procedures.
6. For the three welds, CY606, WR-K811, HR42, significant information was not obtained by OIA. Lack of this information (weld chronologies are attached) led to inaccurate conclusions. Relevant Nonconformance Reports were not reviewed, and cognizant personnel were apparently not interviewed. No technically knowledgeable personnel assisted in the review. Attention to detail was lacking, as was understanding of construction practices.

As the report focuses considerable attention on a nonconformance report (NR E-2138) related to weld WR-K-811, it is evident that the circumstances surrounding this document were not understood due to lack of complete information.

7. Unsupported statements are characterized as fact. On pages 2, 12, and 35, the conclusion is propounded that CG&E QA&S Manager William Schwierts ordered Floyd Oltz to "line out" a Nonconformance Report. The basis for the conclusion is apparently the interview of Gerald Phillip, who noted that Schwierts denied the action.

A subsequent interview with Oltz indicated that Mr. Turner, then Kaiser QA Manager, his supervisor, advised him to line out one Nonconformance Report, knowing that another was in existence to track the nonconforming condition. Schwiers was characterized as being present for this exchange, but did not direct Oltz. This information was corroborated by a Mr. Deerwester, who indicated that he was present during the exchange. No information is presented in the OIA report to support the conclusion that this action was directed by Schwiers.

On Page 40, no support is similarly given for the statement that Thomas Applegate brought information to CG&E officials.

8. Several comments in the OIA report pertain to the investigative case file maintained by RIII. These OIA criticisms are from a criminal investigation viewpoint rather than an I&E viewpoint. The one very minor discrepancy, the lack of an Identifier Key for the sole alleged in the I&E report (Thomas Applegate), was easily rectified. One criticism (lack of "results of interview" documentation) is for an item not required and not believed necessary.
9. Portions of the presentations of interviews are unrelated to discussion of the adequacy of the I&E investigation, and add nothing to the report. Examples of this are the mechanics of meeting with Applegate, what he was wearing, xerox machine difficulties, etc.
10. Several of the report attachments are of little or no significance, and some (weld rod issue slips) are totally unreadable. Several attachments add nothing to the report but size and weight.
11. The report does not explain the thirteen day delay by OIA Director Cummings, but only states that "the Chairman was aware of that aspect of the case". The handling of Applegate's allegations by OIA is very much a part of the agency response, and should be adequately detailed and explained.
12. While no interviews of licensee or contractor personnel are presented in the OIA report, I am personally aware that a site QC inspector was interviewed on June 10, 1981. The OIA report alludes to interviews of a QC inspector and a former supervisor of Document Control, but documents neither interview. An outline of the OIA report is attached, indicating documented interviews and time frames.
13. The report took 7.83 months to produce. The last documented action in the report took place March 5, 1981 (interview of E. L. Williamson), 5.16 months prior to report finalization.
14. The style and detailed content of the reports of interviews with I&E personnel strongly suggest that these interviews were tape recorded. Interviewees were not advised of such recording.

James G. Keppler

- 4 -

September 3, 1981

15. While probably not of significance, the OIA report lacks signatures by the investigators or a Personnel Contacted listing.

J. E. Foster
Investigator

Attachments:
As stated

RIII

Foster/so

9/2/81

JEF
9/2/81

CY 606

CY 606 is a weld in the Cycled Condensate System, located in the ground in the tank farm area, under a concrete slab. The line is sixteen inches in diameter (weld is 50.26 inches of weld metal).

Design conditions for this line are 35 psig and 140 degrees F. Maximum operating conditions are also 35 psig and 140 degrees F. This line is S&L piping Class B.

CHRONOLOGY

07/ /76	Weld fit-up.
07/ /76	Weld performed.
07/15/76	RT of weld - reject.
07/16/76	RT read, reject 0-13, 13-26, unconsumed insert.
07/16/76	Approvals on WRD No. 1.
07/19/76	RT readed, PT of grinding - accept, weld performed.
07/21/76	Approvals for WRD No. 2.
07/23/76	Ground area, PT accept, weld performed.
07/26/76	RT performed.
07/26/76	RT read, reject 0-12, 12-24, incomplete fusion.
07/27/76	Approvals for WRD labeled No. 2.
07/29/76	PT - accept.
08/02/76	RT for information only - reject.
08/04/76	PT reject - grind through & adjacent area, crack in weld edge.
08/09/76	RT performed.
08/09/76	RT read, 0-12 rejected.
08/10/76	KEI approval of above RT report.
08/10/76	Approvals for WRD labeled No. 3.
08/10/76	PT test of area - accepted.
08/11/76	RT of weld.
08/11/76	RT read - rejection areas 0-12 (Peabody-Magnaflux Personnel).
08/12/76	P-M rejection overridden by M. Low - accept weld.
08/13/76	Gamma plugs CY606GP, 606GPS, 606GP welded, PT accept.
*01/13/77	S&L audit of radiography, areas 8-12 rejected for surface indications and linear indications.
*01/21/77	NR-E-633, documents above finding, grind out defect and reweld.
*02/11/77	Approvals on disposition of NR-E-633
04/14/77	ANI approval of 08/11/76 RT.
04/15/77	Approvals on WRD labeled 3A.
06/08/77	RT of area in 3A 0-13, 13-26 accept.
06/08/77	RT read and approved.
06/20/77	ANI review and approval of above RT.
*06/24/77	NR-E-633 closed.
07/19/77	Gamma plug re-welded, PT accept.
*10/10/79	NES Review Begins
*10/12/79	NES review - technique and documentation deficiencies.

*Significant information not in OIA Chronology.

*01/02/80 Applegate told acceptance of CY 606 improper. (Daily Report)
*03/03/80 Applegate interviewed by Phillip.
04/07-09/80 Phillip onsite.
*10/03/80 NR-E-5172 based on NES findings for CY-606 and several adjacent welds.
*10/27/80 Disposition of NR-E-5172, accept as is, A. Lanham.
*11/07-12/80 Approvals on NR-E-5172.
*11/12/80 NR-E-5172 closed.
*12/17/80 Rex Baker notation on NES documentation review checklist form (closeout).

*Significant information not in OIA Chronology.

WR-K-811
 WR-K-516
 (WR-K-827)
 (WR-K-916)
 (WR-K-917)

WR-K-811 and WR-K-827 were welds on the Auxiliary Building Closed Cooling Water System. Weld WR-K-516, on the same line, is still in existence. Welds WR-K-916, WR-K-917 are replacement welds. Weld WR-K-811 was located in the Auxiliary Building at elevation 572'. The line is 4 inches in diameter (weld was 12.56 inches of weld metal).

Design conditions for this line are 120 psig and 105 degrees F. Maximum operating conditions are 150 psig and 125 degrees F. The line is S&L piping Class C (final visual inspection only, not normally radiographed).

CHRONOLOGY

08/ /77	Approvals for production of WR-K-516.
11/08/77	Consumable insert placement and tack weld WR-K-516.
11/09/77	WR-K-516 welded, ANI waiver on hold point.
01/29/79	WR-K-811 weld fit-up.
01/30/79	WR-K-811 visual inspection of final pass-accept. KE1-1 misplaced.
*10/ /79	Inspector Setlock assisting with documentation location and correction.
10/11/79	NR-E-2138(RO) WR-K-811 and WR-K-516, believe missed ANI holdpoint.
	Disposition: RT, accept if RT acceptable.
*11/06/79	RT of weld WR-K-516 per NR-E-2138RO.
*11/06/79	Probable date of RT of WR-K-811, radiography not retained. Reject. (RT done twice).
*11/08/79	RT of WR-K-516 rejected for unconsumed insert, other defects.
*12/03/79	NR-E-2260, RT of WR-K-811 shows adjacent weld WR-K-827 unacceptable, unconsumed insert.
	Disposition: Replace pup piece, "see related NR-2138."
12/14/79	NR-E-2138 "Voided" (actually superseded), ... "see Revision 1."
*12/27/79	"Steve" tells Applegate K-811, "MSR pipe" has "insert fault."
*01/07/80	Speed memo, Ruiz to Pallon: WR-K-516 no KE1-1, RT reject.
*01/ /80	NR-E-2138 Revision 1, (see related NR-E-2260).
	Disposition: Cut out and reweld.
01/14/80	Approvals on NR-E-2138, Revision 1 (weld WR-K-516 not mentioned).
01/16/80	Approval on KE1-1 for welds WR-K-916, WR-K-917.
01/18/80	WR-K-916 fitup and weld.
01/21/80	NR-E-2138R1 closed.
01/24/80	WR-K-916 visual inspection and acceptance.
*01/24/80	NR-E-2260 closed.
03/03/80	Applegate interviewed by Phillip.
04/07-09/80	Phillip onsite.
*08/ /81	RT for WR-K-516 found.
*08/ /81	WR-K-516 Re-radiographed.

*Significant information not in OIA Chronology.

COMMENTS

According to QC Inspector Setlock, Floyd Oltz asked him to locate the KEI-1 weld history forms for welds WR-K-811 and WR-K-516. He could not locate them, and found that the ANI had listed hold points on the fit-up for welds on the line. The ANI had no log notation to indicate that he had waived the holdpoints for these welds. NR-E-2138 was written to document missing the holdpoints.

Setlock was not aware that the ANI had waived the hold point on fit-up inspection for WR-K-516. He indicated that he first learned of this information on approximately August 15, 1981, when he was shown the KEI-1 form for weld WR-K-516. He indicated that the form and ANI waiver are genuine. (It appears that at some time the KEI-1 form for WR-K-516 was found, and the ANI waiver discovered.)

He also stated that he was not aware of NR-E-2260 nor of Revision 1 to NR-E-2138 (RO) but does not see anything wrong with actions taken. He does feel that he should have been advised of the revision of NR E-2138, and that the dates of the original and revision might have been shown to better document actions taken.

RT of WR-K-811 could not be found, and RT of removed welds need not be retained. It is very possible that WR-K-811 had a partially consumed insert, as WR-K-827 had, and WR-K-516 has this condition. This would explain why "Steve" (Allen Sellars) told Applegate of an "insert fault" in weld "K-811" as detailed in Applegate's daily report dated December 27, 1979. WR-K-811 and the other welds had been accepted, and would not experience further review, as RT or other examination would not normally take place on these welds.

If a weld is not subject to RT, certain defects are considered acceptable, and must be assumed to exist. The licensee has indicated that removal of WR-K-516 is planned, based on unacceptable RT of the weld.

Both the original NR-E-2138(RO) and the subsequent Revision 1 incorrectly indicate that weld WR-K-811 was welded on November 9, 1977 and weld WR-K-516 was welded on January 30, 1979. Apparently, this date transposition (WR-K-811 and WR-K-516) was an error that was made by QC Inspector Setlock when NR-E-2138 was drafted. The error was carried to the subsequent revision, and read by RIII Inspector K. Ward during weld documentation review.

RH-42

RH-42 was a weld on line 1RHO1C18 in the Residual Heat Removal system. The weld was located in the reactor building at elevation 497'. The line is 18 inches in diameter (weld was 56.54 inches of weld metal).

Design conditions for this line are 220 psig and 389 degrees F. Maximum operating conditions are 240 psig and 358 degrees F. The line is S&L piping Class B.

CHRONOLOGY

08/06/76	Weld fit-up.
08/06/76	Weld performed.
08/09/76	RT of weld.
08/09/76	RT read by P-M, reject markers 36-48 (Notation: re-shoot 100% following repair).
08/10/76	KE approval of above RT interpretation.
08/10/76	Approvals on WRD form.
08/10/76	RT of repair area.
08/10/76	RT read by P-M.
08/11/76	RT accepted by KEI.
08/11/76	Approval of repair.
09/16/76	ANI review of 8/9/76, 8/10/76 RT reports, approval.
*10/10/79	NES review begins.
*01/25/80	NES review, porosity at film markers 53-55.
*02/12/80	NR-E-5056 based on NES review findings.
*02/15/80	NR-E-5056 dispositioned to grind out and repair defect.
03/03/80	Applegate interviewed by Phillip.
03/21/80	WRD form approvals.
*04/07-09/80	Phillip onsite, initiation of Applegate investigation.
04/14/80	PT of re-prepped pipe ends, acceptance.
04/21/80	Approvals for WRD for new elbow.
04/23/80	PT of elbow end prep. accepted.
04/30/80	Weld fit-up breaks loose (Ref: KEIA No. 1008).
05/01/80	Re-fit-up approved and weld started.
05/02/80	Root pass made.
05/05/80	Root pass approval.
05/06/80	RT of new weld.
05/07/80	RT approved by KEI.
*05/07/80	ANI review and approval.
*06/16/80	NR-E-5056 closed out.

*Significant information not in OIA Chronology.

COMMENTS

The NES documentation checklist dated January 25, 1980, by R. A. Zieler, LII RT, on page 3 notes "NR issued to repair rejectable indication" and "corrective action prepared by T. McCall, February 12, 1980".

It appears that the decision to grind out and repair the defects at film markers 53-55 was misinterpreted to mean cut-out the entire weld. Weld cut-out then necessitated a new elbow, as fit-up could not be accomplished within specifications.

From a review of the weld chronology, and of statements made by Applegate, he was in contact with Peabody-Magnaflux personnel after he left the site. Otherwise, he would not know of the NBS review as noted on page 6 (Allegation 1) of report 50-353/80-09.

December 15, 1980

MEMORANDUM FOR: Region III Files
THRU: ^{E. R. N. Nelson} Charles E. Norelius, Assistant to the Director
FROM: G. A. Phillip, Investigative Specialist
SUBJECT: ZIMMER PLANT - ALLEGATIONS

On November 18, 1980 Jay Harrison, Resident Inspector at Marble Hill, advised Jim Foster and me by telephone that he had been contacted by an individual, who has been a QC inspector at Zimmer and who is now working at the Marble Hill site. According to Harrison, had made allegations primarily relating to welding. I agreed to contact

On December 9, 1980 J. Shapker and I had a telephone conversation with who's specific concerns were as follows:

1. Phill Gittings, Kaiser QC Manager, who has been at Zimmer since July 1980, has voided several nonconformance reports issued on hanger welds. Gittings has done this on the basis of personally examining fillet welds by shining a flashlight on them from several feet away and concluding the weld is acceptable. advised that Rex Baker, Inspection Supervisor, Kaiser, should be interviewed and he will be able to provide specific examples.
2. Bolt holes for large bore pipe support hangers are required to be made by drilling rather than burning. Although some instances of burned bolt holes have been identified, there is no inspection program to assure the bolt holes are inspected.
3. David Fox, Welding NDE Quality Engineer and Len Wood, QA Engineer, CG&E, are finding as many as 30 discrepancies during reviews of ASME Code data packages. They "are getting a lot of flak" for identifying so many discrepancies. The discrepancies are being recorded on an exception list rather than in nonconformance reports. did not know whether there was a procedure controlling this review, the documentation of discrepancies and the resolution of them.
4. Kaiser threatened to fire an inspector, , for refusing to accept a weld. He said he heard that was also nearly fired for using a magnifying glass when examining welds when, in fact, he was using a mirror to view the far side of a pipe weld. indicated Rex Baker would have more specific information in this regard.

DO NOT DISCLOSE
Contains identity of
confidential source

8202040403

①

December 15, 1980

was advised that we might not be able to follow up on these items until January 1981 but that we would contact him to inform him of our findings.

G. A. Phillip
G. A. Phillip
Investigative Specialist

cc: J. Schapker
G. Fiorelli
I. Yin
D. Danielson
F. Daniels

DO NOT DISCLOSE
Contains identity
Confidential source

(2)

OIA REPORT CHRONOLOGY

04/03/80 MEMO, WARD, IE VS OIA INVESTIGATIVE PROGRAM.
12/15/80 Memo to OIA requesting investigation.

12/29/80 Receipt of CAP petition.

12/30/80 Start review of GAP material (continues until 3/04/81).

01/09/81 OIA meeting with GAP

01/15/81 MEMO, WARD, REQUESTED CHANGES IN IE INVESTIGATIVE POLICY.
01/13/81 Meeting with RIII personnel to explain investigation.

01/14/81 Interview of G. Phillip.

01/15/81 Interview of J. Donahue.

01/23/81 Interview of R. Knop.

01/26/81 MEMO, D. DANIELSON COMMENTS ON THE INFO FLOW INVESTIGATION
01/27/81 Interview of K. Ward.

01/28/81 Interview of D. Danielson.

01/29/81 Interview of J. Keppler

02/12/81 MEMO, N. MOSELY TO D. DANIELSON "ERRATUMS" COMMENTS!!
02/18/81 Interview of T. Vandel.

02/19/81 Interview of G. Phillip and K. Ward, display of RH-42 weld records.

02/19/81? Request for weld packages from Resident Inspector (per OIA report).

03/04/81 End of OIA review of GAP material.

03/05/81 Interview of E. L. Williamson.

04/08/81 (Draft GAO report to NRC for comment).

05/01/81 (Request for extension to reply to GAO draft report).

05/20/81 (NRC comments on draft GAO report).

06/10/81 Interview of QC inspector Setlock at Resident Inspector's Office, 21 mar.
07/07/81 (GAO report issued in final).

07/30/81 Date of OIA report as originally dated (from transmittal letter).

08/03/81 Reinterview of D. Danielson, R. Knop, J. Keppler.

08/04/81 Reinterview of G. Phillip, K. Ward.

08/04/81 Presentation of OIA findings to RIII personnel.

08/07/81 OIA report date, date of transmittal to Commission.

09/04/81? OIA report disclosed via FOIA request.

12/15/80 to 08/07/81 = 235 days = 7.833 months
03/05/81 to 08/07/81 = 155 days = 5.166 months

Background

1-2

2

Details

3

1

Review of CAP material

3-4

1

Meeting with RIII personnel

1/13/81

4-5

1

Interview of Gerald Phillip

1/14-15/81

5-16

11

Interview of Kevin Ward

1/27-28/81

17-19

2

Interview of Charles Norelius

1/26/81

19-22

3

Interview of Gaston Fiorelli

1/26/81

22-23

1

Interview of Duane Danielson

1/28/81

23-24

1

Interview of Richard Knop

1/23/81

24-25

1

Interview of James Donahue

1/15/81

25-26

1

Interview of James Keppler

1/29/81

26-28

2

Interview of Thomas Vandel

2/18/81

28-33

5

Reinterview of G. Phillip and K. Ward

2/19/81

33-35

2

Interview of Len Williamson

3/5/81

35-38

3

Review of Welding records

39-40

41

CY606

40-41

1

RH-42

42

1

WR-K-811

43

1

LIST of

Attachments

1. Memo from Ahearne to Cummings, dated 12/15/80. 1
2. Letter from Eastwood (Special Counsel) to Ahearne, dated 12/29/80. 2
3. CAP Petition (Request for Investigation), undated. 24
4. Letter from Keppler to CG&E, dated 7/2/80, transmitting IE Report #50-358/80-09 (INCLUDES REPORT). 53
5. Weld Package for CY-606. 32
6. Weld Package for RH-42/RH-K-262. 14
7. Weld Package for WR-K-811/WR-K-916. 9
8. Nonconformance Report #E-2138, Revision 1 (typed version). 1
9. Nonconformance Report #E-2138 (handwritten version). 2
10. IE Inspectors Manual, Chapter 8. 31

FOSTER

- 7/13/76 CY606 Radiographed, areas 0-13, 13-16 have incomplete fusion, rejected.
- 08/08/76 HR42 radiographed, areas 36-38 rejected.
- 1/13/77 SHL ADJUST REJECTS CY606, AREAS 8-12
- 6/08/77 CY606 repaired and re-radiographed.
- 11/9/77 weld K516 welded. CLASS "C" NOT NORMALLY RADIOGRAPHED. FINAL PASS VISUAL.
- 1/30/79 K811 welded, missed ANI hold point on fit-up inspection.
- 9/18-20/79 K. Ward inspection, radiograph deficiencies.
- 10/10/79 NES review of radiographs in response to Ward inspection begins.
- 10/11/79 NR 2138R0, missed ANI hold points on K516, K811, fit-ups. (CLASS "C" WELDS).
- 10/12/79 NES reviews weld CY606 radiographs. observes deficiencies. *TECHNIQUE ONLY*
- 11/12/79 *NR 5172 ON CY606 + 6 OTHER WELDS*
- 12/12/79 weld K811 radiographed, in response to NR 2138R0. *11/06/79 K516 REMOVED SHUTTER. 11/06/79 300000 MEMO K516. RADIOGRAPHED 2X, REJECT ON 2ND TRY*
- 12/3/79 NR E-2260, radiograph of K811 shows nonconsumed insert on adjacent K-827.
- 12/09/79 Nes has reviewed 812 weld records, identified 509 discrepancies.
- * 12/10/79 Applegate investigation begins (initial focus on timecard cheating).
- 12/11-12/79 K. Ward inspection.
- 12/14/79 NR E-2138R0 VOIDED "SEE REV 1". (2138R1).
- 12/17/79 first Applegate daily report suggesting weld problems, no specifics.
- 12/21/79 Steve (PM) tells Applegate that K811 MSR pipe, has "insert fault". *THURSDAY*
- 12/21/79 weld K811 replaced with weld K916.
- 12/28/79 Applegate briefs W. Murray on week's activities.
- 1/02/80 [] says weld CY606 acceptance improper. *IN CONCRETE BETWEEN CURTAIN WALL + 100'*
- 1/04/80 Applegate investigation terminated (1/3/80 last daily report?).
- 1/6/80 ? Applegate reports for 12/31/79-1/6/80 sent to CG&E.
- 1/14/80 W. Puckett disposition of NR E-2138R1, cut out and reweld.
- 1/15/80 Applegate calls OIA. *(CUMMINGS)*
- 1/21/80 REPAIR-REWORK OF K811 SIGNED AS ACCEPTABLE.
- 1/22/80 NR E2138 RI closed.
- 1/24/80 REPAIR-REWORK OF K827 SIGNED AS ACCEPTABLE.
- 1/24/80 NR E2260 Closed.
- 1/25/80 NES reviews HR42 radiograph, observes discrepancies *TECHNIQUE + QUALITY*
- 2/12/80 E-5056 ON HR42 *REMOVED + REPLACED BY RHX 261 +*
- 2/28/80 Applegate contacts Chairman Aherne. *RHX-262*
- 3/3/80 Interview of Applegate *K811, CY606, HR42 ALLEGED DEFECTIVE*

• RELATED TO K811, K516.

• RELATED TO CY 606

• : ! :