



UNITED STATES
 NUCLEAR REGULATORY COMMISSION
 REGION I
 631 PARK AVENUE
 KING OF PRUSSIA, PENNSYLVANIA 19406

A-1

OCT 09 1981

PRINCIPAL STAFF	
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DE/OS	File

MEMORANDUM FOR: Duane H. Danielson, Chief, M&PS, EIB, RIII
 FROM: Lowell E. Tripp, Chief, M&PS, EIB, RI
 SUBJECT: INPUT TO ZIMMER INSPECTION REPORT

Enclosed is a memorandum from Glenn Walton and Wilbert Sanders which covers the recent NDE effort at the Zimmer site with the Region I NDE van operated by Region I and contractor personnel. This material is intended as input to the Region III report covering the overall inspection/investigation.

Please let us know if any additional input from Region I is needed.

Lowell E. Tripp
 Lowell E. Tripp, Chief
 Materials and Processes Section

Enclosure: As stated

cc w/encl:
 W. Sanders, RI
 G. Walton, RI

cc w/encl thru Attachment C only:
 T. Martin, RI
 J. Sniezek, IE
 W. Reinmuth, IE
 W. Laudan, IE
 G. Georgiev, IE

OCT 13 1981

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

A-2

October 28, 1981

MEMORANDUM FOR: Victor Stello, Jr., Director
Office of Inspection and Enforcement

FROM: James G. Keppler, Director
Region III

SUBJECT: ZIMMER COMMISSION MEETING - OCTOBER 27, 1981

At yesterday's Commission meeting, Commissioner Ahearne questioned why the Region III investigation of the Zimmer allegations did not include taking a signed statement from Mr. Gittings, former Kaiser QA Manager. We were unable to answer the question at the meeting and we indicated we would get back to Commissioner Ahearne with an answer on this matter. Pertinent information obtained from our Investigator, Mr. McCarten, is provided below:

1. From the beginning of the investigation there was a fairly close working relationship between Region III and OIA because of the alleged falsification of records. In IE's investigation, the decision not to interview senior Kaiser and licensee personnel who may have been connected with these records, let alone obtain signed statements from them, was based on instructions received from OIA (Messrs Puglia and Gamble). This decision applied to Messrs Marshall, Oltz, and Schwiers---as well as Mr. Gittings.
2. Following discussions with the U. S. Attorney who was interested in the case, OIA representatives (Sinclair and Puglia), in the conduct of their investigation of potential criminal issues, interviewed Messrs Oltz and Gittings in June and July 1981. Mr. McCarten participated in the interviews. The interview with Mr. Oltz was taped; however, the interview with Mr. Gittings was not taped (a decision made by OIA).
3. As far as we know, OIA interviews with Messrs Marshall and Schwiers have not yet been conducted.

James G. Keppler
James G. Keppler, Director
Region III

Enclosure 5



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555
August 10, 1981

A-3

SEARCHED	INDEXED	SERIALIZED	FILED
8/14			

Handwritten initials and signatures

MEMORANDUM FOR: James G. Keppler, Director, Region III
Office of Inspection and Enforcement

FROM: James J. Cummings, Director *[Signature]*
Office of Inspector and Auditor

SUBJECT: ZIMMER NUCLEAR POWER STATION: ALLEGATIONS REGARDING
DEFICIENT CONSTRUCTION

We understand that shortly you will be finalizing your investigative report relating to this matter. In view of the expressed interest by the U.S. Attorney's Office and because the Office of Inspector and Auditor (OIA) has not had an opportunity to review this report from the standpoint of criminality, please allow sufficient time prior to release of the report for it to be reviewed by OIA and, if appropriate, the U.S. Attorney's Office. As you are aware, premature release of the report might impinge upon possible subsequent criminal action.

cc: V. Stello, Director, IE

CONTACT: A. Schnebelen, OIA
492-7170

GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies

1901 Que Street, N.W., Washington, D.C. 20009

(202) 234-9382

April 20, 1982

Director
Office of Administration
Nuclear Regulatory Commission
Washington, D.C. 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-82-206

Rec'd 4-22-82

To Whom It May Concern:

Pursuant to the Freedom of Information Act ("FOIA"), 5 USC §552, we request the investigative file, including all drafts, memoranda, statements, affidavits, computer printouts, notes, telephone logs, diaries, or any other information connected with NRC IE Report No. 50-358/81-13. The documents may be at Region III Nuclear Regulatory Commission ("NRC") Headquarters, the NRC Office of Inspector and Auditor ("OIA") headquarters, or retained in the personal or office files of IE and OIA investigators who worked on the Zimmer case.

Although the Zimmer investigation is ongoing, Report No. 80-358/81-13 is for all intents and purposes a finished agency product which should be open for public inspection, notwithstanding exemption #5 of the FOIA. A document that is pre-decisional at the time of preparation may lose exempt status if "adopted formally or informally, as the agency position on an issue or is used by the agency in its dealings with the public." Coastal States v. Dept. of Energy 617 F. 2d. 854,866 (D.C. Cir. 1980). Report No. 80-358/81-13 was used by the NRC as a basis for imposition of a \$200,000 civil penalty against Cincinnati Gas & Electric ("CG&E"), as well as for the Agency's decision to delegate to CG&E the responsibility of conducting an in-house reinspection entitled "The Quality Confirmation Program." If the NRC can use the report to make this final agency policy commitment in its dealings with the public and the utility, then clearly the report must be post-decisional in nature.

On March 18, 1982, Mr. Bert Davis, Region III Deputy Director, told me that priorities have yet to be established for Part II of the investigation. As a result, it is unfair to characterize the ongoing investigation as a mere continuation of work on the previous issues.

In order to comply with the provisions of the Privacy Act, we would consent to deleting the names of any parties whose names are mentioned in the appeals and whose right to privacy would be threatened through public disclosure.

We are requesting this information as part of a monitoring project on the adequacy of the Commission's efforts to protect public safety at nuclear power plants. As a result, we request that fees be waived because "furnishing the information can be considered as primarily benefitting the general public." 5USC § 552 (a)(4)(A).

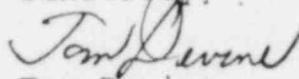
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Director, Office of Administration
Nuclear REGULATORY Commissior.
April 20, 1982
Page Two

For any documents or portions of documents that you deny due to a specific exemption, please provide any index itemizing and describing documents or portions of documents withheld. The index should provide a detailed justification of your grounds for claiming such exemption, explaining why each exemption is relevant to the document or portion withheld. This index is required under Vaughn v. Rosen (I), 484 F.2d 820 (D.C.Cir. 1973), cert. denied, 415 U.S. 977 (1974).

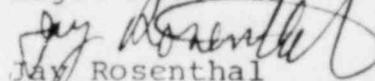
We look forward to your reply within ten working days.

Sincerely,



Tom Devine

Legal Director



Jay Rosenthal

Staff Associate

TD/jr